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SECTION: ACADEMIC AFFAIRS

AREA: EMPLOYEE RELATIONS

SUBJECT: FACULTY GRIEVANCE PROCEDURE

PURPOSE

The purpose of this policy is to provide individual faculty members with a mechanism to resolve conflicts in an orderly fashion. It is always desirable that conflicts are resolved in an informal manner, however, that not always possible. This policy provides a neutral platform for seeking resolution. The process established in this policy is to be used as due process by a faculty member who believes that a rule, procedure, or policy has not been followed or has been applied in an inequitable manner. It will not be used to question or challenge a rule, procedure, or policy established by an authorized faculty or administrative body.

SCOPE

This policy applies to all faculty members with primary appointments in one of the Colleges of UAMS. This policy does not apply to complaints about:

1. Wages and salaries;
2. Falsification of application materials or falsification of any document generated in connection with work;
3. Retrenchment of employees pursuant to *Board Policy 405.5*;
4. Matters involving reappointment, performance evaluation, and promotion which do not concern a claimed failure by the University to follow established policy;
5. Classification of positions; termination within thirty days' notice or more;
6. Termination within the initial or extended ninety day employment period (probation);
7. At will termination pursuant to *Board Policy 405.4*; or
8. Disciplinary actions resulting from conduct that violates state or federal laws.

DEFINITIONS

Faculty: For purposes of this policy, "faculty" includes those holding primary appointment at the rank of Instructor, Assistant Professor, Associate Professor, Professor, or Distinguished Professor in the College.

AHEC Faculty: For purposes of this policy, "AHEC faculty" includes those holding primary appointment at the rank of Instructor, Assistant Professor, Associate Professor, Professor, or Distinguished Professor in a UAMS College, but located at an Area Health Education Center ("AHEC") and directly managed and paid by UAMS Regional Programs. The following

changes shall apply to this policy and the procedures set forth herein for any grievance of an AHEC faculty member:

1. AHEC Director shall assume the role of the Department Chair;
2. Vice Chancellor for Regional Programs shall assume the role of the Dean; and
3. AHEC Appeals Board shall serve in place of the College Appeals Board.
 - a. AHEC Appeals Board shall consist of AHEC faculty members appointed annually by the Vice Chancellor for Regional Programs.

Academic Affairs Faculty: For purposes of this policy, “Academic Affairs faculty” includes those holding primary appointment at the rank of Instructor, Assistant Professor, Associate Professor, Professor, or Distinguished Professor, Director of Library, Associate Librarian, Assistant Librarian, and located in, directly managed, and paid by the Division of Academic Affairs. The following changes shall apply to this policy and the procedures set forth herein for any grievance of an Academic Affairs faculty member:

1. Director shall assume the role of the Department Chair;
2. The Provost shall assume the role of the Dean; and
3. Academic Affairs Appeals Board shall serve in place of the College Appeals Board.
 - a. Academic Affairs Appeals Board shall consist of UAMS faculty members appointed by the Chancellor to hear formal grievances.

College Appeals Board for Policy Step 2: A group of faculty members appointed annually by the Dean of the College to hear formal grievances. In this policy statement the term “Appeals Board” refers to this board.

Chancellor Appeals Board for Policy Step 3: A group of faculty members appointed by the Chancellor to hear formal grievances. In this policy statement the term “Appeals Board” refers to this board.

Grievance: An expression of dissatisfaction when a faculty member believes that a rule, procedure, or policy has been applied in an unfair or inequitable manner, or that there has been unfair or improper treatment by a person or persons. Such grievance may concern, but is not limited to: duties assigned to a faculty member; application of college or university policies; and discrimination because of race, national origin, gender, religion, age, disability, sexual orientation, or status as a Vietnam-era veteran or veteran with a disability.

Grievance Panel for Policy Step 2: Those members of the college’s Appeals Board selected by a drawing to hear a grievance in accordance with Step 2 of the grievance procedure. In this policy statement the term “Panel” refers to this panel.

Grievance Panel for Policy Step 3: Those members of the Chancellor's Appeals Board selected by a drawing to hear a grievance in accordance with Step 3 of the grievance procedure. In this policy statement the term "Panel" refers to this panel.

