GRIEVANCE PANEL

DESCRIPTION AND WORKLOAD

The Grievance Panel mediates and seeks to resolve faculty grievances informally with the help of the AS&E ombudsperson, or through the mechanism of formal hearings by a grievance board consisting of five members of the Grievance Panel. It is also responsible for maintaining and updating its operational procedures in consultation with the faculty.

The committee consists of nine members of the faculty of professorial rank, elected for five-year terms, including at least one faculty member from the School of Engineering. No more than one representative of a single department may serve as a member of this panel at any one time, and no member of the Committee on Tenure and Promotion may serve concurrently as a member of the Grievance Panel.

Committee members commit to a one half-hour meeting per year if no grievance is pending. The chair of the Grievance Panel (and perhaps the ombudsperson) may commit approximately 50 hours per grievance, while regular committee members commit a few hours per grievance. Grievants may follow an informal procedure by meeting confidentially with the ombudsperson or may use a formal procedure involving submission of a written description of the grievance. See the Role of the Ombudsperson and confidentiality definition, below, for more details. This written description is processed by the Grievance Panel according to the guidelines located on the Grievance Panel’s website. This panel is not appropriate for junior faculty members, given the sensitive nature of some of the deliberations.

GRIEVANCE PANEL PROCEDURES

Policy and Procedures of the Faculty of Arts, Sciences and Engineering
(Effective November 7, 2018)

In the interest of harmonious and efficacious relations, Tufts University and its faculty recognize the importance of prompt and equitable disposition of any grievance at the lowest organizational level possible under procedures of maximum informality and flexibility.

Grievance procedures can occur at an informal or formal level. The informal grievance procedure involves a one-on-one meeting with the AS&E Ombudsperson. The purpose of this meeting is for the Ombudsperson to advise the grievant, in confidence, of the merits of the case and of further action that might be taken. The formal grievance procedure begins with a written statement of the grievance that is submitted by the grievant to the appropriate administrator(s) and ends with a formal hearing of the grievance that is overseen by the Formal Hearing Board made up of members of the Grievance Panel. The informal and formal procedures are described in detail below. Grievance procedures whether informal or formal, should promote fairness in university-faculty relations, and should be a means of resolving misunderstandings and redressing injustices fairly and without undue delay. The purpose of
the Arts, Sciences and Engineering grievance procedures is to provide opportunities to settle grievances internally and to avoid litigation. Members of the Grievance Panel are entrusted with that task.

Issues that might be appropriate bases for initiating grievance procedures include a perceived violation, inequitable application, or misinterpretation, of a specific provision of a Tufts faculty policy or procedure by the university. In cases involving appointments, renewal of appointments, promotions, and tenure, grievances shall be restricted to whether the University failed to adhere to or equitably apply the applicable policy or procedure. The grievance process set forth in this document does not apply to grievances concerned with substantive matters of professional competence or worthiness for appointment, promotions, tenure, or retention of a faculty member. (See Article IV, Section 2(a) of the Bylaws of the Faculty of Arts, Sciences and Engineering, which describes the charge to the Grievance Panel.)

A grievance involving a matter that is under current court or agency review or that has been finally resolved after court or agency review may not be submitted to the grievance process.

A grievant, at his or her discretion, may invoke the informal grievance process in a discrimination matter, pursuant to which the Ombudsperson may attempt to resolve the grievance informally and confidentially. In such instances the Ombudsperson shall inform the grievant of his or her option to file an informal or formal grievance with OEO (and to seek interim measures), and that the filing of an informal grievance with the Ombudsperson does not constitute notice to the university of a charge of discrimination. Grievants who pursue the informal grievance process should also be aware that there are statutes of limitations applicable to the filing of any legal claims, including discrimination claims, external to the University of which they should be mindful. More information about the role of the Ombudsperson is set forth below in the sections entitled, “Role of the Ombudsperson” and “Informal Grievance Procedure.”

A formal grievance involving a complaint of discrimination under Tufts University’s policies against discrimination in which a faculty member is a complainant or respondent must be submitted directly to the Office of Equal Opportunity at Tufts University (OEO), which will be solely responsible for investigating the complaint in compliance with University policy. Pursuant to OEO policy, the faculty member may choose to have a support person (including but not limited to a legal advisor or another faculty member) participate as an observer to the OEO process. If the faculty member believes that the complaint was not handled by OEO in accordance with relevant policies and procedures, the faculty member shall retain the right to bring a grievance concerning OEO’s management of the investigation, under the procedures described below. For more information see OEO contact information and policies at: https://oeo.tufts.edu/ and https://oeo.tufts.edu/policies-procedures/

