

## II – 4.40: Policy on Grievance Procedures

### I. ~~Policy~~-Introduction

Salisbury University has established the University Grievance Policy to give members of the University community a forum in which to express concerns related to matters involving discipline, unlawful discrimination, or the interpretation or application of University policies. The Policy provides a method for aggrieved individuals from all sectors of campus life, including students, employees, and faculty, to express substantive complaints about University faculty or administrators and have them resolved by disinterested parties in a timely fashion.

The following matters are not covered by these grievance procedures:

- Claims involving discriminatory harassment;
- Claims relating only to alleged violations of policies which were promulgated exclusively by the University System of Maryland, actions of the Board of Regents, or actions of the chancellor of the System, over which SU has no jurisdiction;
- Retrenchment appeals;
- Student disciplinary matters **including alleged violations of academic integrity;**
- ~~Student disciplinary matters involving alleged violations of academic integrity;~~
- Grievances against University police officers that could result in the imposition of any discipline against the officer(s).

The following groups shall have jurisdiction over grievances:

Grievances filed by faculty: In all matters involving denials of tenure, and any complaints that a faculty member's academic freedom has been directly restricted, including disputes with other faculty or administrators over grades or grading policies, the grievance shall be referred to the Academic Freedom and Tenure Committee. In matters related to other academic policy concerns, the grievance shall be referred to the Academic Policies Committee. In all other matters, the grievance shall be referred to the Faculty Welfare Committee.

Grievances filed by students: ~~All formal student grievances are filed with the Office of the Vice President of Student Affairs.~~ In campus life matters, the grievance shall be referred to the Student Campus Life Grievance Committee **if not resolved at a lower level.** In all academic matters, including grade disputes, ~~students are expected to begin with the informal process. If the informal process is unsuccessful, then the student should file a formal grievance with the Office of the Vice President of Student Affairs. The~~ the grievance will ~~then~~ be referred to the Academic Policies Committee **if not resolved at a lower level.**

Grievances filed by regular<sup>1</sup> nonexempt employees: These grievances shall be handled in accordance with University System of Maryland Policies.

Grievances filed by administrative exempt employees: These grievances shall be handled in accordance with Procedures Governing the filing and Processing of Grievances for Administrative Staff Personnel, found in Appendix M of Laws Relating to and Governing Policies and Procedures of the Board of Trustees of State Universities and Colleges of Maryland.

Jurisdictional Disputes: If a dispute arises over the jurisdiction of the committee assigned to decide the matter, the jurisdictional dispute shall be resolved as follows: for a grievance filed by faculty, it shall be resolved by the president of the Salisbury University Faculty Senate; for a grievance filed by a student, it shall be resolved by the Office of the Vice President of Student Affairs.

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<sup>1</sup> "Regular" means non-contingent employees.

~~The Policy includes two different avenues through which a grievant, at his or her option, may initiate a complaint. (Next sentence moved to bottom of next paragraph)~~

### Informal Process Resolution

All members of the University community are encouraged to attempt to resolve differences between themselves and others in an informal manner. This may entail only a conversation in which the views of both parties are aired in a mutually satisfactory manner or a conversation using a neutral third party for mediation. ~~If this step does not satisfy the grievant, a written complaint should be prepared, which should be provided by the grievant to the person alleged to be responsible, either directly or because of a supervisory role, for the alleged wrong. The complaint should set forth a chronology of events leading up to the grievance, and should include the names of persons with knowledge of the events in question, pertinent dates, a description of the actions taken against the grievant which led to dissatisfaction, and a proposed resolution to the problem. If known, information about relevant University policies should be provided. The responsible individual should respond in writing to the complaint. If the response is not satisfactory to the grievant, he or she may solicit the assistance of the supervisor of the responsible person to resolve the complaint. If no resolution is possible, the grievant~~ **an informal resolution cannot be achieved**, the grievant may elect to not proceed with the complaint or may begin the formal grievance ~~process~~ **procedures below**. Nothing in this policy is to be construed to inhibit or prevent the grievant from reconsidering a less formal option, **an informal resolution** once the formal grievance procedures have begun.

