

*UFS 11/20/03 approved, Vote 34-0-1.  
Board of Trustees approved, 1/15/04.*

## **XIV. UNIVERSITY FACULTY GRIEVANCES**

### **1. Policy Statement on University Faculty Grievances**

The faculty of Indiana State University has primary responsibility for such fundamental areas as curriculum, methods of instruction, research/creativity, faculty status (i.e., promotion, performance review, and tenure), and those aspects of student life which relate to the educational process. All faculty members (tenured or untenured) who believe a decision adversely affects these responsibilities or the financial, intellectual, or pedagogical aspects of their appointments and results from a violation of University policy, (i.e., arbitrary, punitive, or capricious application of policies regarding work assignment, or other procedures except those exempted below), academic freedom, or inadequate consideration (this might be with regard to a working condition or assignment, except those exempted below), may petition the appropriate faculty committee for redress. All faculty members are entitled to due process, including a faculty hearing of record and the opportunity to confront any adverse witnesses and/or to respond to adverse information. Procedures other than this one exist in the University for faculty dismissal (tenured and untenured, but "dismissal" referred to here is different from non-reappointment of a tenure-track faculty member, which is also addressed by a separate policy); **appointment, tenure, and promotion**; pay for performance; or conduct involving illegal discrimination.

### **2. College/Schools/Library Level Grievances**

Each college/school/library shall maintain grievance procedures in writing that must grant faculty members the rights defined in Bylaw XIV-1 and ensure procedural due process. Grievances filed in the college/schools/library may be brought on grounds defined above.

### **3. University Level Grievances**

University level grievances fall into one of two categories, appeals or primary grievances:

### **a. Appeals of College/Schools/Library Level Grievances:**

An aggrieved faculty member may appeal the decision of the college/schools/library grievance hearing to the Executive Committee of the University Faculty Senate for one or more of the following reasons but no other:

**Adequacy of Evidence:** The evidence presented in the previous hearing did not adequately support the decision reached.

**Due Process:** Procedural errors in the previous hearing or evidence that should have been heard was not allowed or evidence that should not have been allowed was presented.

**New Evidence:** New and fully documented evidence has arisen since the previous hearing that is sufficient to suggest a major change in evaluation of the matter.

**b. Primary Grievances:** When a grievance does not fall within the jurisdiction of any one college/school/library, it shall be addressed directly by the Executive Committee. In cases when the parties disagree as to the jurisdiction of the grievance, the Executive Committee, shall make the final determination.

### **4. Procedures for University Level Grievances**

The following procedures apply to both appeals and primary grievances in the subsequent language defining procedures:

a. To initiate a University level grievance, be it an appeal or primary grievance, the faculty member must file a formal complaint within **twenty (20)** working days after final conclusion of the original grievance if the complaint constitutes an appeal, and within twenty (20) working days after the grievable event if the complaint constitutes a primary grievance (using Grievance Form A) with the Executive Committee Chairperson through the University Faculty Senate Office. **For the purposes of this document, working days are defined as Mondays through Fridays when classes are in session on campus except during the summer**

sessions. Exceptions to this guideline may be made only in special circumstances as determined by the Executive Committee. The Chairperson will notify the Executive Committee of the complaint at its next meeting following filing of the complaint. The Executive Committee must determine whether or not the grievance is within its jurisdiction and warrants mediation and a formal hearing. Grievances that the Executive Committee determines do not warrant a hearing may still be forwarded for mediation. To facilitate that decision, the Executive Committee will notify the respondent(s) of the complaint and supply the respondent(s) with a copy. The notification of the respondent(s) should take place within one Executive Committee session after having received the complaint. The Executive Committee will request that the respondent(s) formally submit a written response to the complaint within seven (7) working days. The Executive Committee should evaluate the set of materials at the session immediately following receipt of the materials. If, after evaluating the submitted materials, the Executive Committee decides that the complaint warrants a hearing and/or mediation, it will send the complaint, and the response(s), to the Chairperson of the University Faculty Affairs Committee. The response(s) will also be forwarded to both parties. The process of mediation should begin within seven (7) working days of the date the materials are received by the Faculty Affairs Committee Chairperson. Once the process of mediation begins, no more than ten (10) working days should be allowed to resolve the dispute by mediation. In discrimination complaints, if contacted first, the Executive Committee Chairperson will direct the faculty member to the Affirmative Action director.

