

Section 6 Faculty Grievances

6.1 General Appeal Procedures

The best safeguard against a proliferation of grievance petitions is the observance of sound principles and procedures of academic freedom and tenure and of academic governance at the departmental and collegiate levels. Faculty members are entitled to fair, impartial, and honest resolution of problems that may arise in relation to their employment. Accordingly, UTHSC subscribes to certain principles and follows certain practices to ensure that such resolutions occur judiciously and within a reasonable period of time. In the following description, the term *complainant(s)* refers to the faculty member(s) with the complaint or grievance; and the term *respondent(s)* refers to the individual(s), usually an administrator, faculty member, or other UTHSC employee, whose decision or action is the basis of the complaint.

Complaints and grievances should be addressed as soon as reasonably possible and at the administrative level closest to the locus of the complaint. Before putting grievances into written form, every effort should be made to resolve such matters informally, by conversation between the complainant, and the Chair, Dean, or others as appropriate.

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There are two, well accepted “in-house” routes for such appeals: (a) through the Administration (Section 6.2), and (b) through the Faculty Senate (Section 6.3). If a faculty member begins filing a grievance through administrative channels, the individual may switch to the Faculty Senate appeal process at any point in the administrative appeal process prior to appealing to the Chancellor. Likewise, the individual may switch from the Faculty Senate appeal process to the administrative route prior to a formal hearing; a switch of this type is most likely to occur during the initial informal portion of the Faculty Senate appeal process.

6.2 Appeal Through Administrative Channels

The administrative channel through which a grievance may pass is Department Chair, Dean, UTHSC Vice Chancellor for Academic Affairs, Chancellor, and President of The University. To initiate a grievance through the administrative channel, the faculty member must write a letter requesting to meet with the official at the administrative level at which the grievance occurred. If there is no resolution of the issue in a timely manner, the faculty member should write a letter to the official at the next level. That letter should (a) notify the administrator that a grievance or complaint is being made, (b) outline the nature of the grievance, and (c) state the desired action. For cases involving allegations of discrimination or harassment, a faculty member may also present the issue to the UTHSC Affirmative Action Officer. Throughout the administrative appeal process, the faculty member may have another member of the UTHSC faculty assist him or her with the preparation, but not the presentation, of the grievance. As the appeal begins and progresses along the administrative route, the faculty member’s Chair, collegiate academic officer, or Dean must inform the faculty member of current procedures and personnel responsible for handling such matters. Upon receipt of a negative decision by an administrator at one level, the faculty member has 30 days to initiate an appeal to the next level. At each level, the administrator communicates in a timely manner his or her

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decision in writing to the faculty member and to the administrative officer(s) whose decision is being contested or to any other party whose action is being appealed.

Grievances dealing with issues related to academic freedom will be reviewed by the Faculty Senate Grievance Committee for input or recommendations to the Chancellor.

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6.3 Appeal Through the Faculty Senate

The purpose of the Faculty Senate Appeal Process is to provide a mechanism whereby a faculty member may have a grievance heard and evaluated in an unbiased manner by a committee of fellow faculty members. The Faculty Senate Grievance Committee (FSG Committee) has no power to reverse an administrative decision or impose any sanction for an inappropriate or improper action. The FSG Committee can make recommendations for a reconsideration of any administrative decision that it believes was reached improperly or unfairly. Similarly, the FSG Committee can only make recommendations concerning an appropriate resolution of the dispute. The purpose of the FSG Committee is **not** to serve as a court of law. Participation by legal counsel on behalf of either party in any phase of the appeal process is contrary to the nature and spirit of peer inquiry, evaluation, and mediation. Therefore, neither attendance nor participation by legal counsel in FSG Committee activities is allowed.