~~In cases of grade disputes, under normal circumstances the student should:~~

- ~~• Contact the instructor of the course. This should occur by the end of the second week of the fall or spring semester following the semester when the grade was awarded.~~
- ~~• If it is not possible to resolve the dispute with the instructor, contact the chair of the department.~~
- ~~• If the dispute has still not been resolved, contact the dean.~~
- If the dispute has still not been resolved, begin the formal process.

### Formal Process Grievance Procedures

#### Filing the Timeline for Initiating a Formal Grievance

If the informal process is not successful in resolving a complaint, a formal grievance may be initiated. To initiate the process, a student or faculty grievant shall file a written complaint, similar in content to that filed in an informal grievance, with the Office of the Vice President of Student Affairs or Office of the Provost, respectively. An exempt or nonexempt employee grievant shall file a written complaint in accordance with System policy.

Grievances must be filed within 30 working days of the date on which the grievant knew or should have known of the action that led to the grievance. For faculty, the applicable period for “working days” is the contract year, ~~August 15—June 15~~ approximately mid-August until mid-June. For students, the applicable period includes the fall and spring semesters of the academic year.

#### Requirements for Formal Grievances

A formal grievance must set forth in writing a chronology of events leading up to the grievance, pertinent dates, a description of the actions taken against the grievant which led to the dissatisfaction, and a proposed resolution to the situation. If known, information about relevant University policies should be provided. Further, if the grievance is pursued through successive steps described below, the grievant must include each prior written grievance as well as the written response from the person or committee to whom the grievance was submitted.

#### Responses to Formal Grievances

Faculty, staff and committees who receive written formal grievances must respond to the grievant in writing. The written response should address the specific issues raised in the grievance and include information pertinent to the decision.

### **Procedural Steps**

**Step One** – The grievant must submit a formal grievance to the person alleged to be responsible for the actions leading to the grievance within 30 working days of the date on which the grievant knew or should have known of the action that led to the grievance. For faculty, the applicable period for “working days” is the contract year, August 15 – June 15. For students, the applicable period includes the fall and spring semesters of the academic year.

The person alleged to be responsible for actions leading to the grievance will provide a written response to the grievant within five working days of receiving the formal grievance.

**Step Two** – If the response is not satisfactory to the grievant, he or she has five working days to file a formal grievance with the supervisor of the person alleged to be responsible for the actions leading to the grievance.

The supervisor of the person alleged to be responsible for the actions leading to the grievance will provide a written response to the grievant within five working days of receiving the formal grievance.

**Step Three** – If the response is not satisfactory and the complaint involves a non-academic matter, the grievant has five working days to file a formal grievance with the Office of the Vice President of Student Affairs. Grievances of non-academic matters will be referred to the Student Campus Life Grievance Committee (see Referral to Committee).

If the response is not satisfactory and the grievance involves academic matters, including grade disputes, the grievant has five working days to file a formal grievance with the dean of the school in which the dispute has occurred.

For grievances of all academic matters, the dean of the school will provide a written response to the grievant within five working days of receiving the grievance.

**Step Four** – If the response from the dean is not satisfactory the grievant has five working days to file a formal grievance with the Office of the Vice President of Student Affairs. Grievances of all academic matters, including grade disputes, will be referred to the Academic Policies Committee (see Referral to Committee).

### **Referral to Committee**

The Provost or Vice President of Student Affairs or his or her designee shall refer the grievance to the appropriate University committee for review and recommendation. The committee shall meet and determine in its sole discretion whether sufficiently significant questions have been raised and remain unresolved. Committees then have **ten working days of receiving the formal grievance to decide among** the following options: 1) to initiate an investigation, 2) to forego an investigation and initiate a formal hearing or 3) to render a written decision based on evidence submitted. If requested by a student, a hearing shall be held in all cases where the student alleges sufficient facts to show that the grievable matter could lead to serious implications for graduation or employment. ~~This decision will be made within ten working days of receiving the formal grievance.~~

