

APPENDIX A-3-81 Faculty Grievance Procedures

A school's policy on grievances is essential to the satisfactory solution of personnel problems. The grievance procedure provides a day-to-day test of the adequacy of performance in implementing policies, rules, and regulations. Grievances are filed to clarify issues in disputes stemming from differences of interpretation involving administrative directive, board policy, or negotiated contracts. Grievances are to be used, if necessary, when it is a policy concern in which the grievance is filed against a superior. Problems with peers will be handled through other channels involving the Ethics Committee and/or perhaps the Nebraska Professional Practices Commission. Nothing contained in these guidelines should be construed as limiting the right of any person with a grievance to discuss the matter informally with an appropriate member of the administrative staff, or the local professional association, or to proceed independently.

I. Definitions of Terms

- 1) *Grievance*: A claim by a faculty member or group of faculty members that conditions exist which adversely affect terms and conditions of employment or claim that there has been a violation, misinterpretation, or misapplication of policy, regulations or contract language. Generally, grievances can be separated into four categories:
 - a. violation of policy - this grievance alleges that an existing policy has been violated because an administrator overlooked it or failed to apply it.
 - b. disagreement over the meaning or application of policy - in this kind of grievance the policy is not being challenged, but rather the definition of words and their application. The grievant is alleging that the policy has been misapplied.
 - c. dispute over facts - in this category there is no dispute over the meaning of a policy, but rather what the facts are; e.g., the administrator claims the grievant has used all of his/her sick leave; the grievant's records show that he/she has three days left. Another example might be a grievance involving a complaint in a faculty member's personnel file. The administrator has accepted a student complaint at face value. The purpose of such a grievance would be to refute the facts in the complaint and get the complaint removed.
 - d. disagreement as to equity of administrative actions or board policy - this is a difficult grievance to process since it requires subjective judgments on the part of those involved. The purpose here is to show that an administrative directive or action has denied a faculty member equitable treatment.
- 2) *Grievant*: Faculty member or group of faculty members making the claim as provided in Section I. 1) above.
- 3) *Faculty Member*: Any full-time member of the instructional staff of the College.
- 4) *PRR&R Committee*: Professional Rights, Responsibilities, and Relations Committee of the Faculty Association.
- 5) *Party In Interest*: Person or persons making the claim, and any person who might be required to take action, or against whom action might be taken, in order to resolve the claim.
- 6) *Time Limits/Days*: All time limits or days herein shall consist of College working days. The numbers of days indicated at each level should be considered maximum, and every effort shall be made at all levels to expedite the process. Failure of any grievant to comply with the time limits contained herein shall constitute a waiver of right to appeal to the next step. Failure of the Board or its representatives to comply with the time limits at any level shall permit the grievant to appeal the grievance to the next level.

- 7) *Grievance Meetings or Hearings:* All meetings and hearings under this procedure up to and including Level III shall be conducted in private and shall include only the administration's representatives, parties against whom action might be taken, the grievant, and his/her designated representatives. All parties shall have the right to record the proceedings of any hearing or meeting at all formal levels of the grievance procedure.

II. Purpose: The Board purpose in having a grievance procedure for the College system is:

- 1) Unobstructed communication with respect to alleged grievances without fear of reprisal.
- 2) Reduction of the potential areas of conflict among staff members and administrators and members of the Board.
- 3) Two-way communication through recognized channels among administrators, staff members, local professional association, and the Board.
- 4) Development of improved morale and effectiveness of staff members.
- 5) Encouragement of faculty expression regarding conditions that affect them.

III. Procedures

- 1) Level I (informal)
 - a. If a faculty member feels that he/she has a grievance, he/she must first discuss the matter with his/her administrator to whom he/she is directly responsible in an effort to resolve the problem.
 - b. The aggrieved person may have two local representatives from the PRR&R Committee to assist him/her in efforts to resolve the problem informally with the department head or appropriate administrators.
- 2) Level II (formal - grievance forms are available in the Human Resources Office)

STEP ONE

- a. If an aggrieved person is not satisfied with the disposition of his/her problem, or if no decision has been rendered after three (3) days through the informal procedure, he/she may submit his/her claim as a formal grievance, in writing, to his/her Division Chairperson or the appropriate administrator, retain a copy of the said grievance for himself/herself, and forward a copy to the PRR&R Committee and the Chief Human Resources Officer.
- b. Within three (3) days after receiving the written grievance, the Division Chairperson or appropriate administrator shall provide an opportunity for the aggrieved person to meet with the administrator for the purpose of reviewing the grievance, and the administrator shall give to the aggrieved person a written opinion within two (2) days.

STEP TWO

- a. If the aggrieved person is not satisfied with the disposition of his/her grievance at Step One, or if no decision has been rendered within three days after the presentation of the grievance in writing, he/she may file the written grievance with the PRR&R Committee within three (3) days after the decision at Step One, or six (6) days after the grievance was presented.
- b. Within three (3) days after receiving the written grievance, the PRR&R Committee shall provide an opportunity for the aggrieved person to meet with the Committee for the purpose of reviewing the grievance, and the PRR&R Committee shall give to the aggrieved person a written opinion within two (2) days. If the aggrieved person is not satisfied with the opinion of the local PRR&R Committee at this point, he/she may appeal his/her grievance to the State PRR&R Committee.

