

# MISSISSIPPI STATE UNIVERSITY

## Policy and Procedure

### ACADEMIC OPERATING POLICY AND PROCEDURE

MEMORANDUM TO: All Holders of Mississippi State University Academic Operating Policy and Procedure Manual

DATE: April 17, 1989

SUBJECT: AOP 13.05 - Faculty Grievance Procedures

#### PURPOSE

The purpose of this Academic Operating Policy and Procedure (AOP) is to establish a standardized procedure concerning the review and resolution of the grievance of a faculty member.

#### REVIEW

This AOP will be reviewed every four years or whenever circumstances require an earlier review by the Associate Provost for Academic Affairs (APAA) with recommendations for revision to the Provost and Executive Vice President.

#### POLICY/PROCEDURE

##### 1. Foreword

- a. The University operates under a philosophy that emphasizes the importance of ensuring the rights of its faculty. Both personnel and operating policies are formulated in order to assist administrators and faculty in working harmoniously toward the collective goals and objectives set forth by the Board of Trustees. When a faculty member has a grievance, efforts will be made to determine the facts surrounding that grievance and to respond appropriately and justly. The purpose of these procedures is to address grievances of faculty members and to provide a mechanism for resolving them. The times noted for response in these procedures are to be followed except under extenuating circumstances agreed upon in writing by both parties to the grievance.
- b. If the grievance is related in any way to tenure or promotion, the aggrieved faculty member should refer to the Mississippi State University Tenure and Promotion Policy (AOP 13.07). Grievances of faculty members relating to admission to tenure, promotion,

salary, grounds for termination, termination procedure, and notice of nonreappointment or termination are not to be covered by this policy. If the grievance is related in any way to sexual harassment or discrimination based on being a member of a protected class, the aggrieved faculty member should refer to OP 03.03 Resolution of Unlawful Discrimination and Harassment Complaints, and this policy (AOP 13.05) will not apply. Likewise, the grievance of a student or the grievance of a faculty member against a student will not be covered by this policy.

- c. Whenever possible, problems of faculty members should be solved within the University at the level at which they arise. However, each member of the Mississippi State University faculty shall have the right to a hearing and an appeal for redress of a grievance through established channels. Access to these channels is restricted to University faculty members or those who were University faculty members when the event leading to the grievance occurred.
- d. A faculty member holding an administrative position will have access to these procedures with regard to his/her faculty duties, but will not have access to the procedures with regard to his/her administrative duties.

## 2. Grievance Initiation

- a. Before any formal grievance is filed, there shall be an informal discussion between the grievant and the individual alleged to be responsible for inflicting the perceived injury. The request for an informal discussion should be in writing and dated, and be initiated within 10 working days after the grievant has become aware of the perceived injury. In the case of a grievance between faculty members, the immediate supervisor should be provided with a copy of all pertinent documents. If a faculty grievance is associated with the immediate supervisor/department head then a copy of all pertinent documents should be provided to the Dean of the respective college. If a faculty grievance is associated with the Dean of the respective college then a copy of all pertinent documents should be provided to the Committee for Faculty Grievances Against Deans (CFGAD) through the Office of the Provost and Executive Vice President.

The informal discussion should be held and a response provided to the grievant within 10 working days of receipt of the request for such a discussion. If a response is not received within 10 working days of the date of the request for an informal discussion, it shall be considered a denial. In case of doubt concerning whose action caused the grievance, the administrator immediately supervising the grievant is the appropriate administrative officer with whom the grievant should initiate an informal discussion.

- b. If a settlement cannot be reached informally, the aggrieved faculty member may then submit a formal grievance and proceed according to the following schedule.