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6.3.1 The Faculty Senate Grievance Committee (FSG Committee)

The Executive Committee of the Faculty Senate serves as a Faculty Senate Grievance Committee (FSG Committee) to hear individual faculty complaints regarding matters of alleged violations of due process or academic freedom; inequivalency of treatment; discrimination; denial of promotion, tenure, or traditional privileges; and related matters. Regardless of the expiration of any member's elected term, the membership of the FSG Committee remains unchanged throughout an active appeal (i.e., after receipt of a grievance petition). Generally, the President-Elect of the Faculty Senate serves as the chair of the FSG Committee. If the President-Elect is not available (e.g., because of absence or recusal), the Executive Committee will choose one of its members as the chair of the FSG Committee (Section 6.3.7). If the chair's term of office expires during an active appeal, that individual will continue to preside over the FSG Committee for all meetings involving that appeal.

The FSG Committee, through its chair, exercises complete control over all steps of the appeal process. In keeping with the principles of impartiality and equity, the committee determines, among other things: (a) the appropriateness of all questions; (b) what additional information or documentation, if any, should be requested; (c) the order of and procedure for questioning the principal parties and witnesses, if any; (d) the order of testimony by witnesses; and (e) who may be allowed to be present during any part of the hearing. Hearings are not open to spectators.

6.3.2 Initiating an Appeal Through the Faculty Senate

A course of appeal through the UTHSC Faculty Senate begins with an appeal request written by a faculty member to the Faculty Senate President. The appeal request should be

initiated with the Faculty Senate President within six months of the date on which the event(s) or action(s) cited in the appeal request occurred. This initiation deadline can be extended only if, in the judgment of the FSG Committee, there are significant extenuating circumstances.

6.3.3 Faculty Advisors

Although it is not necessary for either the complainant or the respondent to have a faculty advisor present at the hearing, it is often helpful for the complainant to have the assistance of a faculty advisor. The complainant must inform the committee in writing if he or she wishes to have a UTHSC faculty colleague present at the hearing as an advisor. Likewise, the respondent must inform the committee in writing if he or she wishes to have a faculty colleague present as an advisor. The complainant or respondent must identify that person at least two weeks before the hearing. If only one party plans to have an advisor, the other party will be notified; if he or she then decides to have an advisor, the committee must be informed in writing at least five days before the hearing. A faculty advisor may not participate in the hearing, but he or she may communicate with the advisee.

6.3.4 Relevance of Evidence

The FSG Committee is not bound by strict rules of evidence and may admit any information that it deems pertinent. Furthermore, the committee may have access to any available information that it considers relevant. The committee, through its chair, determines whether information or testimony is material and relevant to the issues involved in the appeal. Before any hearsay evidence is admitted as evidence, the source of that information must be revealed so that the committee may request the person(s) to appear for questioning. With a majority vote of the committee members, the chair may rule that certain information not be considered and be removed from the records. None of the original materials admitted as evidence, including any written documents, photographs, audio-recordings, and video-materials, will be returned to the complainant or respondent; all evidence and supporting documentation will be forwarded by the FSG Committee to the Chancellor. These materials will be returned to the Office of the Faculty Senate and stored in a locked file cabinet for the length of time prescribed by the Office of Records Management. The Administration will cooperate with the FSG Committee in making available UTHSC documents and other evidence. The faculty member should have the aid of the FSG Committee, when needed, in requesting the attendance of witnesses; however, witnesses cannot be compelled to attend.

6.3.5 Testimony

The principal parties have the right to testify, to examine all documents and other information considered by the committee, to present testimony of witnesses and other evidence, and to hear and question witnesses. However, neither the complainant nor the respondent may question each other. If a witness cannot appear in person, and the committee determines that he or she should be heard, the committee may arrange to receive his or her information in the form of written testimony and/or, via telecommunications, to facilitate questioning by both parties. So long as it does not substantially delay the hearing process, the committee may call a recess for the purpose of assuring that reasonable time is provided for the examination of all information

and for the preparation of appropriate responses. Such recess is usually only called after either party makes a valid claim of surprise.

