

# Texas Woman's University University Regulation and Procedure

**Regulation and Procedure Name: Faculty Grievance, Review, and Appeal Processes**

**Regulation and Procedure Number: URP: 02.350**

**Policy Owner: Academic Affairs**

## **POLICY STATEMENT**

Texas Woman's University ("TWU") is committed to the fair and equitable treatment of all faculty members. As such, TWU seeks to provide for the prompt resolution of faculty grievances, faculty review of matters, and faculty appeal proceedings. It is the policy of TWU that any Faculty Member who believes they have not received fair treatment has a right to seek appropriate redress within a reasonable time under the terms of this policy.

## **APPLICABILITY**

This policy is applicable to TWU Faculty.

## **DEFINITIONS**

1. "Business Day" means Monday through Friday during regular TWU business hours (8:00 am – 5:00 pm), when TWU offices are open.
2. "Faculty Member" means an individual who is employed by TWU as a member of the faculty and whose duties include teaching, research, service, and administration. Professional librarians and graduate assistant titles are excluded from the definition of faculty member.
3. "Grievance Dossier," "Disciplinary Review Dossier," and "Appeal Dossier" mean information submitted by a Faculty Member in connection with a grievance, disciplinary review, or appeal under this URP, and may include the following information:
  - a. The URP 02.350 Transmittal Form;
  - b. A written statement of the issue(s) to be reviewed;
  - c. Supporting documents and information, such as annual review materials, the names of other individuals with knowledge of

relevant information, written witness statements, and written correspondence, if applicable;

d. A copy of the Regent Policy or University Regulation and Procedure (“URP”) that Faculty Member feels was violated, if applicable, and an explanation of how the Regent Policy or URP was violated. This explanation should be included in the written statement of the issue(s) to be reviewed; and

e. A statement of the relief sought.

4. “Grievant” means a Faculty Member who files a grievance, seeks a disciplinary review, or requests an appeal under this URP.

5. “Respondent” means TWU and its designated representative(s).

6. "Tenure" means the entitlement of a faculty member of TWU to continue in the faculty member's academic position unless dismissed by TWU for good cause in accordance with TWU's policies and procedures. The granting of tenure may not be construed to create a property interest in any attribute of a faculty position beyond a faculty member's continuing employment, including their regular annual salary and any privileges incident to their status as a tenured faculty.

## **REGULATION AND PROCEDURE**

### **I. General**

A. Non-reappointment and termination of employment at the expiration of the contract term are not subject to faculty grievance, faculty disciplinary review, or faculty appeal process.

B. In addition, matters arising out of federal and state laws regulations or statutes, which are under the purview of other policies and procedures are not subject to this policy. This includes but is not limited to the following URPs:

1. URP 05.100: Non-Discrimination, Equal Opportunity, and Diversity

2. URP 01.220: Title IX Policy

3. URP 01.225: Prohibition of Sexual Misconduct

4. URP 01.230: Consensual Relationships

5. URP 05.110: Americans with Disabilities Act Policy

II. Grievance Procedure

A Faculty Member may submit a grievance through the following procedures with the assurance of timely and thorough consideration. Faculty Members are assured freedom from retaliation for filing a grievance.

A. Overview

Matters that a Faculty Member make seek to grieve under this policy include:

1. Any issue bearing upon the academic freedom of a Faculty Member; and
2. Employment-related concerns, such as working conditions, hours of work, compensation, environment, or relationship issues with supervisors or other employees.

B. Grievance Procedure

If a Faculty Member believes there is cause to submit a grievance under this policy, they should initiate the Grievance Procedure as follows:

1. Level One – Submit Grievance to First-Level Evaluator
  - a. The Faculty Member should submit a Grievance Dossier to the person responsible for the action that serves as the subject matter of the grievance, the “First-Level Evaluator,” within ten (10) business days of the action that serves as the basis of the grievance.
  - b. The Faculty Member should take care to include all supporting documentation at this stage.
  - c. The First-Level Evaluator will review the Grievance Dossier and supporting information and provide a written response to the Grievant within ten (10) business days of receiving the grievance, barring exigent circumstances. The response will notify the Grievant of the decision to uphold the action taken or amend the action taken. If additional time is required to provide the response, the First-Level Evaluator shall notify the

Grievant in writing. The written response, along with the grievance and supporting information, will become the Level One Grievance Record.