Grievant: A faculty member submitting a grievance as defined above.

Respondent: A person (or persons) alleged to be responsible for the violation(s) alleged in a grievance. The term may be used to designate persons with direct responsibility for a particular action or those persons with supervisory responsibility for procedures and policies in those areas covered in the grievance.

Business Days: Monday through Friday, excluding official UAMS holidays.

POLICY

When an incident forming the basis for a grievance arises, the grievant must follow the procedure outlined below. Each grievance will be handled promptly and impartially, without fear of coercion, discrimination, recrimination, or reprisal. Each participant in a grievance procedure must do his/her part to protect this right.

No student, staff member, faculty member, member of the Grievance Panel or Appeals Board, administrator, or witness will suffer loss of compensation or leave time for the time spent in any step of this procedure.

Records will be kept of each grievance process. These records will be confidential to the extent allowed by law and will include, at a minimum:

- written grievance complaint filed by the grievant
- written response filed by the respondent
- recording and documents of the hearing
- written recommendation of the Grievance Panel
- results of any appeal
- decision of the Dean
- any other material designated by the Dean

A file of these records will be maintained in the office of the Dean for a time period specified by university policy.

PROCEDURE

Step 1: Initial Attempt of Resolution

- A. The grievant must submit a written statement to his/her Department Chair identifying the respondent, specifying the violation(s) alleged, the basis for the grievance, and the remedy sought. This written statement must be submitted within 14 business days after the incident identified by the grievant as the basis for the grievance. The grievant must provide a copy of this written statement to the Dean or his/her designee. If the grievance is against the

Chair, the written statement must be submitted to the Dean or his/her designee instead of to the Chair.

- B. Within 10 business days of receipt of the written statement, the Department Chair will attempt to resolve the grievance by a discussion with the grievant. Following discussion with the grievant, the Department Chair may, at his/her discretion, discuss the grievance with the respondent in an effort to resolve the grievance. If the grievance is against the Department Chair, the Dean or his/her designee will attempt resolution of the grievance. If the grievance is against the Dean, the Chancellor or his designee will attempt resolution of the grievance.
- C. If the grievance is satisfactorily resolved by this discussion, the terms of the resolution will be written and signed by the grievant, the Department Chair, and the respondent (if the respondent has participated in any discussions in an effort to resolve the grievance and is affected by the resolution). A copy of this document will be sent to and maintained in the office of the Dean or his/her designees.

If the grievance is against the Chair, and is satisfactorily resolved by this discussion, the terms of the resolution will be written and signed by the grievant, the Dean or his/her designee and the Chair (who is the respondent, if the Chair has participated in any discussions in an effort to resolve the grievance and is affected by the resolution).

If the grievance is against the Dean, and is satisfactorily resolved by this discussion, the terms of the resolution will be written and signed by the grievant, the Dean (who is the respondent, if the Dean has participated in any discussions in an effort to resolve the grievance and is affected by the resolution), and the Chancellor or his designee.

- D. This initial attempt of resolution must conclude within 14 business days of the initial discussion with the grievant. At the end of this 14-day period, if the grievance cannot be resolved, the grievant may immediately proceed to Step 2, presentation of a formal grievance to the Dean of the College.
- E. If the grievance is against the Dean and the grievance cannot be resolved, the grievant may immediately proceed to Step 3, presentation of a formal grievance to the Chancellor.

Step 2: Formal Grievance to the Dean

A. Filing a Grievance

- 1. Grievances submitted to the Dean of the College must be in writing and must provide:
 - name and address of the grievant
 - nature, date, and description of the alleged violation(s)
 - name(s) of person(s) responsible for the alleged violation(s)
 - requested corrective action or remedy sought
 - any background information the grievant believes to be relevant.