6.3.6 Questioning of Witnesses

The FSG hearing is not a court of law and the FSG Committee, through its chair, will prevent any attempt to conduct the hearing as such. The FSG Committee has the prerogative to determine the appropriateness of all questions and the method of questioning. Because hostile questioning of witnesses and emotional outbursts by the principal parties may stifle the spirit of inquiry and resolution, the chair will maintain strict control over the nature and conduct of the hearing. All records of the hearing, including committee members' notes, will be preserved.

6.3.7 The Process of Appeal Through the Faculty Senate

1. The informal portion of the Faculty Senate appeal process begins when the Faculty Senate President receives the faculty member's appeal request. This appeal request is brief, containing only a statement about the nature of the grievance and the name and position of the individual against whom the grievance is directed. Within three days or as soon thereafter as possible, the President delivers the appeal request to the President-Elect (who will chair the FSG Committee in the event it is convened).

All members of the Executive Committee involved in the informal portion of the appeal must refrain from discussing or revealing any particular circumstances of the appeal with uninvolved parties, except when required by law to make disclosure. At the next scheduled meeting, the President must inform the Faculty Senate Executive Committee that a faculty member has made an appeal request. Initially, the President will reveal only the general nature of the grievance. Until the FSG Committee is formally convened, only those individuals who are involved directly in the informal portion of the appeal process may have access to information identifying the parties or any particular circumstances of the appeal.

2. The Faculty Senate President, together with Secretary-Treasurer of the Faculty Senate or another designated member of the Executive Committee, begins efforts to resolve the grievance. If the President is not available (e.g., because of absence or recusal), the Past President performs this task. If neither is available, the Executive Committee appoints one of its other members for this task. Initially, these two Executive Committee members attempt to resolve the grievance with the faculty complainant and other parties, as they deem necessary. Their efforts are directed at helping the parties clarify and resolve the issue(s) of the appeal. It should be stressed that **both** Executive Committee members should be present at **all** interviews, discussions, inquiries, or other sessions involving the appeal.
3. The faculty complainant may fail to obtain a satisfactory result after the two members of the Executive Committee have attempted to resolve the matter through existing administrative channels. After such attempts have failed or at any time during the informal process, the complainant may formally request in writing to the Faculty

Senate President that the FSG Committee be convened to hear the matter. In the petition to convene the FSG Committee, the faculty member should set forth in detail the nature of the grievance and state the name and position of the individual against whom the grievance is directed. The petition should also contain any factual data that the faculty member deems pertinent to the case, as well as any supporting materials and relevant correspondence between the disputants. The [Chair of the FSG Committee](#) provides copies of this petition, including any supporting materials, to each person whose decision or action is being contested.

The formal portion of the appeal process begins when the President receives the formal written petition from the faculty complainant. Within three days or as soon thereafter as possible, the President delivers the appeal petition to the chair of the FSG Committee. The FSG Committee will make every reasonable effort to meet within one month of the date that the petition was received. At its next scheduled meeting, the President requests that the Executive Committee of the Faculty Senate convene as the FSG Committee to evaluate the appeal. Neither the complainant nor the respondent is present at this meeting. A majority of the committee must be present at (a) the meeting described in paragraph 4 below, and (b) the hearing described in paragraph 6 below. All proceedings of the committee will be as confidential as possible, but are subject to the Tennessee Open Records Act. All members of the FSG Committee involved in the formal portion of the appeal must refrain from discussing or revealing any particular circumstances of the appeal with uninvolved parties, except when required by law to make disclosure. The annual report of the Faculty Senate [President](#) to the faculty contains only the number and general nature of the appeals considered by the FSG Committee during the year.

4. At the beginning of this meeting, the chair (President-Elect of the Faculty Senate) asks each member of the FSG Committee about any possible conflict of interests or biases of which he or she may be aware. Members deeming themselves disqualified for [conflict of](#) interest or bias must remove themselves from the case, either at the reasonable request of a party or on their own initiative. In the event of unresolvable differences, the FSG Committee is the final arbiter.