A complaint involving charges of misconduct in research and scholarship should not be submitted to the Arts, Sciences & Engineering grievance process. The appropriate procedures are found on the Vice Provost’s website. As set forth in more detail below, faculty may nonetheless speak confidentially with the Ombudsperson regarding these or other issues relevant to the faculty member’s work at the University. Grievants who pursue the informal grievance process should also be aware that there may be statutes of limitations applicable to their claims external to the University of which they should be mindful.
Time Limits

For the purposes of the Informal and Formal Grievance Procedures, all time limits are to be calculated not counting the day of delivery or receipt but counting the day of requisite action. Thus, if a grievance is delivered to the School Dean on a Monday, a written answer to the grievant must be delivered no later than the Monday 14 days later unless the parties have agreed to an extension. The requisite day of action must be a business day. If, as in this example, the 14th is a non-business day, then the next business day will be the day of requisite action. Although any reference to “days” shall mean business days, unless otherwise specified “days” shall not include the period between the university’s commencement and the first day of class in the fall semester or the period between the last day of class in the fall semester and the first day of class in the spring semester.

Role of the Ombudsperson

In the spring semester, the AS&E Ombudsperson is chosen to serve a three-year term by the Grievance Panel from among its members and is confirmed annually thereafter. Panel members chosen in their 3rd – 5th year of service on the Grievance Panel will agree to extend their tenure on the Grievance Panel to be able to serve the full 3-year term of the Ombudsperson position. If no member of the Grievance Panel agrees to serve as Ombudsperson, the Grievance Panel will recruit an AS&E faculty member who is not on the Panel to serve in this position. This person will be an Ex officio member of the Grievance Panel. If the ombudsperson goes on leave during the 3-year term, a replacement will be designated. One alternative is an ex-Ombudsperson who is currently a member of the faculty.

The Ombudsperson shall have the power to review faculty grievances informally and confidentially. The Ombudsperson will practice in accordance with the International Ombudsman Association’s Code of Ethics and Standards of practice which include the core ethics principles of independence, impartiality and neutrality, informality, and confidentiality. The Ombudsperson will need to participate in and complete formal training such as what is offered by the International Ombudsman Association.

The Ombudsperson’s services are intended to provide AS&E faculty with an opportunity to have confidential conversations about work-related matters. Faculty may use these confidential conversations for purposes of obtaining information about University policies, procedures, contacts and formal grievance options, as well as to discuss problem solving, conflict resolution, or other issues of concern. The Ombudsperson is not an advocate, does not conduct investigations or maintain records of confidential discussions with faculty members, and does not participate in any formal proceedings or litigation. The ombudsperson may not serve as a member of any subsequent Formal Hearing Board constituted to hear the same grievance.

The confidentiality afforded to faculty by the Ombudsperson is paramount to the faculty and the University and will not be breached except in the following limited situations: (1) in the event of imminent threat of harm, (2) if conduct reported involves suspected abuse or neglect of a minor under 18 years old, (3) with the written approval or at the written request of the faculty member seeking the Ombudsperson’s services, or (4) as otherwise required or permitted by law or court order (e.g. the Ombudsperson does not have statutorily defined confidentiality, hence, in very rare circumstances, any records may be subpoenaed in civil or criminal litigation and/or subject to search warrant, and the
testimony of the Ombudsperson may be required). The Ombudsperson may, without breaching confidentiality, share aggregate or anonymous information to relevant University offices for purposes of providing feedback about systemic issues or trends.

When the Ombudsperson is from the same department as the grievant or otherwise has an interest in the grievance, the Ombudsperson shall request that a former ombudsperson trained on the IOA Code of Ethics act as Ombudsperson for that case. The Ombudsperson may not serve as a member of any subsequent Formal Hearing Board constituted to hear this grievance.

**Informal Grievance Procedure**

To initiate the Informal Grievance Procedure, the grievant should contact the Ombudsperson. After conferring with the grievant, the Ombudsperson may advise the grievant, in confidence, of the merits of the case and of further action that might be taken. The Ombudsperson shall not act or report further on the case without the written consent of the grievant. Without stepping outside their role and with the written consent of the grievant, the Ombudsperson may communicate with the interested parties to facilitate the resolution of the grievance informally. The entire informal grievance process shall not exceed two months, at which time the grievance will either move to the Formal Grievance procedure or be considered withdrawn by the grievant. At the mutual agreement of the grievant and the ombudsperson, this two-month period may be extended. In considering extensions of time for the informal process, the parties must remain mindful of and act consistently with the purpose of the procedures which is to support the prompt and equitable disposition of faculty grievances.

