

UWEX ACADEMIC STAFF POLICIES AND PROCEDURES

Chapter UWEX 13

COMPLAINTS AND GRIEVANCES

13.01 Complaints. Complaints are allegations by persons other than the academic staff member's supervisor(s), including administrators, students, faculty members, academic staff members, classified staff members, or members of the public concerning conduct by an academic staff member which violates University of Wisconsin System rules and policies, or which adversely affects the academic staff member's performance or his/her obligation to the University of Wisconsin System, but which are not serious enough to warrant dismissal under Chapter UWEX 11.

- (1) A complaint which specifically describes the alleged misconduct shall be in writing to the Chancellor, or to another administrator who shall forward it to the Chancellor.
- (2) Whenever the Chancellor receives an allegation which concerns an academic staff member, which appears to be substantial and which, if true, might lead to disciplinary action, the Chancellor may immediately dismiss the complaint or may request within 7 days that the appropriate dean/director (as defined in Chapter UWEX 9.08) investigate the allegation, offer to discuss it informally with the individual, and provide information of rights to which members of the academic staff are entitled under this chapter. This investigation and discussion must be completed within 30 days. In those cases where the immediate supervisor of the academic staff member concerned is a dean/director, the Chancellor shall, to avoid potential prejudice, designate an appropriate administrative officer to act for the dean under this section. In those cases where the dean/director is the subject of the allegation, an appropriate impartial review procedure will be developed by the Chancellor.
- (3) If the dean/director or designee's investigation and discussion does not result in a resolution of the allegation, then the dean/director or designee must present a written statement of specific charges and the disciplinary action taken or a referral to the Hearings Committee. This statement shall be served to the academic staff member personally or by certified mail, return receipt requested.
- (4) The disciplinary action shall be effective immediately on receipt of written notification of the decision of the dean/director or designee unless a different date of effect is specified by the dean/director or designee.
- (5) The Hearings Committee shall hold a hearing on a complaint at the request of the dean/director or designee, or at the request of the academic staff member concerned if the dean/director or designee invokes a disciplinary action without requesting a hearing. The request by a staff member must be made in writing, addressed to the Secretary of the Academic Staff, and received within 20 days after the receipt of notice of the dean/director or

designee's disciplinary action (25 days if notice is by first class mail and publication). The hearing will be conducted as provided in Chapter UWEX 13.03 and 13.04.

- (6) The burden of proof of the existence of misconduct shall be on the person or party making the complaint, or the dean/director or designee if he/she has invoked disciplinary action.
- (7) After the hearing, the Hearings Committee shall recommend to the Chancellor dismissal of the complaint, invocation of specific disciplinary actions, or modification or affirmation of the disciplinary action imposed by the dean/director or designee.
- (8) The decision of the Chancellor on the recommendation of the Hearings Committee shall be final and the Chancellor shall inform all parties.

13.02 Grievances. A grievance is a personnel problem, perceived by the academic staff member to involve unfair treatment or violation of the staff member's rights and privileges accorded by law, UW-Extension policy, or established UW-Extension practice.

- (1) Dismissals, which are appealable under Chapter UWEX 11, layoffs, appealable under Chapter UWEX 12, and non-renewals of probationary academic staff members, appealable under Chapter UWEX 10.06(2), may not also be grieved under this section.
- (2) Prior to filing a request for a hearing, the grievant shall attempt to discuss the grievance with his/her supervisor, department chair, dean/director, or other appropriate administrative official. The grievant shall notify the appropriate administrative official of a desire to discuss the grievance within 120 calendar days after the grievant knew or should have known about the incident which gave rise to the grievance. This provision may be waived by the Hearings Committee in exceptional cases.
- (3) The request for a hearing shall be made in writing to the chair of the Hearings Committee or Secretary of the Academic Staff either within 60 calendar days of the meeting between the grievant and the appropriate administrative official or within 180 calendar days from the time the grievant knew or should have known about the incident which gave rise to the grievance. The grievance shall be described in detail, providing information on the nature of the disputed action, time, place, and relevant surrounding circumstances and the desired remedial action or actions. It shall also state what informal settlement attempts were made, or state the grievant's reasons for not making such attempts.
- (4) A Hearings Committee shall have 30 days to consider the request, 10 days to inform the academic staff member of the decision on whether to grant a hearing, and 90 additional days to conduct the hearing. If the decision is to grant a hearing, the relevant unit of UW-Extension will be informed at the same time. These time limits may be extended by mutual consent of the parties or by order of the Hearings Committee.
- (5) The Hearings Committee may refuse to hear a grievance if:
 - (a) Appropriate informal settlement efforts were not made by the academic staff member;

