

**PROCEDURES FOR CONDUCT OF THE  
CAPFA GRIEVANCE COMMITTEE  
Revised and Approved 04/2012**

**General Procedures:**

1. In general, the work of the grievance process for A/P Faculty will be conducted by ad hoc panels appointed from the A/P faculty at large. The chair of CAPFA generally conducts grievability rulings and serves as the non-voting chair of grievance panel hearings. However, the chair of CAPFA can present a designee to handle any part of the grievance process if necessary to expedite the process or to avoid a potential conflict of interest. Notice of using a designee will be provided to the grievant and the appropriate university administrators in writing in a timely manner.
2. Any A/P faculty member asked to serve on a grievance panel who knows of an actual or perceived conflict of interest that might prevent him/her from participating in a particular matter in an unbiased manner will be expected to disqualify himself/herself from participation.
3. Members of the panel, parties involved in the disputes under consideration by the committees, witnesses, and others who may be involved in matters brought to one of the panels will be expected to abide by generally accepted rules of confidentiality and privilege.
4. These procedures shall conform to the appropriate sections of the Faculty Handbook.
5. "Week days" as used in these procedures include Monday through Friday only, and only when those days are not national, state or religious holidays relevant to the principals in the grievance.
6. Changes in the procedures may be made by majority vote of the members of the Commission on Administrative and Professional Faculty Affairs. Due notice will be given on the agenda.

**Procedures for Handling a Formal Grievance through CAPFA Hearing Panel:**

1. Issues of Grievability:

A request for a grievability ruling may be made at any point in the process. If any respondent rules that an issue does not qualify for the grievance process, the grievant may submit a request for a ruling of grievability to the chair of CAPFA within five week days of receiving such notification. When a grievability ruling is requested, the chair of CAPFA, or his/her designee, two current A/P Faculty members of CAPFA (selected by the CAPFA Chair in consultation with the associate vice president for human resources or the associate provost for faculty affairs), and the chair of the faculty reconciliation team will deliberate and determine the admissibility of the matter to the grievance process. This process is independent of a CAPFA hearing panel. The grievability ruling will be documented on the grievance form, and a written report of the deliberations will be sent to all parties concerned. If the issue is deemed grievable, the grievance resumes the outlined grievance process at whichever step grievability was called into question. If the issue is deemed non-grievable, the grievance process concludes.

2. Selection of hearing panel members:

Selection of hearing panel members will occur after:

- 1) Receipt of a written grievance where a hearing panel has been requested by the grievant.
- 2) Receipt of a grievability ruling, if requested, deeming the matter grievable.

The CAPFA chair, or his/her designee, will begin the appointment process for a hearing panel. Nominations of at least six potential panel members will be drawn from the A/P faculty at large who have expressed interest in serving on Grievance Panels. Selection of panel members will be made by the CAPFA chair, or his/her designee in consultation with one or more of the ex officio members of CAPFA as needed. Both parties to the grievance will be notified in writing of the nominations.

Each party to the grievance will be asked to indicate in writing whether he or she wishes to disqualify one nominee. No cause need be stated. The chair selects the final three panel members plus an alternate from the remaining acceptable nominations.

The chair will act as the non-voting chair of the hearing panel. In the event that the chair has a conflict of interest concerning a case, the chair shall appoint a non-voting chair of the panel from the three final panelists or the panel alternate.

A hearing may consist of at least two meetings. All parts of the hearing must be attended by all hearing panel members, including a pre-hearing meeting prior to the scheduled hearing, if necessary.

3. Hearing Attendees/Assistants to the Parties:

Each party will have the right to designate one person to provide assistance at the hearing and who may speak in his or her place at any time.

These panel hearings are administrative functions, not legal proceedings. Therefore, if legal counsels are present they must understand that the proceedings do not follow courtroom or trial procedures and rules. Participation by legal counsel will be at the invitation of the parties they represent and will be subject to the rulings of the chair of the Hearing panel. The Hearing panel may consult the University Legal Counsel on matters of procedure at any time during the process. If the grievant designates a lawyer as an assistant for the hearing, then the University Legal Counsel shall also be present. A reasonable time for preparation by the University's Legal Counsel shall be provided. If requested, a new hearing date to accommodate such preparation will be determined by the chair. If the grievant does not wish to have legal counsel at a hearing, neither party to the grievance may have legal counsel present.