- c. It is appropriate that this appeal be made through the Faculty Association Executive Committee.

STEP THREE

- a. Within three (3) days after receiving the PRR&R Committee opinion, or within six (6) days after the grievance was filed with the Committee, whichever is sooner, the aggrieved person may file a written appeal with the PRR&R Committee for a hearing with the President. Within two (2) days of its receipt, the Committee, through its chairperson, shall submit such appeal to the President.
- b. The President, or his/her authorized representative, shall act for the administration at Step Three of the grievance procedure. Within five (5) days after receipt of the written appeal for a hearing by the President, the President shall meet with the aggrieved person and with representatives of the PRR&R Committee for the purpose of resolving the grievance. Each party in interest shall have the right to include in his/her representation such witnesses deemed necessary to develop the facts pertinent to the grievance. A full record (tape record recommended) of such hearing shall be kept by the President and made available to the parties involved upon written request. The President shall, within three (3) days of the hearing, render his/her decision and reasons therefor, in writing, to the aggrieved person, with a copy to the PRR&R Committee.

STEP FOUR

- a. If the aggrieved person is not satisfied with the disposition of his/her grievance at Step Three, or if no decision has been rendered within three (3) days after he/she had first met with the President, he/she may file the grievance again with the PRR&R Committee within three (3) days after a decision of the President, or five (5) days after he/she first met with the President, whichever is sooner.
- b. Within three (3) days after receiving such further appeal, the PRR&R Committee, through its Chairperson, shall refer the grievance to the Board Chairperson.
- c. The Board Chairperson shall schedule a hearing date that will allow ample time for the Board to act, but that will also allow for expedition of the grievance process. The Board Chairperson shall then notify all parties involved in writing of the date of the hearing. The Board, or its designated sub-committee thereof, shall conduct the hearing. Each party in interest shall have the right to include in his/her representation such witnesses deemed necessary to develop the facts pertinent to the grievance. A full record (tape record recommended) of such hearing shall be kept by the Secretary of the Board and made available to the parties involved upon written request. The Board will have five (5) days from the date of the hearing to notify, in writing, the grievant and the PRR&R Committee of the decision.

3) Level III (Impasse Resolution)

- a. If the aggrieved person chooses not to accept the decision of the Board (Step Four), he/she may, within five (5) days of receipt of notice of said decision, request that the PRR&R Committee challenge the Board's decision. Such challenge may be made only after it has been determined by the Committee that the grievance is meritorious and related to the interpretation, meaning, or application of any rules, regulations, or policies of the College. The challenge shall be filed with the Board within five (5) days of appeal by aggrieved person. If, within ten (10) days of the filing of the challenge, the Board's decision is not accepted by the Faculty Association, the Board and the Faculty Association shall be considered at impasse and arbitration procedures shall be initiated, as specified in

- Level III b).
- b. Within ten (10) days after such written notice of submission to arbitration, the Board and the Faculty Association will select an arbitrator in the following manner: The Board and the Faculty Association will first attempt to select an arbitrator by mutual agreement. The arbitrator shall be an experienced, impartial, and disinterested person of recognized competence in the field of personnel policies or management. If the Board and the Faculty Association are unable to agree on an arbitrator within ten (10) days after receipt of notice, then an arbitrator will be selected by the Board selecting one person, the Faculty Association selecting one person, and those two people choosing the third person who will become the arbitrator. If the selection committee of the Board and the Faculty Association fail to reach agreement on an arbitrator within ten (10) days, an arbitrator shall be sought from the American Arbitration Association.
 - c. Once an agreement of an arbitrator has been reached, the arbitrator's findings shall be forwarded to the Board within fifteen 15 days. The arbitrator's decision would be final and binding.
 - d. The cost of arbitration shall be shared equally by the Board and the Faculty Association.

IV. Rights of Faculty Members to Representatives:

Any party in interest may be represented at all stages of the grievance procedure by himself/herself or by a representative of his/her own choosing. When a faculty member is not represented by the Faculty Association, a designated representative of the Faculty Association shall have the right to be present and to state its views at all stages of the grievance procedure.

V. Other Considerations:

If, in the judgment of the PRR&R Committee, a grievance affects a group of faculty members, the PRR&R Committee may submit such grievance, in writing, to the President directly, and the processing of such grievance will commence at Step Two of Level II. Decisions rendered at Level II, Steps One, Two, Three, and Four, of the grievance procedure will be in writing, setting forth the decisions and the reasons therefore, and will be transmitted promptly to all parties in interest and to the chairperson of the PRR&R Committee. If the written grievance is not filed within thirty (30) days after the faculty member knew, or should have known, of the act or condition on which the grievance is based, then the grievance shall be waived. A faculty member may withdraw his/her grievance at any level of the procedure without fear of reprisal from any party, prejudice, or record. No reprisals of any kind shall be taken by the Board, or by any member of the administration, or by the Faculty Association or its individual members, against any party in interest, and the PRR&R representative, or any other participant in the grievance procedure by reason of such participation.