- d. New documents may not be added to the Level One Grievance Record unless it is (1) new information that was not available when the grievance was initially submitted, or (2) specifically requested by the First-Level Evaluator.
2. Level Two – Submit Grievance to Second-Level Evaluator
    - a. The Grievant may appeal the decision of the First-Level Evaluator by submitting a written notice of appeal, along with the Level One Grievance Record, to the Second-Level Evaluator within five (5) business days of receiving the First-Level Evaluator's response. The Second-Level Evaluator is the direct supervisor of the First-Level Evaluator, or the direct supervisor's designee.
    - b. The Second-Level Evaluator may, in their sole discretion, request additional information related to the matter, from any person that the Second-Level Evaluator believes may be able to provide additional relevant information. The Second-Level Evaluator, or their designee, will provide a written response to the Grievant within ten (10) business days of receiving the Level One Grievance Record, barring exigent circumstances. If additional time is required to provide the response, the Second-Level Evaluator shall notify the Grievant in writing. The Level One Grievance Record, together with any additional information provided to the Second-Level Evaluator and the Level Two response shall become the Level Two Grievance Record.
    - c. The decision of the Second-Level Evaluator is final and cannot be appealed.

### C. Notice

Notice Information: Grievance submissions and evaluator responses will be considered received on the day they are emailed to the recipient.

1. If the documents are emailed on a Saturday or Sunday, after 5:00 p.m., or on a TWU holiday, they will be considered received on the next business day.
2. In the event that an evaluator's response cannot be sent to the Faculty Member via email, the response will be deemed received by the Faculty Member three (3) business days after the day the response is deposited in the United States mail addressed to the Faculty Member's mailing address on file with the Office of Human Resources.

### III. Disciplinary Review Procedure

#### A. Overview

Matters that are subject to the Disciplinary Review Procedure under this policy include the following disciplinary actions:

1. Written Reprimand;
2. Disciplinary Probation; and
3. Suspension.

#### B. Disciplinary Review Procedure

If a Faculty Member believes there is cause for a review a disciplinary matter under this policy, they should initiate the Disciplinary Review Procedure as follows:

1. Level One – Submit Disciplinary Review to First-Level Reviewer
  - a. The Faculty Member should submit a Disciplinary Review Dossier to the person responsible for the issuance of the disciplinary action that serves as the subject matter of the review, the "First-Level Reviewer," within ten (10) business days of the action that serves as the basis of the disciplinary review.
  - b. The Faculty Member should take care to include all supporting documentation at this stage.

- c. The First-Level Reviewer will review the Disciplinary Review Dossier and supporting information and provide a written response to the Grievant within ten (10) business days of receiving the Disciplinary Review Dossier, barring exigent circumstances. The response will notify the Grievant of the decision to uphold the action taken or amend the action taken. If additional time is required to provide the response, the First-Level Reviewer shall notify the Grievant in writing. The written response, along with the Disciplinary Review Dossier and supporting information, will become the Level One Disciplinary Review Record.
  - d. New documents may not be added to the Level One Disciplinary Review Record unless it is (1) new information that was not available when the disciplinary review was initially submitted, or (2) specifically requested by the First-Level Reviewer.
2. Level Two – Submit Disciplinary Review to Second-Level Reviewer
- a. The Grievant may appeal the decision of the First-Level Reviewer by submitting a written notice of appeal, along with the Level One Disciplinary Review Record, to the Second-Level Reviewer within five (5) business days of receiving the First-Level Reviewer's response. The Second-Level Reviewer is the direct supervisor of the First-Level Reviewer, or the direct supervisor's designee.
  - b. The Second-Level Reviewer may, in their sole discretion, request additional information related to the matter, from any person that the Second-Level Reviewer believes may be able to provide additional relevant information. The Second-Level Reviewer, or their designee, will provide a written response to the Grievant within ten (10) business days of receiving the Level One Disciplinary Review Record, barring exigent circumstances. If additional time is required to provide the response, the Second-Level Reviewer shall notify the Grievant in writing. The Level One Disciplinary Review Record, together with any additional information provided to

the Second-Level Reviewer and the Level Two response shall become the Level Two Disciplinary Record.

- c. The decision of the Second-Level Reviewer is final and cannot be appealed.

#### C. Notice

Notice Information: Disciplinary review submissions and reviewer responses will be considered received on the day they are emailed to the recipient.

