

AFTPRS Committee Basics of the Grievance Process

October 26, 2017

Governing Documents

University of Florida Regulations
University of Florida Constitution
Faculty Senate Bylaws

Florida Law: (*right of access*)
Sunshine Law
Public Records Law

Public Records Law

- ▶ Right of access to records of public agency made or received by an agency in connection with official business
- ▶ Content not form



- ▶ If a public records request is received, please refer it to Janine Sikes, assistant VP for Media Relations and Public Affairs (jysikes@ufl.edu or (352) 846-3903).
- ▶ Website: <http://publicrecords.ufl.edu/>

Sunshine Law

- **Open to the public**
- **Notice**
- **Minutes (recorded and open for inspection)**

No abstentions allowed.

If a board or commission is governed by the Sunshine Law: Discussion may only occur at noticed meetings!

Academic Freedom

- ▶ “The University believes that academic freedom and responsibility are essential to the full development of a true university and apply to teaching, research and creativity...”
- ▶ “A faculty member who believes that he/she does not enjoy the academic freedom that it is the policy of the University to maintain and encourage shall be entitled on written request to a hearing before the Academic Freedom, Tenure, Professional Relations and Standards Committee or utilize other procedures available.”

UF Constitution Art. III, Section 2

UF Regulation 7.041 - Methods for Review and Resolution of Faculty Grievances

- ▶ Sets forth steps of grievance process for faculty
- ▶ Encourages informal resolution first before initiating a grievance procedure
- ▶ For faculty not in collective bargaining unit and within jurisdiction of AFTPRS, then faculty can initiate AFTPRS grievance process

Senate By-Law 7

Procedures of the Faculty Senate Committee on AFTPRS

UF Regulation 7.0441

Academic Affairs; Procedures of Faculty Senate Committee on AFTPRS

Composition and Terms

- ▶ Standing committee of the Faculty Senate
- ▶ Members are tenured faculty holding rank of professor (or above)
- ▶ Fifteen members elected by Faculty Senate
- ▶ Members serve staggered 3 year terms
- ▶ Chair is elected by the Committee
- ▶ “Duty of the committee to conduct hearings on charges involving University practices bearing upon tenure or academic freedom or matters involving University practices generally applicable to faculty members bearing on professional ethics and the general welfare of the faculty.”

UF Constitution Art. V, Sec. 4(A)

Possible Roles

- ▶ Serve as pool for random selection of 3 member Inquiry Panel
- ▶ Serve as pool for random selection of 3 member Hearing Panel
 - ▶ Alternate

How it begins

- ▶ Faculty member makes a written complaint to the President, with supporting documentary evidence
 - ▶ Complaint must be made within 30 days of event (or knowledge of event)
- ▶ President refers complaint to the Chair
- ▶ If Chair determines complaint is timely and within the jurisdiction of AFTPRS committee, then Inquiry Panel appointed.
 - ▶ Chair appoints Inquiry Panel within 25 days of receipt of complaint

Jurisdiction

- ▶ Subject-matter jurisdiction is the requirement that the court/committee/council has power to hear the specific kind of claim that is brought.
- ▶ AFTPRS committee subject matter jurisdiction = matters involving University practices bearing on academic freedom, tenure, professional ethics, or the general welfare of the faculty, e.g.:
 - ▶ Dismissal for cause and/or removal of tenure
 - ▶ Denial of Tenure

2 Paths

- ▶ Expedited Grievance Process -
 - ▶ By written request by both parties to the Chair
 - ▶ Only Inquiry Panel
- ▶ Formal Grievance Process -
 - ▶ Inquiry Panel (prerequisite to hearing panel/preliminary hearing)
 - ▶ Hearing Panel

Expedited Proceedings

- ▶ Both parties agree in writing to an expedited proceeding
- ▶ Inquiry Panel meets within 25 days of request
- ▶ Inquiry Panel schedules meeting with both sides
 - ▶ Both sides can present evidence
 - ▶ Panel may interview other witnesses and seek additional evidence
- ▶ Within 60 days of initial request, Final Report (and record) to Provost

Expedited Proceedings

- ▶ Within 25 days, Provost acts
 - ▶ Adopts as is
 - ▶ Modifies
 - ▶ Rejects

Formal Hearing

- ▶ Inquiry Panel
 - ▶ Within 25 days of appointment, Inquiry Panel meets to investigate validity of charges and evaluate evidence to determine if should go to formal hearing
 - ▶ 15 day notice to affected parties of the meeting
 - ▶ Legal standard - Probable Cause
 - ▶ Within 25 days of meeting, Inquiry Panel delivers a “Probable Cause” Report to the Chair
 - ▶ 2 votes
 - ▶ Within 25 days of Probable Cause report delivered to the Chair, complaint is referred to a Hearing Panel

Formal Hearing

- ▶ Hearing Panel
 - ▶ No duplicate folks
 - ▶ 1 panel member, if possible, familiar with due process of law
- ▶ Hearing is similar to a regular hearing
 - ▶ Both sides present evidence
 - ▶ Witnesses, opening, closing
- ▶ Within 60 days, Hearing Panel adopts a proposed report
 - ▶ Parties have right to submit written exceptions to be considered by Hearing Panel

Burdens of Proof

- ▶ Probable Cause - facts and circumstances that would lead an ordinary person to believe
- ▶ Preponderance of the Evidence - "more than 50%" "more likely than not"



Final Report

- ▶ Adopted by a majority vote
 - ▶ Minority position can adopt a minority report
- ▶ Report to include:
 - ▶ Findings of fact - statements of fact based on evidentiary record
 - ▶ Conclusions of law - application of law to the findings of fact
 - ▶ Recommendations
- ▶ Within 25 days, Provost acts
 - ▶ Adopts
 - ▶ Modifies
 - ▶ Rejects

Bottom Line

Provide recommendations based on the evidentiary record; Provost is the final decision maker

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