### **Committee Investigation**

If the committee determines that an investigation or hearing should be undertaken to resolve the grievance, it shall send written notice to all parties that the committee will be investigating the grievance through a series of

interviews at which the committee will collect additional information and evidence necessary for it to render an informed and reasoned judgment. The investigation may include interviews with the parties to the grievance and with any witnesses to the events, a review of any pertinent documents and any other actions that the Committee deems appropriate. **The investigation, including interviews, will be completed within twenty working days of the decision to conduct an investigation.**

### Hearing

If the committee determines that a hearing is to be held, the committee shall send written notice of the time, date and location to all parties. The hearing shall be conducted as follows:

- The hearing shall be held at a reasonable time when all parties are available or have an opportunity to be present.
- The parties shall be entitled to make opening and closing statements.
- The parties shall be entitled to present evidence through witnesses and documents, and shall be entitled to cross examine the opponent's witnesses. In the discretion of the chair of the hearing board, direct questioning by a party of a witness, including an opposing party, may not be permitted; rather, the parties may be required to convey their questions to the hearing board chair, who then will convey them to the witness.
- The hearing shall be closed to all persons but the grievant, the alleged responsible person, and the committee, unless all of the above persons agree otherwise. **The hearing may be tape recorded at the discretion of the chair of the hearing board.**
- No one may be represented by an attorney at the hearing, unless the **person alleged to be responsible for the grievance** ~~accused~~ is facing or may face criminal charges relating to the subject of the grievance. If so, both parties may elect to have counsel assist them. In this case, counsel for the committee may be present. The role of legal counsel in these hearings shall be limited to the role of advocate for their party in procedural concerns and assistance in the process. At no time may legal counsel give statements or participate in questioning witnesses and committee members.
- In all other grievances, the grievant and the subject of the grievance may be accompanied to the hearing by a non-legal advocate of his or her choosing who may provide support to the individual but otherwise shall not participate formally in the proceedings. The advocate shall be a member of the University student body, faculty, staff or administration.
- Formal rules of evidence need not be followed at the hearing. The committee may receive such evidence as a reasonable person would consider reliable in making important decisions. If a question arises about the authenticity of a document or the reasonableness, relevance or redundancy of evidence, the chair of the committee shall be the final decision-maker on the evidence's admissibility.
- The parties may request, in writing, that the committee contact specified persons to appear at the hearing to testify on behalf of the parties. The request must be made at least five working days before the scheduled hearing in order to allow ample time for the committee to make the requests.
- The chair of the committee shall be responsible for conducting the hearing in an efficient and decorous manner and shall rule on all disputes related to the procedures used throughout the proceedings. The chair may set reasonable limits on the length and nature of the opening statements, the evidence presented and on the duration of the hearing. At any time, the chair may seek the advice of legal counsel.

- The grievant has the burden to prove by a preponderance of the evidence that the action or inaction complained about did occur and that it was contrary to University policy or procedures.
- Since the University lacks full judicial authority, such as the power to subpoena or place witnesses under oath, a student's due process rights cannot be coextensive with or identical to the rights afforded the accused in a civil or criminal legal proceeding. The procedures outlined are designed, however, to assure fundamental fairness and to protect students from arbitrary or capricious disciplinary action. Deviations from these procedures shall not necessarily invalidate a hearing or the results of a hearing unless significant prejudice may result.
- **The hearing must be completed within twenty working days of the decision to conduct a hearing.**

## Findings

After the investigation or hearing has been held, **or evidence submitted has been reviewed**, the committee shall meet to consider the merits of the grievance. It shall consider only that evidence that was admitted in the investigation or hearing, and only those grievances which were formally part of the process. The deliberations shall be private and no recordings shall be made, nor shall any notes be kept other than purely personal notes of the members.

Upon the conclusion of its deliberations, the committee shall send a brief written notice of a preliminary finding of adequate or inadequate support for the grievance to the Provost or Vice President of Student Affairs and to the parties. **The committee shall have five working days to provide such notice.**

Upon receipt of the written notice, the grievant shall have five working days to decide to pursue or withdraw the grievance. **If the grievant elects to pursue the grievance, he or she must provide written notice to the chair of the committee.** In order for a sanction to be imposed or a decision reversed, the grievance must be pursued beyond the committee's deliberations. The grievant may confer with the chair of the committee before making this decision at which time the chair will explain the committee's rationale for its decision.