1. If the documents are emailed on a Saturday or Sunday, after 5:00 p.m., or a TWU holiday, they will be considered received on the next business day.
2. In the event that a reviewer's response cannot be sent to the Faculty Member via email, the response will be deemed received by the Faculty Member three (3) business days after the day the response is deposited in the United States mail addressed to the Faculty Member's mailing address on file with the Office of Human Resources.

#### IV. Faculty Review Committee Appeal Process

The Faculty Review Committee ("FRC") Appeal Process is as follows:

- A. The following recommended actions may be the subject of a FRC Appeal Process under this policy:
  1. A recommendation to revoke tenure and terminate the employment of a tenured Faculty Member;
  2. A recommendation to demote a contract Faculty Member during the term of the contract;
  3. A recommendation to terminate the employment of a Faculty Member for good cause during the term of the employment contract;
  4. A recommendation to deny an application for tenure or promotion for a tenure-track Faculty Member; and
  5. A recommendation to not renew the employment contract of a tenure-track Faculty Member.

## B. Appeal Procedure

A Faculty Member requesting an FRC appeal in connection with one of the above-listed recommendations must request an appeal as follows:

1. Step One – Gather and Submit Appeal Documents
  - a. The Faculty Member must submit a request for an appeal to the Chancellor and President (“Chancellor”) within ten (10) business days of receiving notice of the recommended action from the Executive Vice President for Academic Affairs and Provost (“EVPAA/Provost”).
  - b. A request for an appeal under this section must include the following information:
    - i. A written request for an appeal that identifies the matter, recommendation, action, or issue to be reviewed;
    - ii. An Appeal Dossier; and
    - iii. A list of all witnesses who will be called on behalf of the Grievant at a potential hearing, including a brief statement describing how each witness is important to the issue under review.
  - c. When the Chancellor receives the request for appeal, they will conduct an initial review to determine that the request for appeal is properly before the Chancellor. If the matter is not a matter that is appropriate for appeal, the Chancellor will notify the Grievant that the request for an appeal has been denied, the decision is final, and the matter shall be closed.
2. Step Two – Assignment of Respondent
  - a. Should the matter have been appropriately brought to the Chancellor, they will notify the FRC Chair and forward all documentation received from the Grievant to the FRC Chair as soon as practicable. The Chancellor will designate a TWU administrator to serve as the Respondent on behalf of TWU. The FRC Chair will send a copy of the Grievant’s documents and witness list to the appointed Respondent (“Appeal Portfolio”).
  - b. Within ten (10) business days of receiving the Grievant’s documents from the FRC Chair, the Respondent will provide the FRC Chair with (1) any documents that the Respondent



intends to present during the potential hearing and (2) a list of all witnesses to be called on behalf of the Respondent, including a brief statement describing how each witness is important to the issue under review.

- c. The FRC Chair will forward a copy of the Respondent's documentation and witness list to the Grievant as soon as practicable, but no later than ten (10) business days after receipt of Respondent's documentation. After reviewing the information submitted by the Respondent, the Grievant may submit additional relevant documents or information to the FRC Chair within three (3) business days. The FRC Chair will forward any additional documentation submitted by the Grievant to the Respondent.

3. Step Three – Charge of Appeal Panel

- a. Five (5) members of the elected FRC will be drawn by lot to serve as an Appeal Panel. The following individuals are not eligible to serve on the Appeal Panel:
  - i. Members of the Grievant's academic department;
  - ii. Any FRC member who has a close personal relationship with the Grievant;
  - iii. Any FRC member who has been identified as a witness by either the Grievant or Respondent; or
  - iv. Any FRC member with a conflict of interest or inappropriate bias.
- b. The FRC Chair will, in their sole discretion, determine whether any member of the Appeal Panel has a relationship with the Grievant described above, or whether any other circumstances exist that would create a conflict of interest or inappropriate bias. The FRC Chair's decision to exclude a member from participation on the Appeal Panel is final and cannot be appealed.
- c. The names of the five Appeal Panel members will be provided to the Grievant and Respondent as soon as is practicable, but no later than ten (10) business days after the charge of Appeal Panel. If either the Grievant or the Respondent has an objection to any of the proposed members of the Appeal Panel, they shall submit such objections to the FRC Chair in writing within three (3) business days. The FRC Chair shall determine whether the objection constitutes sufficient grounds

to require the removal of the Appeal Panel member and shall designate a replacement Appeal Panel member if necessary. The members of the Appeal Panel will elect one of its members to serve as the Appeal Panel Chair for the appeal process.