- (b) The request does not state a grievance or fails to state a cause of action upon which the Chancellor can grant relief;
 - (c) The matter was previously grieved and heard by the Committee; or
 - (d) Following a request for information, a prehearing conference or exchange of evidence and witness lists by the parties, the Committee decides that no credible evidence supporting the grievance will be forthcoming.
- (6) The Chancellor shall make a decision on the grievance as soon as practicable after receiving the report of the Hearings Committee. The Chancellor's decision shall be final and the Chancellor shall inform all parties of the decision.

13.03 Hearings Committee.

- (1) The UW-Extension Academic Staff Hearings Committee specified in Chapter UWEX 9.17 shall hear all appeals, complaints, and grievances under Chapters UWEX 10, 11, 12, and 13.
- (2) The Hearings Committee not only hears evidence, but is also responsible for conducting the hearing in accordance with Chapter UWEX 13.04:
 - (a) The Committee applies the policies and procedures relevant to a hearing;
 - (b) The Committee rules on requests of the parties and on procedural issues;
 - (c) The Committee schedules and sets the parameters for a hearing; and
 - (d) The Committee selects the moderator of the hearing proceedings.
- (3) Following a hearing, the Committee shall provide to the Chancellor and the parties involved a report consisting of a summary of the evidence, findings of fact, and recommendations and access to a verbatim record of the hearing, which may be a sound recording.

13.04 Hearings Committee Procedures. Whenever the UW-Extension Academic Staff Hearings Committee holds a hearing under Chapters UWEX 10, 11, 12, or 13, the following conditions and rules shall apply.

- (1) Anyone who participated in the decision of the action being appealed or grieved, who is a material witness, who participated in the investigation of the matter of the hearing for either party, or who otherwise has a conflict of interest, shall not be qualified to participate as a member of the Hearings Committee for that hearing. The committee may by its own action or at the request of either party, disqualify any one of its members for any of the above reasons by a majority vote. If one or more of the Hearings Committee members disqualify themselves or are disqualified, the remaining members will select a number of replacements equal to the number who have been disqualified to serve.
- (2) If the Hearings Committee requests, the Chancellor or his/her agent shall provide legal counsel after consulting with the Committee concerning its wishes in this regard. The function of legal counsel shall be to advise the Committee, consult with them on legal matters, and such other responsibilities as shall be determined by the Committee within the provisions of the policies and procedures adopted by the institution.

- (3) Not later than 20 days following the filing of a request for a hearing, unless otherwise specified in the rules, a hearing shall be held except time limits in which to conduct a hearing may be extended by mutual consent of the parties or by order of the Hearings Committee.
- (4) The hearing shall be closed unless the staff member involved requests an open hearing, in which case it shall be open (see s. 19.85 Stats.);
- (5) The Hearings Committee shall determine whether a pre-hearing conference is necessary.
- (6) The Hearings Committee shall not be bound by common law or statutory rules of evidence and may admit evidence having reasonable probative value, but shall exclude immaterial, irrelevant, or unduly repetitious testimony. The Hearings Committee shall give effect to recognized legal privileges.
- (7) Additional procedures may be established by the Hearings Committee.
- (8) The following due process rights apply to both parties involved in the matter of the hearing:
 - (a) At least 10 days' written notice of the hearing;
 - (b) The right to advance notice of the names of witnesses and advance access to documentary evidence which may be called forward or entered as evidence at the hearing by the other party.
 - (c) The right to testify on his/her own behalf;
 - (d) The right to counsel and other appropriate representatives;
 - (e) The right to offer witnesses;
 - (f) The right to confront and cross-examine adverse witnesses;
 - (g) The right to enjoy and exercise all the rights and privileges of a United States citizen and the right and privileges of appropriate professional codes of ethics; and
 - (h) The right to a decision based on the hearing record.
- (9) The Hearings Committee may call witnesses and/or have access to documentary evidence which is in the control of either party.
- (10) Nothing in these procedures shall prevent the settlement of cases by mutual agreement between the two parties at any time prior to a final decision by the Chancellor; or when appropriate, with the board's approval prior to a final decision by the board.
- (11) Adjournments shall be granted to enable either party to investigate evidence as to which a valid claim of surprise is made.

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