

Policy and Procedure

SON OP: **20.090 Faculty Grievance Policy (See Texas Tech University Health Sciences Center El Paso Operating Policy and Procedure - [HSCEP OP 60.10](#).)**

PURPOSE: The purpose of this Gayle Greve Hunt School of Nursing (GGHSON) Faculty Grievance Policy (Policy) is to resolve disputes between faculty members and administrative supervisors regarding the terms and conditions of faculty employment.

REVIEW: This section of the handbook shall be reviewed by the Dean and the Faculty Assembly by September 1st on odd-numbered years.

POLICY/PROCEDURE

1.00 Policy

1.01 The purpose of this GGHSON Faculty Grievance Policy is to resolve disputes between faculty members and administrative supervisors regarding the terms and conditions of faculty employment. Specifically excluded from this Policy are disagreements involving tenure; promotion; non-reappointment; terminal appointment; faculty dismissal; discrimination under federal or state statutes, civil rights or sexual harassment; misconduct in research; etc., which shall be addressed through other administrative review channels. (See Texas Tech University System Regents' Rule 04.03., TTUHSC EP OP 70.14 – Anti-Discrimination and Sexual Harassment, etc.) Further, this TTUHSC El Paso GGHSON Faculty Grievance Policy does not apply to those matters defined as "peer review" under Texas Occupations Code, Chapter 303, and Nursing Peer Review. Nor does this Policy address issues related to disagreements arising from the TTUHSC El Paso GGHSON Nurse Practice Income Plan or other TTUHSC El Paso policies and procedures of general applicability. Students and employees may not use this policy to file a grievance against a faculty. Grievances relating to student grade appeals and other student complaints are addressed in the GGHSON Student Handbook.

1.02 Fundamental to the grievance process is the principle that all parties make a good faith effort to resolve the grievance at the lowest possible administrative level. However, a faculty member has a right to a hearing and an appeal for redress of grievance against a supervisor through the procedures outlined herein.

1.03 A faculty member may bring a grievance without fear of retaliation. The filing of a grievance, however, will not affect the ability of TTUHSC El Paso to pursue disciplinary action involving the faculty member.

1.04 A faculty member holding an administrative position will have access to these grievance procedures with regard only to faculty duties, and will not have access to these procedures with regard to administrative duties. Individuals who (a) do not meet the definition of faculty contained herein, or (b) are administrators complaining of an administrative decision (not involving faculty matters, i.e., teaching, research or practice) shall utilize the TTUHSC El Paso non-faculty grievance procedure. (See TTUHSC EP OP 70.10 Non-Faculty Employee Complaint Procedures)

1.05 Individuals are required to meet all their TTUHSC El Paso responsibilities while pursuing a grievance.

1.06 Time periods shall be followed as outlined unless an extension due to unusual circumstances is granted by the Dean.

1.07 When parties to a grievance reside in a location different from El Paso, mediations and grievance hearings will be held in El Paso and may require travel by the involved. The Dean may, in his/her discretion, make a decision to relocate mediation or hearing to expedite the proceeding.

2.00 Definitions

2.01 Grievance - A grievance is a formal expression of disagreement between a faculty member and his/her superior, i.e., a program head or other GGHSON supervisor-administrator, that emanates from an administrative decision of the superior regarding an employment matter at TTUHSC El Paso.

2.02 Employment action - An employment action is action taken or a decision made by the superior in the process of conducting one's administrative duties vis-à-vis the supervisee, such as salary, hours of work, working conditions, disciplinary action, performance evaluation, job assignment, etc. Specifically excluded from employment actions are those matters related to tenure, promotion, non-reappointment, terminal appointment, faculty dismissal, discrimination under federal or state statutes, civil rights or sexual harassment, misconduct in research, etc., which shall be addressed through other administrative review channels. In addition, employment actions do not apply to those matters defined as peer review under Texas Occupations Code, Chapter 303, Nursing Peer Review.

2.03 Administrator/Administration – An administrator is defined as an individual serving as Dean, Associate Dean, Assistant Dean, or Director of a GGHSON Program.

2.04 Faculty - A faculty member is defined as an individual employed by TTUHSC El Paso whose duties include teaching, research, and/or practice, and whose rank is Instructor, Assistant Professor, Associate Professor or Professor.

2.05 Grievant - The Grievant is the faculty member who has a disagreement with his/her superior. The Grievant may also be referred to as a Party.

2.06 Respondent - The Respondent is the GGHSON administrator with whom a faculty member has a disagreement with that is the subject of a formal grievance. The Respondent may also be referred to as a Party.

2.07 Mediation - Mediation is the process by which designated GGHSON faculty, in good faith and with objectivity, meet with a Grievant and Respondent (Party/Parties) to resolve a disagreement between the Parties. Faculty members serving in this capacity are mediators. Mediation is a voluntary action entered into by the Parties at the request of the Dean of the GGHSON.

