

## FACULTY GRIEVANCE PROCEDURE

### I. GENERAL POLICY

It is recognized that legitimate problems, differences of opinion, complaints or grievances will from time to time arise in the daily relationship between the University as an employer and its faculty. Currently, such complaints are resolved formally through existing procedures or informally in discussions between the faculty member and the academic administrator involved.

It is further recognized that on occasion complaints will arise that cannot be redressed through formal channels because they pertain to matters that are not within the subject matter of existing procedures and policies or that cannot be resolved through informal discussion. The following procedure is adopted to define the means whereby a grievance against the University arising from certain acts of academic administrators may be presented for formal review.

### II. DEFINITIONS

#### A. Faculty

Faculty member or faculty means a person who holds a faculty appointment in a 50% or greater time capacity at Morgan State University pursuant to a valid Morgan State University appointment agreement and who is not an academic administrator.

#### B. Grievance

1. A grievance is a signed complaint by a faculty member against the University that alleges a violation of University policy, by an academic administrator, in the performance of an official act, which act adversely affects the faculty member, in his or her academic or professional capacity.
2. Even if a complaint otherwise meets the definition of a grievance as set forth in II.B.1. above, if the complaint is based on any of the following matters, it shall not be reviewed or challenged under the Faculty Grievance Procedure:
  - a. Any matter pertaining to a subject that is reviewable under, or is specifically excluded from review by any other University Policy or Procedure, including but not limited to the "Policies and Procedures on Appointment, Promotion, and Tenure," and a Morgan State University faculty appointment contract;

- b. Sexual harassment, discrimination based on race, sex, ethnic origin, religion, age or handicap, and violations of academic freedom;
- c. Any matter pertaining to broad areas of the fiscal management, staffing or structure of Morgan State University; any matter pertaining to differences in faculty salaries and benefits that are based on general market factors such as availability of faculty, demand for a particular academic discipline, or reputation of a department; any matter pertaining to general levels of salary and fringe benefits;
- d. Any matter, the resolution of which is not in the exclusive control of the University; and
- e. Personal disputes not related to the employment environment; and
- f. Any matter, the resolution or remedy of which would conflict with federal, state, or local law or regulation, or any contract to which the University is a party.

C. Days

Days shall mean calendar days.

D. University Policy

- a. A written policy, regulation, procedure or rule of the University, division, school, department or program, or
- b. A practice of an academic unit which, although unwritten, has been consistently followed and applied over a significant number of years. However, changes in any such practices may only be challenged or reviewed under this Grievance Procedure if such changes are arbitrary and capricious or if they conflict with University policy or policies established at higher administrative levels.

III. GENERAL PROVISIONS APPLICABLE TO ALL GRIEVANCES

- A. Only a faculty member may make a grievance under this Grievance Procedure.

- B. A faculty member may not make a grievance under this Grievance Procedure on behalf of another person.
- C. Grievances by more than one faculty member may be put together in a single grievance if each faculty member signs the grievance and the material facts and issues are substantially the same. Such joining of grievances shall be in the discretion of the individual or body hearing the grievance.
- D. In order to be considered, a complaint must be grievable. A complaint is grievable only if it meets the definition of a grievance set forth in section II.B. and it does not fall within the exceptions to a grievance enumerated in section II.B.2.
- E. A faculty member is responsible for following all stated time limits for the initial filing of a grievance or any appeals from decisions respecting the grievance. Both the faculty member and the academic administrator shall observe all other time limits stated in this Faculty Grievance Procedure or set by the individual or body hearing the grievance.
- F. Motions raising the issues of standing or grievability may be raised at any time in the proceedings. If those requirements are not met, the grievance shall be dismissed. Motions raising the issue of timeliness must be made at the first stage of the proceedings following the time at which the moving party knew or reasonably could have known of the grounds for making the motion, or the issue shall be waived. If it is determined that the requirements of timeliness as to the initial filing of the grievance and any appeals are not met in a particular grievance, the grievance shall be dismissed. In the case of lack of timeliness as to time limits other than those for the initial filing of the grievance and any appeals, the grievance may be dismissed in the discretion of the hearing authority if the untimeliness results in undue delay or prejudice to the other party.
- G. The faculty member shall bear the burden of proving the merits of his or her grievance, To meet this burden, at a minimum, he or she must demonstrate by evidence that is more convincing than the opposing evidence that the act and violation complained of occurred; that it was the act of the academic administrator involved, that the act adversely affects him or her; and that the remedy sought is reasonably necessary and proper to correct that injury.
- H. The formal rules of evidence shall not apply to this Grievance Procedure.
- I. The hearing authority at any step of the Grievance Procedure may request

advice of legal counsel on significant legal issues raised in the grievance. The legal office providing legal advice or service to the academic administrator may not provide legal advice or service to the individual or body hearing the grievance at any step

#### IV. INFORMAL GRIEVANCE PROCEDURE

Before filing a formal grievance as provided in V. below, a faculty member shall seek an informal review of his or her complaint with his immediate supervisor. Every effort should be made to resolve complaints and disputes through informal discussion. Consistent with the informal nature of the discussions at this stage, neither a written statement of the complaint nor a written answer thereof is required or encouraged.

#### V. FORMAL GRIEVANCE PROCEDURE

##### 1. Step One - Grievance

##### Committee

##### 1. Composition

**Selection** - In the spring semester of each academic year, each of the instructional units shall elect one Grievance Committee representative and one alternate. The alternate will serve in place of the primary representative when the primary representative is not available. In the event both the primary and alternate representatives are not available, the faculty of the affected instructional unit shall select replacements in accordance with procedures developed in that instructional unit.

**Term** - Grievance Committee representatives shall serve a term of one year commencing July 1 in the year they are elected and ending June 30 of the following year.