If the grievance is pursued, the committee shall issue a full report of its findings and its recommendations, including any dissenting views, after the report has been reviewed by all committee members. The report shall be sent **within ten working days** to the Provost or Vice President of Student Affairs, who will send a copy to the grievant and the allegedly responsible party.

The Provost, in instances of grievances filed by faculty and instances of grievances filed by students grieving academic matters, or the Vice President of Student Affairs, in instances of grievances filed by students other than academic matters, will make a ~~final~~ determination as to findings and sanctions, will ~~issue~~ ~~make a final~~ report, and convey it to the parties and the chair of the committee **within five working days of receiving the committee report.**

## Appeal

~~If the grievant either party is dissatisfied with the findings of the committee,~~ **wishes to challenge the determination of the** Provost or Vice President of Student Affairs, he or she may file an appeal to the President of the University **within five working days of receiving the final report.** The bases for an appeal are only the following: (1) committee's failure to follow the procedures set forth in this Policy in a way which could have significantly prejudiced the appellant; (2) bias on the part of a committee member; or (3) the decision was based on a clearly erroneous interpretation of the evidence. The President may review the matter at his or her discretion, and shall issue a decision upholding or rejecting in whole or in part the findings of the committee **within ten working days of receiving the appeal.** The decision of the President shall be final.

The following suggested deadlines shall be used for the various events that occur during the grievance process. They shall be followed unless unforeseen circumstances prevent compliance. The total amount of time from incident through a final decision from the President may be as much as 90 working days. All time limitations contained within this policy may be extended for good cause as determined by the relevant committee. Failure to adhere strictly to the suggested deadlines shall not be grounds for appeal unless significant prejudice has occurred.

- a. — Filing the formal grievance: this must occur within thirty (30) working days<sup>2</sup> of the date on which the grievant knew or should have known of the grievable incident. There must be strict compliance with this deadline. Unless the grievant and responsible party agrees in writing to stay the enforcement of this deadline, the thirty working day period applies even if the informal process has not been completed.
- b. — Response to the complaint: within ten working days of the receipt of the complaint.
- c. — Decision to proceed with an investigation and possible hearing: within ten working days of the receipt of the formal complaint by the committee.
- d. — Investigation, interviews and/or hearings: Completion within twenty working days of the decision to proceed with an investigation or hearing.
- e. — Issuance of committee's decisions and recommendation to the Office of the Provost or the Office of the Vice President of Student Affairs: within five working days of the decision to proceed without an investigation or hearing or within five working days of the last interview or hearing.
- f. — Grievant has five days to decide to pursue or withdraw the grievance.
- g. — Issuance of committee report: within ten working days of the request of the grievant.
- h. — Issuance of the Provost's or vice President's determination to the parties: within five working days of issuance of the committee's findings to that Office.
- i. — Filing of appeal: within five working days of the issuance of the Provost's or Vice President's determination.
- j. — President's final ruling: within ten working days of the receipt of the appeal.

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<sup>2</sup>For faculty, the applicable period for "working days" is the contract year, August 15<sup>th</sup> through June 15<sup>th</sup>. For students, the applicable period includes the fall and spring semesters of the academic year.

## Miscellaneous

The matters addressed in any grievance will be kept in confidence by the parties directly involved. Under no circumstances shall any findings be provided to anyone other than the committee members, the Office of the Provost, the Office of the Vice President of Student Affairs, the Office of the President, the grievant, the person(s) allegedly responsible and their attorneys if such have been consulted. **All time limitations contained within this policy may be extended for good cause as determined by the relevant committee, Provost or the Vice President of Student Affairs. Failure to adhere strictly to the timelines shall not be grounds for appeal unless significant prejudice has occurred.** The committee may seek the advice of legal counsel at any time during the process.

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