- (1) The grievance must be submitted in writing and provide sufficient detail to allow a response. The grievance will contain a statement of the facts of the case and a precise description of the remedy sought by the grievant.
- (2) The grievance must be signed and dated by the grievant and filed within five working days from the receipt of a response, or in the case of no response, within 15 working days from the date of the request for an informal discussion. The grievance shall be filed with the respondent if a faculty member (with a copy to the immediate supervisor), or with the administrator whose initial decision caused the grievance (with a copy to his or her immediate supervisor).
- (3) At the department level, if either party elects, the grievance shall be heard with the assistance of an advisory committee. If the grievance is between faculty members, the department head will choose the advisory-committee, which must have at least three members chosen from the departmental faculty. If the faculty grievance is associated with an action by the department head, then the Dean will select the members of an advisory committee. If the faculty grievance is associated with an action by the Dean, then the grievance should be filed with the Office of the Provost and Executive Vice President who will select members of the Committee for Faculty Grievances Against Deans (CFGAD) that will be composed of the Associate Provost, President of the Faculty Senate, Chairman of the Faculty Affairs Committee, Chairman of the Promotion and Tenure (Appeals) Committee and one Dean from an on campus college (to be chosen by the CFGAD). The grievant shall have the right to challenge any individual selected as a member of this advisory committee or the Committee for Faculty Grievances Against Deans (CFGAD) with the total number of challenges limited to three (n=3). As each challenged member is excused, his/her replacement will be selected by the administrator appointing the committee. At the request of the grievant, the final selection of the advisory committee will be made by the immediate supervisor of the individual alleged to be responsible for inflicting the perceived injury (faculty grievances not involving a Dean) or the Provost and Executive Vice President (Faculty grievances directly involving a Dean) in consultation with the Faculty Affairs Committee of the Robert Holland Faculty Senate.
- (4) The immediate supervisor of the individual alleged to be responsible for inflicting the perceived injury, or the Committee for Faculty Grievances Against Deans for faculty grievances against a Dean should initiate the review of the grievance and inform the grievant of the procedure to be followed as soon as possible, but no later than five working days after the filing of the formal grievance. If an advisory committee is to be used, it will be established at that time for faculty grievances not directly involving a Dean.
- (5) The committee should meet together with both parties to the grievance, review the grievance, and render a recommendation in writing as promptly as is feasible, but no later than 10 working days following referral of the matter by the immediate

supervisor of the individual alleged to be responsible for inflicting the perceived injury or the Office of the Provost and Executive Vice President for faculty grievances against a Dean. This review is intended to be an informal procedure rather than a formal hearing of the grievance. However, the advisory committee or the Committee for Faculty Grievances Against Deans (CFGAD) is to make every reasonable effort to ensure the fundamental fairness and confidentiality of the review. The committee's recommendation shall be submitted in writing to the administrator and the parties to the grievance.

- (6) The written decision from the immediate supervisor of the individual alleged to be responsible for inflicting the perceived injury or the Committee for Faculty Grievances Against Deans (CFGAD) should be provided to the parties involved in the grievance within five working days of the receipt of the committee's recommendation. If the grievance is reviewed without a committee, the written decision from the immediate supervisor of the individual alleged to be responsible for inflicting the perceived injury should be provided to the parties within 10 working days of the receipt of the written formal grievance. Failure of the immediate supervisor of the individual alleged to be responsible for inflicting the perceived injury to respond within the time periods noted above shall be deemed a denial of the grievance.
- c. The grievant may withdraw a formal grievance at any stage of the proceeding but may not reinstate it once it is withdrawn. The withdrawal request should be made in writing to the individual hearing the grievance at the time of the withdrawal.

### 3. Administrative Decision Appeals

- a. If the faculty member objects to the decision by the immediate supervisor of the individual alleged to be responsible for inflicting the perceived injury or the Committee for Faculty Grievances Against Deans (CFGAD) further written appeals may be made through regular administrative channels. A written appeal should be initiated within 5 working days of the receipt of an administrative decision and shall include copies of the original grievance, written decision(s), and reasons for the appeal. The written appeal should be transmitted to the next level of administration above the source of the decision. In instances when the faculty grievance is against a Dean then the appeal should be addressed to the Provost and Executive Vice President who makes the final decision.

At each level of appeal, the administrator who receives the appeal should proceed in accordance with the grievance procedure schedule noted in Section 2.b. The use of an advisory committee is at the discretion of the administrator at levels above the department. All parties to a grievance should be kept informed of the appeal procedure being followed.

- b. The aggrieved member of the faculty who believes that a grievance has not been resolved after appealing to and receiving a decision at each administrative level up to and

including the Dean may appeal directly to the Provost and Executive Vice President for review and consideration. This appeal should be made within 5 working days following receipt of the decision of the Dean or the Committee for Faculty Grievances Against Deans (CFGAD). The request must be in writing and must include copies of the original grievance giving date, time, and place of the alleged incident, names of witnesses, facts of complaint, written decisions from all previous administrative appeal levels, and reasons for the appeal.

- c. Before hearing the appeal, the Provost and Executive Vice President should conduct informal discussions with both parties to the grievance and the administrative officer or committee chairman involved in rendering the decision in question. If no solution is reached, the Provost and Executive Vice President shall use a Grievance Committee composed of five representatives chosen by the Provost and Executive Vice President from the Faculty Grievance Panel. The Committee should be chosen from the Faculty Grievance Panel by the Provost and Executive Vice President in consultation with the Faculty Affairs Committee of the Robert Holland Faculty Senate within 5 working days of the determination that no solution can be reached by the means of informal discussions. Composition of the Faculty Grievance Panel is discussed in Section 5 below.