4. Step Four – Appeal Panel Initial Review
  - a. The FRC Appeal Panel will review the Appeal Portfolio along with the Respondent’s documentation. The FRC Appeal Panel may deny a hearing where there is no showing of probable cause that a bona fide basis for review exists. If a determination is made that no appeal is warranted, the Grievant will be notified that the appeal has been denied, that the decision is final, and the matter is closed.
  - b. If an appeal is warranted, the FRC Appeal Panel will schedule a hearing in which the Grievant and Respondent will have an opportunity to meet with the FRC Appeal Panel.
5. Step Five – Scheduling the Appeal Panel Hearing
  - a. The FRC Chair will schedule the appeal hearing within thirty (30) business days of the Appeal Panel deeming that an appeal is warranted, barring exigent circumstances. If additional information has been acquired during the previous steps, the FRC Chair will provide the Appeal Panel with the information from both the Grievant and Respondent at the same time, no later than five (5) business days before the hearing date. The Appeal Panel will review the information submitted, giving equal deference to both parties to the hearing.
  - b. After reviewing the information provided, the Appeal Panel may ask for additional documentation from the Grievant or the Respondent. The Appeal Panel’s request for additional information will be communicated to the Grievant and Respondent as soon as practicable by the FRC Chair. The Grievant and Respondent will submit any additional documentation requested by the Appeal Panel to the FRC Chair within three (3) business days of receiving the request. Once the FRC Chair has received the additional information from the Grievant and Respondent, the FRC Chair will immediately provide the additional information to the Appeal Panel, and to the other party to the hearing.
6. Step Six – The Appeal Panel Hearing Procedures

- a. The Appeal Panel Chair will introduce all persons present in the hearing room and state the reasons for hearing.
- b. The Respondent will provide a brief summary about the action being recommended and why the action was recommended. The Appeal Panel will be permitted to ask questions of the Respondent after their brief summary has been provided to the Appeal Panel.
- c. At the conclusion of the Respondent's brief summary, the Grievant will provide a brief summary about the action being recommended and why the action was recommended. The Subcommittee will be permitted to ask questions of the Grievant after their brief summary has been provided to the Appeal Panel.
- d. At the conclusion of the brief summaries of the party, and any questions by the Appeal Panel, as applicable, the Respondent will call its first witness and ask questions of the witness. After the Respondent concludes questioning the witness, the Grievant will have an opportunity to question the witness. Once the Grievant concludes questioning the witness, the Appeal Panel will have an opportunity to ask questions of the witness. This process will repeat for each of the Respondent's witnesses.
- e. At the conclusion of the Respondent's questioning of witnesses, the Grievant will call their first witness and ask questions of the witness. After the Grievant concludes questioning the witness, the Respondent will have an opportunity to question the witness. Once the Respondent concludes questioning the witness, the Appeal Panel will have an opportunity to ask questions of the witness. This process will repeat for each of the Grievant's witnesses.
- f. At the conclusion of witness questioning, the Appeal Panel will have an opportunity to ask follow-up questions of the Grievant and Respondent directly and to recall any witness or call any person from whom the Appeal Panel may need clarifying information. If a witness or other person is unavailable at this time, no extra time will be provided, nor any accommodation made for the witness or person to appear.
- g. Once the Appeal Panel has concluded asking follow-up questions and seeking clarifying information, the Respondent will have an opportunity to provide final statements regarding the administration's action. After the Respondent has

provided final statements, the Grievant will have an opportunity to provide a final statement. Once the Grievant has provided a final statement, the Respondent will have an opportunity to rebut the Grievant's position.

- h. The Appeal Panel may also request supplemental information from any additional witnesses, including but not limited to another Faculty Member, student, the Grievant, the Respondent, any component review committee, any component administrator, dean, or the Executive Vice President for Academic Affairs and Provost, at any time during the Appeal Panel hearing. Such supplemental information will be provided to the Appeal Panel via the Appeal Panel Chair as soon as is practicable for consideration by the Appeal Panel.
- i. All witnesses must appear, barring exigent circumstances subject to the approval of the Appeal Panel Chair. If requested to appear as a witness, the Chancellor or a Vice President may appoint an appropriate designee to appear before the Appeal Panel on their behalf. Witnesses for the Respondent may be compelled to appear as a result of their employment relationship with TWU.
- j. After all information has been presented, the Appeal Panel will deliberate on the information and testimony to determine any findings and recommendations to be included in a report as outlined below. In a hearing for termination of a faculty member for good cause, findings of the Appeal Panel shall be limited to determining whether the decision to dismiss was for good cause.
- k. Each party to the hearing may have a personal representative present during the appeal hearing process. Should the Grievant's personal representative be an attorney, the Respondent will also be permitted to select an attorney as its personal representative during the appeal hearing process. The personal representative is not permitted to address the Appeal Panel and may not speak at the hearing but may confer with the Grievant or Respondent during the hearing. The personal representative and parties may take notes during the hearing but may not record the hearing. Witnesses are not permitted to have personal representatives present during the appeal hearing process.
- l. Confidentiality. The only individuals present during the Appeal Panel hearing shall be the Appeal Panel members, legal