2. A grievance must be submitted to the Dean within 10 business days of the completion of the initial attempt of resolution, outlined in Step I above.
- B. Within 2 business days of receipt of a formal grievance, the Dean will provide the respondent a copy of the grievance and direct the respondent to submit to the Dean a written response to the charges within 10 business days. The respondent will be specifically warned not to retaliate against the grievant in any way. Retaliation will subject the respondent to appropriate disciplinary action.
 - C. Within 5 business days following receipt of the written response, the Dean may elect to (a) review and decide the issue, or (b) the Dean may refer the issue to the College Appeals Board for a hearing.

If the Dean decides the issue, the Dean will mail by certified mail, return receipt requested, a written copy of the decision to the grievant and respondent at addresses previously provided by the grievant and the respondent. If the Dean refers the issue to the College Appeals Board, the grievance will be heard pursuant to the Pre-Hearing Procedures and Hearing Procedures listed below.

D. Pre-Hearing Procedures

1. Selection of Grievance Panel: When a grievance is referred to the College Appeals Board, a Grievance Panel, composed of 3 members of the College Appeals Board will be selected as follows: Within 5 business days of notification to the grievant and respondent that the grievance has been referred to the College Appeals Board for a hearing, the Dean, or the Dean's designee, and the grievant will meet to review the members of the College Appeals Board, removing from consideration any member who may with reason be considered inappropriate for the hearing (e.g., a faculty member involved in the grievance should not sit on the panel).

Names of the remaining members will then be written on tabs of paper, folded, and randomized by mixing. The grievant will draw names from the container. The first three names will constitute the Grievance Panel, provided they are available to attend the hearing. The fourth name drawn is the first alternate; the fifth name drawn is the second alternate, respectively, etc., until names of all members of the appeals board are listed in a sequence of priority.

2. Scheduling of Hearing: The Hearing will be conducted no sooner than 10 business days and no later than 20 business days after the drawing, unless the Dean, or the Dean's designee, determines there is a specific reason why another time must be selected.
3. Agents: The grievant and the respondent may each have one agent, who may be an attorney or other individual, to assist in the initiation, filing, processing, or hearing of the formal grievance. However, the agent may not address the Grievance Panel,

speak on behalf of the grievant or respondent, question witnesses, or otherwise actively participate in the hearing. The Panel may also be assisted and advised by university counsel at its discretion.

4. **Hearing Documents:** No later than 5 business days before the hearing, the grievant and the respondent must provide the Dean, or the Dean's designee, with 5 complete sets of documents to be used and relied upon at the hearing and with the name, address, and telephone number of the agent and witnesses. On the same day the documents are received, or no later than the following day, there will be an exchange of this information between the parties, which will be facilitated by the Dean, or the Dean's designee.
5. **Information to the Grievance Panel and Election of Chairperson:** No later than 3 business days before the Hearing, the Dean, or the Dean's designee, will assemble the 3 members of the Grievance Panel. The Panel will be supplied with the documents and information submitted by the parties (as specified in paragraph 4 above), the date of the Hearing will be confirmed, and procedural matters related to the hearing and panel's report of the hearing will be discussed. The Dean, or the Dean's designee, will then withdraw from the room. The Panel will convene briefly for the sole purpose of electing a Panel member as chairperson and deciding whether the Panel requests the assistance of university counsel. It is the responsibility of the chairperson to conduct the hearing in an orderly and efficient manner. The substance of the grievance will not be discussed at this initial meeting. The grievant, respondent, and their respective agents are not permitted to attend.

E. Hearing Procedures

1. **Record of the Hearing:** The hearing will be recorded by recording devices supplied by the University of Arkansas for Medical Sciences. These recordings will be maintained in the office of the Dean, or the Dean's designee, for a time period specified by university policy. The grievant or respondent may obtain a copy of the recordings from any recorded hearing, at the requesting party's expense. The deliberations of the Grievance Panel will not be recorded.
2. **Attendees:** Attendees at the beginning of the hearing are limited to the Dean, or the Dean's designee, members of the Grievance Panel, the grievant and the grievant's agent, the respondent and the respondent's agent, and counsel representing the Panel.
3. **Dean's Announcement:** At the beginning of the hearing, the Dean, or the Dean's designee, will announce the date, time, place, and purpose of the hearing, and will ask the members of the Grievance Panel to identify themselves by name and department. The grievant and the respondent will then identify themselves by name and department. Finally, any agent accompanying the grievant, the respondent, or the Panel will identify himself or herself by name and title. The Dean, or the Dean's designee, will then give the Panel its charge. Following the charge, the Dean, or the Dean's designee, will withdraw from the room.