At least five week days before the scheduled hearing, both parties involved in the grievance must notify the Hearing panel chair in writing, as to whether or not they intend to designate a lawyer as his or her assistant at the hearing. For this purpose a lawyer is considered to be any person who has a law degree and/or is duly licensed by any state to practice law.

Each party, with designated assistant, may be present throughout the hearing. The Hearing panel may conduct its own deliberations in private. The hearing will be closed to all others, with the exception of the Hearing panel members themselves and witnesses while presenting testimony, if any. Witnesses will not discuss the testimony while the hearing is in

progress.

4. Documentary Evidence:

At least five week days before the scheduled hearing, each party will submit to the Hearing panel chair two copies of documentary evidence that he or she intends to introduce. The chair will arrange for each party to receive, without delay, a copy of the other party's submissions.

The Hearing panel will not be bound by the rules of legal evidence and may admit any evidence which is of probative value in determining the issues involved. The chair will rule on the admissibility of evidence, subject to the Hearing panel's override (by simple majority vote). This includes statements from unavailable witnesses (see below).

5. Witnesses

Witnesses for either party are not a requirement of the hearing process. It is up to the Chair, in consultation with other panel members, to determine if testimony from witnesses is appropriate and if so, which witnesses will be invited.

At least five week days before the scheduled hearing, each will submit to the Chair a list of requested witnesses, a brief justification for the testimony of each, and the intended form of presentation. The Chair, in consultation with other panel members prior to the hearing in a pre-hearing meeting, will determine which witnesses shall be invited, informing both parties of the decision as soon as possible.

When invited witnesses are unavailable, alternative arrangements for their participation should be considered. The Committee's first preference is a personal appearance by the witness. In cases where personal appearance is not possible, witnesses will be interviewed by phone during the hearing. If necessary, other means of providing testimony such as a written statement will be considered by the Chair. When the opposing party does not have an opportunity to cross-examine in person or by phone, he or she shall be given an opportunity to comment on the testimony submitted to the Panel.

6. Summary Evidence/Witness/Hearing Assistants Requirements

Summary of items required at least five weekdays prior to the scheduled hearing from BOTH parties to the chair:

1. Two copies of documentary evidence.
2. List of desired witnesses with brief justification and intended form of testimony.
3. Name of assistant and indication whether such assistant is a lawyer.

7. Conduct of the Hearing:

At the hearing, the grievant will be given an opportunity to briefly present the grievance and to respond to questions from Panel members and, subject to the control of the chair, the other party. The latter will then have an opportunity to briefly present his or her response to the grievance and to respond to questions from Panel members and, subject to the control of the chair, the grievant.

Each party to the grievance (or assistant) and Hearing panel members will have the opportunity to question witnesses who are testifying in person or on the telephone, subject to the control of the chair.

Hearing panel members may request additional evidence to be presented, and/or additional witnesses to be called, as they see fit, with both parties present at a regularly scheduled session of the hearing. The Hearing panel, on its own initiative, may seek out relevant information to include, but not limited to, requesting that additional witnesses appear before the committee, reviewing relevant documents, and securing university policy and procedures.

At the discretion of the Chair, a continuance may be granted to either party to investigate evidence when a claim of surprise is made.

At the end of the hearing, first the grievant and then the party against whom the grievance is filed will be given an opportunity to make a brief closing statement.

7. Findings and Report of the Hearing panel:

Findings of the Hearing panel will be transmitted in a written report to the appropriate Senior Administrator. In preparing its findings and recommendation(s) for submission in a report to the Senior Administrator, the Hearing panel will rely heavily on the evidence presented at the hearing and its assessment of applicable university policy. Copies of the report of the Hearing panel will also be provided concurrently to both parties to the grievance and the Dean/Vice-President.

The report should document, at minimum, the hearing process (who testified, when, names of panel members), the rationale for the findings, and the Panel's recommendation(s). Any panel member who wishes to include a dissenting opinion may do so.

The Hearing panel should make a reasonable effort to conclude its work and make its recommendations within 45 weekdays of receipt of the grievance by the Chair of the Committee.

8. Retention of Documents:

Correspondence related to the grievance, evidence, the report, and any related materials will be delivered by the chair to the associate vice president for human resources for confidential document storage. All documents submitted to panel members for use in the hearing will be destroyed by the panel members after the panel's findings have been sent to all parties in writing.