counsel to the Appeal Panel, the Respondent, the Grievant, and the personal representatives of each party. A witness called to provide testimony may be present only while giving testimony. To ensure confidentiality, there will be no manual or electronic recording, or transmission during the appeal hearing.

- i. No persons other than Appeal Panel members and legal counsel for the Appeal Panel may be present during the deliberations of the Appeal Panel concerning a hearing. The Appeal Panel may consult with legal counsel as needed during its deliberations.
- ii. It is anticipated that all parties to an appeal will respect the confidential nature of information and proceedings and respect the right of Faculty Members to participate in the appeal process.

7. Step Seven – Appeal Panel Report

- a. When the appeal has been thoroughly heard, the Appeal Panel shall determine its findings and recommendations and note those findings and recommendations in a report. The Appeal Panel shall submit the report to the Chancellor within ten (10) business days of the concluding of the Appeal Panel hearing.

8. Step Eight – Decision by the Chancellor

- a. The Chancellor will have the opportunity to review all documents and information presented during the Appeal Panel Hearing, including the Appeal Dossier, the evidence provided to the Appeal Panel by the Grievant and Respondent, supplemental information requested by the Appeal Panel, and the Appeal Panel's report. The Chancellor will make a final decision on the recommended action, and shall communicate such decision to the Grievant, Respondent, and Appeal Panel within fifteen (15) business days of receiving the report from the Appeal Panel.

9. Step Nine – Final Appeal to the Board of Regents

- a. In the case of termination or demotion of a contract Faculty Member during the term of the contract, the decision of the Chancellor is final and may not be appealed to the Board of Regents ("Board").

- b. In the case of non-renewal of a tenure-track Faculty Member's contract or denial of an application for tenure or promotion for a tenure-track Faculty Member, the decision of the Chancellor is final and may not be appealed to the Board.
- c. In the case of a tenure revocation and termination of the employment relationship of a tenured Faculty Member, only the Grievant may appeal the decision of the Chancellor in Step Eight above to the Board, following procedures established by the Board.
- d. A written notice of appeal to the Board must be submitted to the Secretary to the Board within five (5) business days of receiving the Chancellor's decision from Step Eight. The Grievant must provide the Secretary to the Board with the following information, which will constitute the record on appeal:
  - i. A written request for an appeal to the Board that identifies the matter, action, or issue to be considered;
  - ii. The complete Appeal Dossier submitted during the Appeal Panel Hearing process;
  - iii. All documents provided to the Appeal Panel by the Grievant and Respondent;
  - iv. All supplemental documentation provided at the request of the Appeal Panel, if applicable; and
  - v. A copy of the Chancellor's decision.
- e. The Secretary to the Board will, as soon as practicable, schedule at the upcoming Quarterly Meeting of the Board to consider the appeal. The Secretary to the Board will provide Board members with the appeal documents, a copy of the Appeal Panel's report, and Chancellor's decision.
- f. At the Board of Regents Meeting, the Board will review the record on appeal and will communicate its decision in writing to the Chancellor and the Grievant.

## **REVIEW**

This policy will remain in effect and published until it is reviewed, updated, or archived. This policy is to be reviewed once every six years. Interim review may be required as a result of updates to federal and state law or regulations, Board of Regents policies, or internal processes or procedures.

## REFERENCES

[URP 02.330: Faculty Responsibilities, Standards of Conduct, and Disciplinary Processes](#)

[URP 05.100: Non-Discrimination, Equal Opportunity, and Diversity](#)

[URP 01.220: Title IX Policy](#)

[URP 01.225: Prohibition of Sexual Misconduct](#)

[URP 01.230: Consensual Relationships](#)

[URP 05.110: Americans with Disabilities Act Policy](#)

## FORMS AND TOOLS

[URP 02.350 Transmittal of Grievance, Review, and Appeal Form](#)

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