4. Private Hearing: The hearing will be conducted in private. Witnesses will not be present during the testimony of any party or other witness. Witnesses will be admitted for testimony only and then asked to leave. The grievant and the respondent may hear and question all witnesses testifying before the Grievance Panel.
5. Presentation of Case: The grievant and respondent will be afforded reasonable opportunity for oral opening statements, closing statements, their own testimony, and presentation of witnesses and pertinent documentary evidence, including written statements.
6. Grievance Panel Rights: The Grievance Panel will have the right to question witnesses, examine documentary evidence presented, and summon other witnesses or review other documentation as the Panel deems necessary. The Panel may limit testimony and presentation of other evidence to that which is relevant to the alleged violation(s) and limit testimony and other evidence that is cumulative and unnecessary.
7. Grievance Panel Deliberation: After the hearing is concluded, the Grievance Panel will convene to deliberate in closed session and arrive at a majority recommendation. The Panel will make its determination of whether or not a rule, procedure or policy was not followed or was applied in an unfair or inequitable manner based upon the evidence presented at the hearing, which is relevant to the issue(s) before the Panel. The Panel may make recommendations for resolution of the dispute. The grievant, the respondent, and their agents are not permitted to be present during the Panel's deliberations.
8. Transmittal of the Recommendation: Within 5 business days after the hearing is concluded, the chairperson will submit a written copy of the Grievance Panel's recommendation to the Dean, or the Dean's designee. The Dean, or the Dean's designee, will then mail, by certified mail, return receipt requested, a copy of the written document to the grievant and respondent and Dean, or the Dean's designee, at addresses previously provided by the grievant and the respondent.
9. Appeal of Recommendation of the Grievance Panel: If either the grievant or the respondent wishes to appeal the recommendation of the Grievance Panel, the grievant or respondent may appeal the grievance recommendation to the Dean within 5 business days of the receipt of the recommendation. The appeal must be in writing, and it must be based on one of the following: (a) a substantial mistake of fact occurred, (b) a fundamental misinterpretation of official policies is evident, or (c) a significant procedural defect took place. These are the only grounds for contesting the determination of the Panel.

If the Dean receives no appeal by either the grievant or the respondent within the time period allowed, the Dean may accept the Grievance Panel's recommendation, amend

it, reverse it, or refer the grievance back to the Panel for reconsideration. The decision of the Dean will be final, and there will be no further appeal.

If either the grievant or respondent appeals the Grievance Panel's recommendation, within 5 business days of the receipt of the appeal, the Dean may at his/her discretion order the Panel to reconvene in private to consider the merit of the appeal, review the Panel's previous determination, and revise it if appropriate. No new evidence or testimony will be introduced at this time. The grievant, the respondent, and their agents are not permitted to be present during the Panel's deliberation.

Within 2 business days of its having reconvened, the Panel will present its determination, revised or unchanged, in writing to the Dean. Within 5 business days of receipt of the determination from the Panel, the Dean may accept it, amend it, reverse it, or refer it back to the Panel for reconsideration. The grievant and the respondent will be notified in writing of the Dean's decision by certified mail, return receipt requested. The Dean's decision is final and no further review shall be available to the grievant.

Step 3: Formal Grievance to the Chancellor

A. Filing a Grievance

1. Grievances submitted to the Chancellor must be in writing and must provide:
 - name and address of the grievant
 - nature, date, and description of the alleged violation(s)
 - name(s) of person(s) responsible for the alleged violation(s)
 - requested corrective action or remedy sought
 - any background information the grievant believes to be relevant.
2. A grievance must be submitted to the Chancellor within 10 business days of the completion of the initial attempt of resolution, outlined in Step I above.