**Chairperson** - At its initial organizational meeting of the year, the representatives of the Grievance Committee shall elect a Chairperson.

**Reelection of representatives** - No member may be elected to the Grievance Committee for more than two consecutive terms.

2. Time and Place for Filing of Complaint

A faculty member shall file a grievance within 30 days from the date of the act giving rise to the grievance . A grievance is deemed to be filed when it is received by the Director of Human Resources. The 30 day period includes all efforts to resolve the matter informally.

3. Written Complaint

The Complainant shall file his or her Complaint in writing. The statement shall be signed and dated. At a minimum, the statement shall set forth the following:

- a) A precise statement setting forth the subject matter of the grievance including a factual chronological description of incidents, events, or acts giving rise to the complaint or dispute,
- b) Evidence of the Complainant's efforts to resolve the matter informally and in accordance with IV. above,
- c) The names of any persons against whom the grievance is directed or who may have any relevant information regarding the matter(s) in dispute, and
- d) Documentation supporting the Complainant's assertions and any additional information which the complainant deems to be relevant to the inquiry.

4. Referral of Complaint

Within seven days of receiving the Complaint, the Director of Human Resources shall forward a copy of the Complaint and all attachments to the Chairperson of the Grievance Committee, the Complainant's immediate supervisor, and the Provost and Vice President for Academic Affairs.

5. Grievance Committee Hearing Procedure

- a) Within twenty-one (21) days of receiving the Complaint from the Director of Human Resources, the Grievance Committee shall conduct a hearing in accordance with the procedures set forth in this Grievance Procedure. Within thirty (30) days after the hearing, the Grievance Committee shall provide a written decision based upon the facts presented during the hearing.
- b) The Grievance Committee shall hear all arguments on

substantive and procedural matters and shall make necessary specific written findings.

- c) Hearings shall be open unless one or both parties request they be closed
- d) A complete record shall be kept of all proceedings and documents entered into evidence.
- e) Each party shall have an opportunity to make an opening and closing statement, present written evidence, examine and cross-examine witnesses, offer personal testimony, file objections, exceptions, motions and post-hearing briefs provided, however, that where a party is represented by counsel, the opening and closing statements, submission of written evidence, examination and cross-examination of witnesses and filing objections, exceptions, motions and post hearing briefs on behalf of that party shall be done and presented solely by such counsel.
- f) The Complainant shall present his or her case first.
- g) The Chairperson of the Grievance Committee shall make rulings on all questions concerning the course of the proceedings and the presentation of the evidence and may order the proceedings in such manner as he or she deems appropriate. The Chairperson may seek legal advice as he or she deems necessary to render a decision on any such question. The Chairperson, in his or her discretion, may set time limits for presentation of testimony and exclude redundant or irrelevant evidence.
- h) Only evidence offered and made part of the record in the case and no other factual information or evidence shall be considered in the determination of the case.
- i) Both parties have the right to call witnesses, including members of the University staff. The Grievance Committee cannot assure the presence of witnesses requested by either party. However, either party may request in writing that the Grievance Committee contact a witness or witnesses to request their appearance at the hearing. The Grievance Committee may contact such witness or witnesses if in its judgment the request is reasonable and the testimony to be

given by the witness or witnesses is demonstrably relevant to the issues raised by the grievance.

- j) Upon the request of either party, all persons to be called as witnesses shall be sequestered.
  - k) The Grievance Committee shall not grant continuances except for extraordinary circumstances.
  - l) The entire procedure shall be conducted in good faith by all persons involved.
6. Decision - The Grievance Committee shall make its decision on the grievance, including its findings and recommended action, if any, based upon the vote of a majority of the voting members. In making its decision, the Grievance Committee shall consider only the evidence properly brought before it in the hearing. After considering all the evidence before it, the Grievance Committee shall decide whether the Complainant has proved his or her Grievance in accordance with the burden of proof set forth in III. G. above. A written report of the decision shall be forwarded to the Provost and Vice President for Academic Affairs for review and decision, with copies to the Complainant, to Complainant's immediate supervisor, and to the Director of Human Resources. The report shall be completed and sent within fourteen (14) days after the hearing. The report of the Grievance Committee is advisory in nature.

B. Step 2 - The Provost and Vice President for Academic Affairs or Designee

- 1. Review - The Provost and Vice President for Academic Affairs shall review the advisory report of the Grievance Committee. In conducting this review, the Provost and Vice President may request additional information in order to facilitate the decision-making process. The Grievance Committee shall make available any additional information requested. The provost and Vice President may sustain, overturn, or modify the recommendations for action offered by the Grievance Committee in its report. Within fourteen (14) days of receiving the Grievance Committee's recommendations, the Provost and Vice President shall notify the Complainant in writing of the decision.
- 2. Appeal - The Complainant may appeal the decision of the Provost and Vice President. To appeal, the Complainant must file a written appeal with the Director of Human Resources within seven (7) days of the date appearing on the written decision of the Provost and Vice President. In the event the Complainant fails to appeal within

the stated time period, the Provost and Vice President's decision shall be deemed final. The Complainant's written appeal shall set forth the reasons for appeal.

C. Step 3 - President or Designee

In the event the Complainant files a timely appeal to the decision of the Provost and Vice President for Academic Affairs, the Director of Human Resources shall within three (3) days forward to the President a copy of the complete grievance file and of the complete hearing record and copies of all documents presented at the hearing and placed in evidence. The President or his or her designee shall review the full record upon receipt. Within his or her discretion, the President shall dispose of the grievance as he or she deems appropriate and such disposition shall be final. The President shall notify the Complainant in writing of the disposition of the grievance within fourteen (14) days of receipt of the record.