During the initial meeting of the FSG Committee, the committee will consider (a) the matter of jurisdiction, and (b) if jurisdiction is determined to be proper, whether there is a valid basis for the grievance. For matters that lie within the scope of the committee's jurisdiction, the committee considers only whether or not decisions or actions were made according to university policies, procedures, and regulations. The scope of the committee's jurisdiction with respect to promotion and tenure decisions is limited to a review of complaints that applicable procedures were not followed.

In reviewing the faculty member's formal petition and supporting materials, the committee will attempt to view these materials in as favorable a light for the faculty complainant as is reasonable (i.e., the faculty member is afforded the benefit of doubt). If, after a review of the formal petition and supporting materials, the committee determines that it has jurisdiction and the complainant has a valid basis for

filing an appeal with the FSG Committee, the committee will proceed to hear the matter. After review, the committee may determine that the faculty complaint lacks a valid basis or that the grievance does not lie within the jurisdiction of the committee; then the matter will be dismissed. If the FSG Committee dismisses the grievance, the committee chair gives written notice within five days of that decision and the reasons to the faculty member, all other appropriate parties, and the Chancellor. All records of these proceedings and any supporting documentation will be preserved by the Faculty Senate President or a designee.

5. If the committee proceeds to hear the appeal, the committee schedules a hearing within a month or as soon thereafter as possible. Both the complainant and the respondent must attend the hearing. Initially, the committee sets the date. Alternative dates may have to be determined because of conflicting schedules. The hearing will be chaired by the same member who chaired the committee when the issues of jurisdiction and valid basis were determined. The chair of the FSG Committee sends formal notification of the hearing date and location to all appropriate parties and the members of the committee. The notice sent to the disputants also contains the names of all members of the FSG Committee. Any objection to the review procedures or composition of the FSG Committee must be made in writing to the chair of the FSG Committee. All objections are reviewed by the committee and its decision is final.

The FSG Committee ensures that all appropriate parties are notified of its review and given the opportunity to present to the committee any evidence that they deem appropriate. Specifically, any administrator(s) whose decision is being contested is given an opportunity to present to the committee any evidence that he or she deems appropriate. Likewise, any faculty member or other UTHSC employee whose actions are the basis for the complaint is given an opportunity to present his or her response to the complaint. The disputants should present all evidence and responses to the committee at least 10 days before the scheduled hearing, but this time requirement can be waived. As soon as possible, the FSG Committee provides the disputants with copies of any evidence submitted by either party. If this response or evidence comes later than 10 days before the hearing, postponements may be granted by the FSG Committee.

6. After reviewing the materials submitted by the various parties, the FSG Committee sets time limits for each oral presentation. Judicial rules of procedure and evidence are not required. At the hearing each party may have another UTHSC colleague present as an advisor (Section 6.3.3). For unusual circumstances, the FSG Committee may permit other individuals to attend the hearing, but their participation will be limited to specified activities. The committee's decision regarding additional individuals and their activities is final. The hearing, involving only the principals to the dispute, will be conducted as follows:
 - a. Oral presentation by faculty complainant and his or her witnesses, if any;

- b. Oral response to faculty complainant by the other involved party or parties and appropriate witnesses, if any;
 - c. Rebuttal or summary by faculty complainant; and
 - d. Questions or comments by FSG Committee members at any time as allowed by the chair of the FSG Committee.
7. After review and deliberation on the substance of the appeal, the committee will (a) find that it can offer no options regarding the problem, or (b) make specific recommendations. Within 10 days after the hearing or as soon thereafter as possible, written findings and recommendations of the FSG Committee for settlement of the dispute, as well as all documents and other materials submitted by either party, will be forwarded to the Chancellor by the President of the Faculty Senate. Copies of the findings and recommendations will be forwarded to both parties. The committee's recommendations are not binding on the Chancellor. Any notes or materials generated by committee members relative to any matter that comes before it for resolution will be preserved, as required by state law, by the President of the Faculty Senate.
8. The faculty member may appeal the Chancellor's decision to the President of The University within 30 days of receipt of the Chancellor's decision. An appeal to the President must be in writing.