**Formal Grievance Procedure**

**Step One: Department**

The grievant shall deliver a written statement of the grievance to the office of the person who chairs his or her department. The Department Chair shall investigate and attempt to resolve the grievance within 14 days after the delivery of the grievance unless the parties have agreed in writing to an extension. In instances in which the Department Chair is either the grievant or the respondent, the grievant may elect to proceed directly to Step Two.

**Step Two: School Dean**

If the grievant is not satisfied with the disposition of the grievance at Step One, or if no decision has been rendered within 14 days after the delivery of the grievance at Step One (or any extension of that period), the grievant may deliver the written statement of the grievance, together with a statement of the action taken by the Chair (if any), to the appropriate School Dean. Copies of this submission shall be delivered to the Department Chair, the Provost, and the President.

The School Dean shall investigate and attempt to resolve the grievance. This investigation may include a meeting among the faculty members involved in the issue(s) of the grievance, the Chair, and the School Dean. A written answer shall be given to the grievant by the School Dean within 14 days after receipt of the grievant's letter unless the grievant has agreed in writing to an extension. In instances in which the
School Dean is either the grievant or the respondent, the grievant may elect to proceed directly to Step Three

**Step Three: Formal Hearing Board**

If the grievant is not satisfied with the disposition of the grievance at Step Two, or if no decision has been rendered within 14 days of receipt of the statement submitted at Step Two (or any extension of that period), the grievant may submit to the Chair of the Grievance Panel a Request for Formal Hearing, with a copy to the Department Chair, School Dean, Provost, and President. The Statement of Grievance shall describe the issue(s) of concern and the grounds for the grievance, and name those persons deemed by the grievant to be parties involved directly or indirectly in the grievance.

**Composition of the Formal Hearing Board**

The Grievance Panel, upon receipt of a Request from a grievant, shall meet promptly to elect five of its members to serve on a Formal Hearing Board. Any member of the Panel who has a conflict of interest or who has participated in the preceding steps of the grievance shall not serve on the Formal Hearing Board. The five-member Board thus constituted shall elect by majority vote a Chair of the Formal Hearing Board.

**Scheduling of Formal Hearing**

The Chair of the Formal Hearing Board shall promptly schedule and arrange for the hearing. The hearing date shall not be less than 14 days nor more than 30 days from the date of the Grievance Panel's receipt of the Request, unless an extension of time is agreed to in writing by the parties. In a case where a faculty member is under suspension, the Hearing shall be held as soon as arrangements may reasonably be made, but not later than 14 days from the date of the Grievance Panel's receipt of the Request, unless an extension of time is agreed to in writing by the parties.

Each grievance case must be received by the Chair of the Grievance Panel during either the fall or spring academic semester. If a case cannot be completed before the summer intersession, the hearings may be suspended at the discretion of the Chair of the Panel until the beginning of the next fall semester.

The Chair of the Formal Hearing Board shall notify the grievant and all parties named in the Request for Formal Hearing of the time, place, and date of the hearing by certified mail, return receipt requested or by other service agreed upon by all named parties. At this time, the Chair of the Formal Hearing Board shall also notify each party to the grievance that he or she may be accompanied and/or represented at the hearing by a person of his or her own choosing, including legal counsel.

The Chair of the Formal Hearing Board shall also notify the President, the Provost, and the School Dean in writing that the Grievance Panel has received a request for a hearing and that the hearing has been scheduled.
Conduct of the Formal Hearing

No member of the elected Formal Hearing Board may vote by proxy. The hearing shall be closed unless opened by the mutual consent of all parties to the grievance and the Formal Hearing Board. This vote may be taken with respect to any of the individual sessions, which together comprise the Hearing.

An accurate record of the Hearing shall be kept. The method shall be established by the Formal Hearing Board and may be accomplished by use of a court reporter, an electronic recording unit, detailed transcription, or by the adequate taking of minutes.

The grievant must appear personally at the hearing. A grievant who, without good cause, fails to appear and proceed at the hearing shall be deemed to have abandoned the grievance.

Postponement of hearings beyond the time set forth in these procedures shall be made only with the approval of the Formal Hearing Board. Granting of such postponements shall only be for good cause shown.

The Chair of the Formal Hearing Board shall preside over the hearing to determine the order of procedure during the hearing; to ensure that all interested parties or their representatives can participate; to ensure that all participants in the hearing have a reasonable opportunity to present and substantiate their arguments; and to maintain decorum. Insofar as the proceedings are intended to be of a mediatory nature, they need not follow rules relating to court proceedings.