B. Within 2 business days of receipt of a formal grievance, the Chancellor will provide the respondent a copy of the grievance and direct the respondent to submit to the Chancellor a written response to the charges within 10 business days. The respondent will be specifically warned not to retaliate against the grievant in any way. Retaliation will subject the respondent to appropriate disciplinary action.

C. Within 5 business days following receipt of the written response, the Chancellor may elect to (a) review and decide the issue, or (b) the Chancellor may refer the issue to the Chancellor Appeals Board for a hearing.

If the Chancellor decides the issue, the Chancellor will mail by certified mail, return receipt requested, a written copy of the decision to the grievant and respondent at addresses previously provided by the grievant and the respondent. If the Chancellor refers the issue

to the Appeals Board, the grievance will be heard pursuant to the Pre-Hearing Procedures and Hearing Procedures listed below.

D. Pre-Hearing Procedures

1. Selection of Grievance Panel: When a grievance is referred to the Chancellor Appeals Board, a Grievance Panel, composed of 3 members of the Chancellor Appeals Board will be selected as follows: Within 5 business days of notification to the grievant and respondent that the grievance has been referred to the Chancellor Appeals Board for a hearing, the Chancellor, or the Chancellor's designee, and the grievant will meet to review the members of the Chancellor Appeals Board, removing from consideration any member who may with reason be considered inappropriate for the hearing (e.g., a faculty member involved in the grievance should not sit on the panel).

Names of the remaining members will then be written on tabs of paper, folded, and randomized by mixing. The grievant will draw names from the container. The first three names will constitute the Grievance Panel, provided they are available to attend the hearing. The fourth name drawn is the first alternate; the fifth name drawn is the second alternate, respectively, etc., until names of all members of the appeals board are listed in a sequence of priority.

2. Scheduling of Hearing: The Hearing will be conducted no sooner than 10 business days and no later than 20 business days after the drawing, unless the Chancellor, or the Chancellor's designee, determines there is a specific reason why another time must be selected.
3. Agents: The grievant and the respondent may each have one agent, who may be an attorney or other individual, to assist in the initiation, filing, processing, or hearing of the formal grievance. However, the agent may not address the Grievance Panel, speak on behalf of the grievant or respondent, question witnesses, or otherwise actively participate in the hearing. The Panel may also be assisted and advised by university counsel at its discretion.
4. Hearing Documents: No later than 5 business days before the hearing, the grievant and the respondent must provide the Chancellor, or the Chancellor's designee, with 5 complete sets of documents to be used and relied upon at the hearing and with the name, address, and telephone number of the agent and witnesses. On the same day the documents are received, or no later than the following day, there will be an exchange of this information between the parties, which will be facilitated by the Chancellor, or the Chancellor's designee.
5. Information to the Grievance Panel and Election of Chairperson: No later than 3 business days before the Hearing, the Chancellor, or the Chancellor's designee, will assemble the 3 members of the Grievance Panel. The Panel will be supplied with the documents and information submitted by the parties (as specified in paragraph 4

above), the date of the Hearing will be confirmed, and procedural matters related to the hearing and panel's report of the hearing will be discussed. The Chancellor, or the Chancellor's designee, will then withdraw from the room. The Panel will convene briefly for the sole purpose of electing a Panel member as chairperson and deciding whether the Panel requests the assistance of university counsel. It is the responsibility of the chairperson to conduct the hearing in an orderly and efficient manner. The substance of the grievance will not be discussed at this initial meeting. The grievant, respondent, and their respective agents are not permitted to attend.