1. The Chairperson of the University Faculty Affairs Committee shall seek to arrange for resolving the conflict through mediation. The process of mediation shall be voluntary, private, and confidential, led by an impartial third faculty member who has had mediation training supported by the Provost and Vice President for Academic Affairs Office.

2. Upon completion of the mediation process, the mediator will submit to the

Faculty Affairs Committee Chairperson any agreement, in writing, reached by the primary parties. If agreement is reached, the Faculty Affairs Committee Chairperson will report the agreement to the Executive Committee and the Provost and Vice President for Academic Affairs. The matter will be considered complete, and a record of it will be filed in the participating members' personnel files and in the files of the University Faculty Senate Office.

3. If no agreement is reached within ten (10) working days, the Faculty Affairs Committee Chairperson will report this result to the respondents, and to both the Executive Committee Chairperson and the Provost and Vice President for Academic Affairs. If the mediation is unsuccessful, **and the Executive Committee has previously determined that the grievance warrants a hearing**, the Faculty Affairs Committee Chairperson shall convene a grievance committee drawn from a grievance pool within the time period set forth in Section 5b of this Bylaw.

b. Either the complainant(s) or the respondent(s) may elect not to participate in a hearing, but neither may waive the right of the other to have a hearing. Only if both elect to waive a hearing, will the Grievance Committee base its findings solely on evidence submitted by the parties involved in the allegations.

c. If either the complainant or the respondent elects a hearing before the Grievance Committee, the specific procedures for the hearing are outlined in Section 5 of this Bylaw.

d. After the hearing, the Grievance Committee will deliberate and submit its findings and recommendations in writing to the Executive Committee, the Provost and Vice President for Academic Affairs, and the University President using Grievance Form A.

## 5. University Level Grievance Hearings

a. The Faculty Affairs Committee will establish and maintain a pool of twenty (20) or more

tenured faculty to serve staggered three-year terms as Grievance Committee members. Members of the pool will be selected by a stratified random sample based on proportion from the tenured faculty, including department chairpersons, in proportion to numbers in rank. The pool **should** be representative of the University faculty and include members of federally defined protected classes. The Provost and Vice President for Academic Affairs, in cooperation with Executive Committee Chairperson, will provide for annual training of the Grievance Committee members.

**b. For cases that the Executive Committee has determined warrant grievance hearings, a grievance committee shall be constructed and its first meeting held within fifteen (15) working days of the reported failure of mediation pursuant to Section 4-a. Within the first five (5) days, the Faculty Affairs Committee Chairperson shall notify both parties that the process of constructing the Grievance Committee has begun. The Chairperson will begin the construction by randomly selecting nine (9) persons from the grievance committee pool for possible membership on the Grievance Committee. Any person selected may remove himself/herself from consideration because of a possible conflict of interest. Should this occur, the Faculty Affairs Committee Chairperson will select another name from the pool, offering the newly chosen person the opportunity to remove himself/herself for possible conflict of interest. This process will be repeated, if necessary, until nine (9) potential Grievance Committee members are named. The Faculty Affairs Committee Chairperson will then offer each party to the dispute the opportunity to exclude up to two (2) persons from the Committee. If more than five (5) persons remain after this exclusion process is completed, the FAC Chairperson will select names at random from the remaining group in order to reduce the Committee to five (5) members. Once the Grievance Committee has been established, the Faculty Affairs Committee Chairperson will conclude his/her formal involvement in the grievance process by convening an initial meeting of the Grievance Committee, transmitting the complainant's grievance materials to the Committee and to the respondent, and transmitting the respondent's materials to the Committee and to the complainant (see Section 5c of this Bylaw), and informing the complainant and respondent of the**

Committee's membership. The Committee will elect its own Chairperson. A Committee member must be present at both the grievance proceedings and the final Committee deliberations in order to cast a vote.