All parties shall attempt to present their arguments with a minimum of procedural encumbrance. The Formal Hearing Board should take special care in evaluating hearsay, where the person whose statement is being offered is unavailable to appear in person. The Formal Hearing Board may be advised by an attorney or trained mediator on matters of procedure. The Formal Hearing Board may, without special notice, recess the hearing and reconvene it if necessary to accommodate the schedules of the participants or to obtain new or additional supporting material or consultation. Upon conclusion of the presentation of oral and written arguments, the hearing shall be concluded. At the discretion of the Formal Hearing Board, the parties may be allowed limited time for closing statements. The Formal Hearing Board may thereupon, at a time convenient to itself, conduct its deliberations in executive session.

Findings

Within 21 days of the conclusion of the hearing, the Formal Hearing Board shall communicate its findings and shall include recommendations (if any) for disposition of the grievance, in a written report to the Grievance Panel, the Provost, the School Dean, and the parties to the grievance.

Step Four: University President

The report, together with the record of the hearing, shall be submitted to the President for final disposition. The President may seek the advice of members of the Board of Trustees. The President shall base the decision on the record, including the findings and recommendations. If the President determines that the Formal Hearing Board should reconsider its findings and recommendations, the President shall so request within 30 days of receipt of the report. This request shall be in writing and the
reasons for requesting reconsideration shall be stated in full. The Formal Hearing Board shall promptly reconsider its findings and/or recommendations and shall thereafter issue a second report within 30 days of the President's request.

The President, or designated representative, shall make the final adjudication of the grievance within 30 days of the issuance of the report or of the second report of the Formal Hearing Board, as the case may be.

The President shall inform the grievant, all other parties in the grievance, and the Grievance Panel of the final disposition of the case in writing. In the event that the final disposition is not in accordance with the findings and/or recommendations of the final report of the Formal Hearing Board, the President shall give in writing the reasons for rejection of those findings or recommendations.

After final disposition of a formal hearing, the record of the hearing and copies of all documents pertaining to the hearing shall be placed in the files of the President.

The final decision of the President of Tufts University is binding and shall not be subject to further review at the University.
Section 2. The elected standing committees of the Faculty of Arts, Sciences and Engineering shall be: (a) A Grievance Panel ("the panel"), consisting of nine members of the faculty of professorial rank, elected for five-year terms, including at least one member from the School of Engineering. No more than one member of a single department may be a member of this panel at any one time and no member of the Committee on Tenure and Promotion may be a member of the Grievance Panel. The officers of the panel shall be a chair and an ombudsperson.

The chair and the ombudsperson must be designated by the end of each academic year for the following year, and their names should be sent at that time to the Secretary of the Faculty to avoid a hiatus in the panel's functioning. The chair will be chosen annually by the panel from its own members. The AS&E Ombudsperson is chosen to serve a three-year term by the Grievance Panel from among its members and is confirmed on an annual basis. Panel members chosen in their 3rd – 5th year of service on the Grievance Panel will agree to extend their tenure on the Grievance Panel to be able to serve the full 3-year term of the Ombudsperson position. If no member of the Grievance Panel agrees to serve as Ombudsperson, the Grievance Panel will recruit an AS&E faculty member who is not on the Panel to serve in this position. This person will be an Ex officio member of the Grievance Panel. The Ombudsperson will need to participate in and complete formal training such as what is offered by the International Ombudsman Association. The University Administration supports this process and will cover all reasonable formal training expenses.

Members of the panel shall be assembled by the chair upon the request of a grievant, or upon the request of a majority of the members of the committee, or whenever, in the judgment of the chair, a meeting is desirable. The ombudsperson may not serve as a member of any subsequent Formal Hearing Board constituted to hear the same grievance. A faculty member (the grievant) who wishes to present a grievance should notify the ombudsperson requesting a meeting. After conferring with the grievant, the ombudsperson may advise the grievant, in confidence, of the merits of the case and of further action that might be taken. The ombudsperson shall not act or report further on the case without the written consent of the grievant. With the written consent of the grievant, the ombudsperson may communicate with the interested parties to resolve the grievance informally. The entire procedure shall not exceed two months, at which time the grievance will either move to the formal grievance procedure or be withdrawn by the grievant. At the mutual agreement of the grievant and the ombudsperson, this two-month period may be extended. In considering extensions of time for the informal process, the parties must remain mindful of and act consistently with the purpose of the procedures which is to support the prompt and equitable disposition of faculty grievances.

The Grievance Panel shall have the power and responsibility to compose Formal Hearing Boards. The Formal Hearing Boards shall conduct formal hearings of the faculty grievances and shall make findings based on such hearings. The composition and procedures of the Formal Hearing Boards shall be in accordance with Formal Hearing Procedures adopted by the faculty. The panel shall also have power to consider such other matters related to faculty personnel as may be submitted to it by individual members of the faculty; and to make recommendations thereon to the president or, at the discretion of the committee, to the Board of Trustees. For the complete text of the policy and procedure (informal and formal procedure) see the A&S&E Faculty Handbook.