#### 4. Grievance Committee Hearing

- a. Upon receipt of a request from the Provost and Executive Vice President, the Grievance Committee or Committee for Faculty Grievances Against Deans (CFGAD) will schedule a hearing. This hearing should be held within 10 working days after convening by the Provost and Executive Vice President. The Grievance Committee or Committee for Faculty Grievances Against Deans (CFGAD) will elect its own chairperson, who will act as presiding officer. The Chairperson's notice of a time and place for the hearing must be delivered to the parties involved at least two working days prior to the hearing. These time limits are a guide and may be changed by mutual written agreement of the Grievance Committee or Committee for Faculty Grievances Against Deans (CFGAD) and the parties to the grievance. A copy of the notice and a copy of the written appeal as set out in Section 3.a will be furnished to the members of the Grievance Committee or Committee for Faculty Grievances Against Deans (CFGAD).
- b. The formal hearing will be conducted in private. During the proceedings, the parties concerned will be permitted to have a nonparticipating advisor of their choice. A tape recording, transcript or written summary of the proceedings shall be kept and made available to the parties concerned, if requested. The grievant will present his/her own case and has the right to present whatever evidence, written or oral, he/she considers relevant or material to the grievance. This includes the calling of witnesses.

After the presentation by the grievant, the respondent about whose actions or decisions the grievance is filed will be given an opportunity to present his/her case under the same rules as the grievant. The University may be represented by its General Counsel. The

Grievance Committee or Committee for Faculty Grievances Against Deans (CFGAD) may also call witnesses as it considers appropriate. Both the grievant and the respondent may question all witnesses.

- c. The Committee will not be bound by strict rules of legal evidence. The Committee may receive any evidence of probative value in determining the issues involved. Every reasonable effort shall be made to obtain the most reliable evidence possible. All questions relating to the admissibility of evidence or other legal matters will be decided by the Chairperson.
- d. Evidence considered in the hearing must relate to the grievance and be of the type relied on by faculty members or administrators in the conduct of their professional affairs.

After all evidence is received, the Grievance Committee or Committee for Faculty Grievances Against Deans (CFGAD) will meet privately to consider the case. The opinion held by the majority of the members will constitute the committee's recommendations. The committee should provide its recommendations in writing to the Provost and Executive Vice President, with copies to the parties to the grievance, no later than 5 working days from the last date of hearing of the case. Minority opinions of the committee may be submitted to the Provost and Executive Vice President at the same time as the committee recommendations are submitted. Recommendations to the Provost and Executive Vice President are advisory in nature. In faculty grievances against Deans, the Committee for Faculty Grievances Against Deans (CFGAD) will have authority to make a decision prior to any appeal.

- e. In cases where a grievance is appealed to the Provost and Executive Vice President, the Provost and Executive Vice President should send a written recommendation to the President of the University within 5 working days of receipt of the Grievance Committee's recommendations. If the Provost and Executive Vice President's recommendation is different from that recommended by the Grievance Committee, the grievant, the respondent, and the committee will be informed in writing of the reasons. The President will send a written decision, which is the final University decision on the grievance, to the grievant with a copy to the respondent within 5 working days of receipt of the Provost and Executive Vice President's recommendations.

#### **5. Faculty Grievance Panel**

- a. The Faculty Grievance Panel will consist of two full-time tenured faculty members and an alternate from each college/school. Representatives will be elected in the spring of each year for two-year alternating terms, to commence on August 15. They will serve until their successors are elected.
- b. Faculty members who have served a full two-year term will not be eligible for reelection to a consecutive two-year term (or for appointment to an unexpired term) until two years after the expiration of the existing or previous term of service. Should a panel member

be unable to complete a two-year term of service, the alternate will serve the unexpired portion of the term. A new panel member, along with a new alternate, will be elected in the spring under the normal election procedure in each college/school.

**RESPONSIBILITIES**

<u>Position</u>	<u>Section</u>	<u>Year</u>
Associate Provost for Academic Affairs	Review	2010

**APPROVED BY:**

<u>/s/ Peter L. Ryan</u>	<u>03/09/2012</u>
Associate Provost for Academic Affairs	Date

<u>/s/ Jerome A. Gilbert</u>	<u>03/29/2012</u>
Provost and Executive Vice President	Date

<u>/s/ Meghan Millea</u>	<u>04/23/2012</u>
President, Robert Holland Faculty Senate	Date

**REVIEWED BY:**

<u>/s/ Lesia Bryant</u>	<u>04/30/2012</u>
Director, Office of Internal Audit	Date

<u>/s/ Joan L. Lucas</u>	<u>05/16/2012</u>
General Counsel	Date

**APPROVED BY:**

<u>/s/ Mark Keenum</u>	<u>05/18/2012</u>
President	Date