2.08 Faculty Grievance Hearing Committee - The Faculty Grievance Hearing Committee (Hearing Committee) is a body of three (3) GGHSON faculty members, each of whom is able to serve

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objectively in hearing and considering the formal grievance of a faculty member against his/her superior and who is appointed by chair of the faculty assembly. Should a Hearing Committee member have a conflict of interest, or otherwise be unable to serve, the Hearing Committee member shall recuse him/herself. In that event, the Dean, the Parties, and the Chair of the Grievance Hearing Panel shall be notified in writing, whereupon the Grievance Hearing Panel shall select an alternate Hearing Committee member to serve.

The Hearing Committee is advisory in nature to the Dean. Members shall serve one two-year term but will be eligible to again serve provided a two-year interval has occurred. However, a member may be re-elected for a consecutive term only when unusual circumstances necessitate.

3.00 Grievance Procedures

3.01 General. A grievance, defined as a formal expression of disagreement to an employment action, should be filed only after an attempt has been made in good faith to resolve the disagreement through an informal meeting of the Parties concerned. If the faculty member believes that his/her concerns have not been resolved as a result of the informal meeting with the superior, he/she may submit in writing a timely formal grievance that (1) provides specific facts supporting the grievance and (2) proposes remedies to resolve the dispute. The faculty member shall bring the disagreement to the attention of the superior within fifteen (15) business days of a clearly defined employment or administrative action by the supervisor. For a disagreement involving a continuing series of less clearly defined matters, the grievance must be brought no later than three (3) months after the disagreement's inception.

3.02 Informal Resolution/Grievance. Within fifteen (15) business days of the initial meeting and informal communication between the faculty and superior, the faculty member (Grievant) shall then in writing submit the grievance to his/her immediate superior and include any supporting evidence and a proposed resolution to his/her immediate superior. The immediate superior (Respondent) shall respond in writing to the faculty member within five (5) business days of receiving the written grievance.

If the grievance is not resolved informally to the Grievant's satisfaction throughout the supervisory resolution process, the Grievant shall submit in writing within five (5) business days of receiving an unsatisfactory response at any stage of the grievance, where applicable: (a) the original written grievance; (b) the written response of Respondent(s); (c) written responses of other GGHSON administrators to whom it was previously submitted, if applicable; and, (c) an explanation of why the Grievant finds the response(s) unsatisfactory. The formal grievance cannot be changed without the written approval of all Parties.

3.03 Mediation. If the grievance is not resolved to the grievant's satisfaction throughout the supervisory resolution process, the grievance may be referred to the Dean's office for mediation/intervention. Mediation is not mandatory, and in some cases, may not be feasible. Mediation is confidential, and as such, must not be discussed during the grievance hearing proceeding should mediation not resolve the dispute.

The Dean shall provide each Party with a list of six (6) names of faculty who may serve as mediators. Each Party shall strike two names and then return the list to the Dean. Upon receipt

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of both Parties' lists, the Dean shall identify two per faculty to serve as mediators and notify the Parties and mediators in writing that mediation shall be conducted and completed within five (5) business days from the date of such notice. It shall be the responsibility of the mediators to inform the Dean in writing regarding the results of mediation and, if applicable, the manner in which resolution was reached. The mediators and Parties shall sign a document outlining and memorializing the terms of resolution and forward the mediation agreement to the Dean. If resolution of the dispute requires action that the mediators and Parties themselves cannot effectuate, the Dean must be informed in order that he/she may ascertain whether the recommendations for resolution can be accomplished. All notes and other written materials associated with the mediation shall be destroyed by the mediators.

3.04 Grievance Hearing. If the grievance is not resolved within the supervisory structure of the GGHSON Policy, i.e., informal meeting(s) and mediation, the Grievant may submit to the Dean a written request for a Grievance Hearing within five (5) business days of receiving the Respondent's decision. As in previous steps, the request for Grievance Hearing must state why the decisions made thus far are unsatisfactory and specify the resolution being sought.

3.04.1 The Dean shall notify the chair of the GGHSON Faculty Assembly Committee that a Faculty Grievance Hearing is necessary. Eligible members are faculty who hold the rank of Assistant Professor or higher. From the committee, a Faculty Grievance Hearing Committee (Hearing Committee) comprised of three (3) members will be named by the chair to consider the grievance. One Hearing Committee member shall be selected by the Grievant, one selected by the Respondent, and the third member may be selected from the Paul L. Foster School of Medicine, the Graduate School of Biomedical Sciences or the Woody L. Hunt School of Dental Medicine. The three members shall designate who of the three will serve as chair of the Hearing Committee, who shall be responsible for contacting the parties, making arrangements for the Hearing, notifying the Grievant and Respondent of any matters regarding the Hearing, conducting the Hearing, and transmitting the Hearing Committee's recommendations to the Dean.

