

The following is an outline of the actions required of the Faculty Grievance Committee once a faculty member has made a formal appeal of the decision of a grievance filed with an administrative supervisor. For the composition of the Committee, and its complete duties and responsibilities, please see *The By-laws of the General Faculty of Western Carolina University, Article IV*.

FACULTY GRIEVANCE COMMITTEE

APPEAL

Written statement of appeal delivered by faculty member to the Chair of the Committee and the Provost within ten (10) working days following faculty member's receipt of administrative supervisor's decision. The statement of appeal shall include:

1. Original grievance; and
2. A written summary of any additional facts or arguments which are said to support the original grievance; and
3. The written response from the respondent administrator. (IV.3.3.3.1)

Before taking any action on the statement of appeal, the Committee shall refer the matter for mediation in accordance with IV.3.3.3.3 Mediation of Grievance (IV.3.3.3.2.2)

MEDIATION

Neither party is obliged to engage in mediation. A decision by either party not to pursue mediation or to terminate mediation will not be held against that party.¹ (IV.3.3.3.3)

HEARING PROCEDURE

If mediation fails to produce a voluntary resolution, the Committee must decide whether a hearing should be held in response to the statement of appeal. For the purpose of determining whether a hearing should be held, the Committee must assume the truth of the information contained in the statement of appeal. A grievance properly is dismissed if the grievant fails to allege a remediable injury attributable to the alleged violation of:

1. A right or privilege based on federal or state law, university policies or regulations; or
2. Commonly shared understandings within the academic community about the rights, privileges and responsibilities attending university employment.

¹ The Bylaws do not address the declination of mediation. Logic would dictate that Section IV.3.3.3.4 Hearing Procedure would then be initiated.

Dismissal is required if the statement of appeal addresses a problem that is not within the Committee jurisdiction (a disciplinary issue or a matter that is the responsibility of another Committee, e.g., nonreappointment). If the Committee chooses to dismiss the case, its decision shall be made within twenty (20) working days of the termination of mediation. (IV.3.3.3.4)

SCHEDULING A HEARING

The hearing shall be held no later than twenty (20) working days after the Committee chair receives notice that mediation did not produce a resolution. (IV.3.3.3.4.2.1)

The Committee shall serve a Notice of Hearing on the grievant, the administrator(s) identified as party to the grievance, and the Provost no later than then (10) working days before the hearing. The notice shall include the date, time and place of the hearing, the grievant's request for appeal, the composition of the hearing body, the names of all parties to the grievance, and the issues to be considered by the Committee. (IV.3.3.3.4.2.2)

Challenges to the composition of the Committee may be made by either party. See IV.3.3.3.4.2.3 for details. A minimum of five (5) of the nine (9) members is required for any action.

HOLDING A HEARING

Formal rules of evidence do not apply; however, the hearing chair has the authority to reject evidence which is repetitive or has no relevance to the issues. The issues to be heard are limited to those raised by the written grievance. The hearing will be open to the public unless any party to the grievance requests that it be private. Attorneys are not authorized to participate; however, each party may select one (1) faculty member to provide assistance. The parties may present the testimony of witnesses and other evidence; may confront and cross-examine adverse witnesses and may examine all documents and other adverse demonstrative evidence. Committee members may question any witness and may call witnesses when the Committee deems such action appropriate.

A tape recording of the hearing shall be kept. Upon request, a copy of the tape recording or transcript shall be furnished to the faculty member at cost. (IV.3.3.3.4.2.5)²

The Grievant presents, through documentation or testimony, the basis for the grievance. The administrator(s) named as a party may then present documentation or testimony in response. Rebuttal may be allowed at the discretion of the Committee. (IV.3.3.3.4.2.6)

² The Committee Chair should work with the Provost's Office to schedule a court reporter to record the hearing and provide a written transcript if necessary.

The Committee Chair shall have complete authority to ensure a full and fair hearing including, but not limited to, the authority to grant extensions, recesses and adjournments, require the taking of oaths, require witnesses to stay outside the hearing room before or after testifying, set time limits for arguments, and terminate or recess the proceeding if it becomes unproductive due to disruptive behavior. Normally however, the hearing should be concluded no later than ten (10) working days after it begins. (IV.3.3.3.4.2.7)

In developing its recommendations, the Committee shall consider only the evidence presented at the hearing and such written or oral arguments as the Committee in its discretion may allow. The Committee shall also make findings of fact to support its recommendation(s). (IV.3.3.3.4.2.8)

After reviewing the statement of appeal or hearing the matter, the Committee determines that no adjustment in favor of the grievant is appropriate, it shall so advise the faculty member and the Provost within five (5) working days after the termination of the hearing. (IV.3.3.3.4.2.9)

After hearing the matter, the Committee determines that an adjustment in favor of the grievant is appropriate, the Chair shall report the findings of fact and recommendations to the grievant, the other parties and the Provost within five (5) working days following the termination of the hearing. (IV.3.3.3.4.2.10)

The administrator/party with authority to resolve the matters raised by the Committee recommendations shall have five (5) working days to serve a written response to the Committee recommendations upon the grievant and the Committee chair. (IV.3.3.3.4.2.11)

APPEAL TO THE CHANCELLOR

If the grievant is not satisfied with the disposition of the grievance, the grievant shall have five (5) working days to serve a simple statement of appeal upon the Chancellor and the Committee. Upon receipt of the statement of appeal, the Committee chair shall forward to the Chancellor the tape of the hearing, if a hearing was conducted, and all matters of record prepared and collected by the Committee including the written grievance, the committee's findings of fact, the Committee's recommendation(s), the administrator's written response and all evidence gathered. (IV.3.3.5.1)

The Chancellor will base his/her decision on the recommendation(s) of the committee and the record from the Committee hearing. The Chancellor may consult with the Committee before making a decision. The consultation shall be scheduled through the Chair of the Committee and all Committee members who participated in the hearing shall be invited to attend. (IV.3.3.4.1)

Further actions and decisions and potential appeal rights are covered in sections IV.3.3.4.2 and IV.3.3.5 and do not involve the Faculty Grievance Committee.