E. Hearing Procedures

1. **Record of the Hearing:** The hearing will be recorded by recording devices supplied by the University of Arkansas for Medical Sciences. These recordings will be maintained in the office of the Chancellor, or the Chancellor's designee, for a time period specified by university policy. The grievant or respondent may obtain a copy of the recordings from any recorded hearing, at the requesting party's expense. The deliberations of the Grievance Panel will not be recorded.
2. **Attendees:** Attendees at the beginning of the hearing are limited to the Chancellor, or the Chancellor's designee, members of the Grievance Panel, the grievant and the grievant's agent, the respondent and the respondent's agent, and counsel representing the Panel.
3. **Chancellor's Announcement:** At the beginning of the hearing, the Chancellor, or the Chancellor's designee, will announce the date, time, place, and purpose of the hearing, and will ask the members of the Grievance Panel to identify themselves by name and department. The grievant and the respondent will then identify themselves by name and department. Finally, any agent accompanying the grievant, the respondent, or the Panel will identify himself or herself by name and title. The Chancellor, or the Chancellor's designee, will then give the Panel its charge. Following the charge, the Chancellor, or the Chancellor's designee, will withdraw from the room.
4. **Private Hearing:** The hearing will be conducted in private. Witnesses will not be present during the testimony of any party or other witness. Witnesses will be admitted for testimony only and then asked to leave. The grievant and the respondent may hear and question all witnesses testifying before the Grievance Panel.
5. **Presentation of Case:** The grievant and respondent will be afforded reasonable opportunity for oral opening statements, closing statements, their own testimony, and presentation of witnesses and pertinent documentary evidence, including written statements.
6. **Grievance Panel Rights:** The Grievance Panel will have the right to question witnesses, examine documentary evidence presented, and summon other witnesses or review other documentation as the Panel deems necessary. The Panel may limit

testimony and presentation of other evidence to that which is relevant to the alleged violation(s) and limit testimony and other evidence that is cumulative and unnecessary.

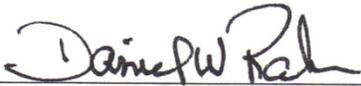
7. **Grievance Panel Deliberation:** After the hearing is concluded, the Grievance Panel will convene to deliberate in closed session and arrive at a majority recommendation. The Panel will make its determination of whether or not a rule, procedure or policy was not followed or was applied in an unfair or inequitable manner based upon the evidence presented at the hearing, which is relevant to the issue(s) before the Panel. The Panel may make recommendations for resolution of the dispute. The grievant, the respondent, and their agents are not permitted to be present during the Panel's deliberations.
8. **Transmittal of the Recommendation:** Within 5 business days after the hearing is concluded, the chairperson will submit a written copy of the Grievance Panel's recommendation to the Chancellor, or the Chancellor's designee. The Chancellor, or the Chancellor's designee, will then mail, by certified mail, return receipt requested, a copy of the written document to the grievant and respondent at addresses previously provided by the grievant and the respondent.
9. **Appeal of Recommendation of the Grievance Panel:** If either the grievant or the respondent wishes to appeal the recommendation of the Grievance Panel, the grievant or respondent may appeal the grievance recommendation to the Chancellor, or the Chancellor's designee, within 5 business days of the receipt of the recommendation. The appeal must be in writing, and it must be based on one of the following: (a) a substantial mistake of fact occurred, (b) a fundamental misinterpretation of official policies is evident, or (c) a significant procedural defect took place. These are the only grounds for contesting the determination of the Panel.

If the Chancellor, or the Chancellor's designee, receives no appeal by either the grievant or the respondent within the time period allowed, the Chancellor, or the Chancellor's designee, may accept the Grievance Panel's recommendation, amend it, reverse it, or refer the grievance back to the Panel for reconsideration. The decision of the Chancellor, or the Chancellor's designee, will be final, and there will be no further appeal.

If either the grievant or respondent appeals the Grievance Panel's recommendation, within 5 business days of the receipt of the appeal, the Chancellor, or the Chancellor's designee, may at his/her discretion order the Panel to reconvene in private to consider the merit of the appeal, review the Panel's previous determination, and revise it if appropriate. No new evidence or testimony will be introduced at this time. The grievant, the respondent, and their agents are not permitted to be present during the Panel's deliberation.

Within 2 business days of its having reconvened, the Panel will present its determination, revised or unchanged, in writing to the Chancellor, or the Chancellor's

designee. Within 5 business days of receipt of the determination from the Panel, the Chancellor, or the Chancellor's designee, may accept it, amend it, reverse it, or refer it back to the Panel for reconsideration. The grievant and the respondent will be notified in writing of the Chancellor's, or the Chancellor's designee's, decision by certified mail, return receipt requested. The decision is final and no further review shall be available to the grievant.

Signature: 

Date: June 4, 2014