3.04.2 The purpose of the Hearing shall be to investigate and evaluate the grievance and provide a written advisory recommendation to the Dean, whose decision will be final, unless it is alleged that a procedural violation occurred.

3.04.3 A Hearing is not warranted if the Hearing Committee determines that (a) the grievance is outside the scope of this Policy, or (b) reasonable and good faith efforts have not been made to resolve the matter informally. Should the Hearing Committee determine that no Hearing is warranted, the Committee shall promptly provide notice and a brief written explanation of this decision to the Grievant, the Respondent and the Dean.

3.04.4 The Hearing Committee shall establish the procedure for the Hearing, allowing the Grievant and Respondent to present their respective positions in a fair, non-adversarial manner. The Hearing shall be closed except for those per GGHSON whose attendance is required. Legal rules of evidence and procedure do not apply to the Hearing procedure. The Grievant may be accompanied to the Hearing by a representative not authorized to strike in the State of Texas, or an attorney, but must notify the chair of the Hearing Committee within five (5) business days of referral for Grievance Hearing regarding the



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attendance of a representative. An attorney from the Office of General Counsel will represent the GGHSN/Respondent if the Grievant has a representative. A representative or attorney for the respective Parties may attend in an advisory capacity only and may not participate in the Hearing. All meetings of the Hearing Committee will be memorialized through minutes, marked "Confidential," and the Hearing will be audio recorded. A copy of the recording of the Hearing will be made available to either Party, if requested. However, post-Hearing, deliberations by the Hearing Committee members shall not be audio recorded or memorialized in writing.

3.04.5 The Chair of the Hearing Committee shall arrange for a Hearing to be held within fifteen (15) business days of receiving the request for a Grievance Hearing. From the date of notification by the chair, the Parties will have five (5) business days to submit to the chair of the Hearing Committee, and each other, copies of all supporting documents, including the written decisions of previous bodies who have considered this matter, but NOT the report of the mediators. Within that same time frame, the Parties will submit to the chair of the Hearing Committee, and to each other, a list of voluntary witnesses, all of whom may be questioned by both Parties, as well as the members of the Hearing Committee. It is the responsibility of each Party to obtain the permission, and ensure the presence, of any witness (es) he/she calls. Should the Committee deem necessary, it may seek to call additional, relevant witnesses who shall likewise be subject to questioning by the respective Parties.

3.04.6 At the conclusion of the Hearing, the Parties will be excused, and the Hearing Committee shall have five (5) business days within which to complete deliberations and submit to the Dean and the Parties a written majority recommendation. Any minority report/recommendation submitted, if applicable, will become part of the permanent record of the grievance proceedings to the same extent as the majority recommendation.

4.00 Dean's Review. After receiving and reviewing the recommendations of the Hearing Committee, the Dean shall render a decision, and within ten (10) business days, notify the Grievant, Respondent and chair of the Faculty Grievance Hearing Panel in writing regarding that decision. The decision of the Dean is final, unless it is alleged that a procedural violation materially affected the outcome of the grievance. Documents relating to the grievance shall be retained in the Office of the Dean in accordance with HSC EP OP 10.09, Records Retention.

5.00 Associate Dean for Faculty Affairs Review for Procedural Violation. If either Party alleges that a procedural violation occurred that materially affected the outcome of the grievance, he/she may appeal in writing to the Associate Dean for Faculty Affairs within ten (10) business days of receiving the Dean's decision. The Associate Dean for Faculty Affairs appeal must clearly explain (1) what the alleged procedural violation was and (2) how the alleged procedural violation materially affected the outcome of the grievance.

5.01 The Associate Dean for Faculty Affairs shall review the complete written record of the grievance and procedural appeal and submit a written recommendation to the President within fifteen (15) business days.

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6.00 President's Review for Procedural Violation. The President shall review with the Associate Dean for Faculty Affairs his/her recommendation regarding an alleged procedural violation and make a final decision that will be submitted in writing within fifteen (15) business days to the Grievant, Respondent and Chair of the Hearing Committee, and the Dean and Associate Dean for Faculty Affairs. The decision of the President is final.

7.00 Resolution. The Parties may agree to a resolution of the grievance at any time from initiation of the grievance procedures until the President's final decision, if applicable. Resolution of the grievance shall be reduced to writing and be signed by the Grievant, Respondent, Dean and, if applicable, the most senior TTUHSC El Paso administrator who participated in the grievance review. A complete, permanent record of the grievance shall be maintained in the Dean's office.

8.00 Right to Change Policy. TTUHSC El Paso reserves the right to interpret, change, modify, amend or rescind this Grievance Policy in whole or in part at any time without the consent of the faculty.