CHAPTER 5: APPEALS AND GRIEVANCES

The Faculty of Arts, Sciences and Engineering has adopted the following grievance policy and procedures (updated xx/xx).

POLICY AND PROCEDURES OF THE FACULTY OF ARTS, SCIENCES AND ENGINEERING

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, 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 shall not be applicable 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 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 and Affirmative Action at Tufts University (OEO) (http://oeo.tufts.edu/), which will be solely responsible for investigating the complaint in compliance with all applicable laws and policies. The faculty member may choose to have the Ombudsperson or another representative of the Grievance Panel participate as an observer to the OEO process. In the event that 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.

A faculty member, 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. In such instances the Ombudsperson shall inform the grievant of his or her option to file an informal (or formal) grievance with OEO, and that the filing of an informal grievance with the Grievance Panel does not constitute notice to the university of a charge of discrimination.

A complaint involving charges of misconduct in research and scholarship should not be submitted to the Arts, Sciences & Engineering grievance process. The appropriate procedures may be found on the Vice Provost’s website.

TIME LIMITS

For the purposes of the Informal Grievance Procedure and the Formal Grievance Procedure, 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 grievant has 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.

**INFORMAL GRIEVANCE PROCEDURE**

A Faculty Ombudsperson, chosen annually by the Grievance Panel from among its members who are in their third year of service on the Panel, shall have the power to hear faculty grievances informally and confidentially. The Ombudsperson may not serve as a member of any subsequent Formal Hearing Board constituted to hear the same grievance.

In a case where the Ombudsperson is from the same department as the grievant or otherwise has an interest in the grievance, the Ombudsperson shall request that a disinterested member of the Grievance Panel who is in his or her third year of service on the Panel act as Ombudsperson for that particular case.

To initiate the Informal Grievance Procedure, the grievant should contact the Ombudsperson. After conferring with the grievant, the Ombudsperson shall advise the grievant, in confidence, of the merits of the case and of further action that might be taken. The Ombudsperson shall not take action 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 in an attempt to resolve 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. Under exceptional circumstances, at the request of either the grievant or the Ombudsperson, this two-month period may be extended by the Grievance Panel for no longer than an additional two months.

**FORMAL GRIEVANCE PROCEDURE**

**Step One: Department**

After exhausting the Informal Grievance Procedure, 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 grievant has 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 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. 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.

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 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 assure that all interested parties or their representatives have the opportunity to participate; to assure 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.