c. During the same **fifteen (15) working** days as in Section 5b of this Bylaw, the complainant and respondent shall prepare and submit materials to the Faculty Affairs Committee Chairperson. Materials submitted by the parties should contain everything deemed relevant to the dispute, including a list of witnesses which the Committee shall call and suggested questions to ask of both sides.

d. The Grievance Committee has the right to request additional materials and to call additional witnesses. All written materials submitted to the Grievance Committee shall be shared with both parties **by the Faculty Affairs Committee Chairperson** immediately following the fifteen **(15) working** day period allowed for submission. The **Grievance Committee** Chairperson will call for a hearing within fifteen (15) working days of the Committee's receiving a formal complaint. If needed, the Committee may decide to extend this period up to **five (5) working** days. The **Chairperson will notify the respondent(s), and the complainant(s) in writing of the date of the hearing, and will obtain confirmation from those individuals that they have been notified.**

e. The Grievance Committee Chairperson will call the meeting to order. The meeting will be recorded and the minutes transcribed for the record by a qualified person hired from outside the University community. These proceedings will be closed and no legal representation will be present. Both sides in the dispute shall be apprised in writing of the rules and procedures to be followed, including statements that these are not proceedings at law. Each party to the dispute may choose one (1) tenured current or emeritus faculty member as an advisor and may confer with that advisor before answering questions during the hearing.

f. The complainant will have ten (10) minutes per respondent up to a maximum of thirty (30) minutes to present his/her case. The Grievance Committee will then direct questions to the complainant.

g. The respondent(s) will each have ten (10) minutes to present his/her case up to a maximum of thirty (30) minutes. When there is more than one (1) respondent, the respondents may elect to consolidate their allotted time and choose a spokesperson. The Grievance Committee will then direct questions to the respondent(s).

h. The Chairperson of the Grievance Committee will then call witnesses. No advisor will be allowed to be called as a witness. Only one (1) witness shall be present in the hearing room at a time. The Committee will recall witnesses if needed. The Committee may accept a written, notarized statement if necessary. **The statement must be made available to the Committee before the date of the hearing.** Included in the statement should be an explanation of why the witness is unable to appear in person. Only questions by Grievance Committee members will be permitted during the proceedings. The members have the right to use or disregard questions previously submitted by the parties concerned and ask questions not suggested by the parties. The parties have the right during the proceedings to suggest additional questions. These suggestions should be passed to the Chairperson, who shall have the responsibility of determining whether the questions should be asked. The Chairperson may solicit advice on these matters from other members of the Committee. The Chairperson may limit such suggestions if they appear excessive. These rules hold as well for the questioning of witnesses.

i. The respondent(s) will each have ten (10) minutes to summarize his/her case up to a maximum of thirty (30) minutes. When there is more than one (1) respondent, the respondents may elect to consolidate their allotted time and choose a spokesperson. The complainant will then be allowed ten (10) minutes per respondent up to a maximum of thirty (30) minutes to summarize his/her case.

j. Within seven (7) working days after completion of the hearing, the Grievance Committee will meet to render its findings, conclusions, and recommendations. The results shall be reached on the basis of a simple majority of the Grievance Committee. Dissenting opinions may be included in the Committee's report. The Chairperson of the Grievance Committee shall **immediately** forward its written decision, through the University Faculty

Senate Office to each party and to the Executive Committee, the Provost and Vice President for Academic Affairs Office, and the University President. **The Faculty Senate Office should forward the decision to the fore-mentioned parties within seven (7) working days of having received the decision.**

k. Once the findings, conclusions, and recommendations have been forwarded to the Provost and Vice President for Academic Affairs, and the President, the grievance process is complete. The President will consider the material forwarded and will make a final written determination. If the President's decision is counter to any or all of the recommendations of the governance committees then such written determination shall include an articulated basis for the President's decision. **Within ten (10) working days of the material's delivery to the President, his or her written determination should be forwarded to the Executive Committee Chairperson and the Chairperson of the Grievance Committee.**

l. All materials connected with the hearing shall be kept in the University Faculty Senate Office for five (5) years after the decision.