

III. G. Grievances

Comment: Formerly III.B.14

If any full time, part time or emeritus faculty member or group of faculty members¹ feels that he, she or they have cause for grievance in any matter not governed by other procedures in the *Faculty Handbook*, he, she or they may petition the Faculty Hearing Committee for redress. The petition shall set forth in detail the nature of the grievance, parties grieved against (hereafter, the respondent[s]), and the relief sought. The petition should contain all information that the petitioner deems pertinent to the case. The Faculty Hearing Committee shall consider a petition only after the petitioner has sought relief from all other appropriate committees and/or administrators (e.g., a department personnel committee or chair, the Dean of the Faculty or School, etc).

Comment: I read this clause as actually preventing someone sanctioned via EO procedures from seeking redress with FHC

The Committee shall first determine whether the petitioner has demonstrated cause. If so, the Committee shall deliver a copy of the petition to all respondents named, and allow them ten calendar days to respond. The Committee shall then seek to mediate a settlement satisfactory to all parties. If the mediation is not successful, the Committee shall formally hear the grievance. The hearing shall provide the petitioner(s) and respondent(s) the opportunity:

1. To submit their written statements and responses.
2. To appear before the Committee.
3. To present appropriate evidence and arguments.
4. To obtain necessary witnesses and documentary or other evidence, with the understanding that the administration will cooperate to the extent practicable with the Committee in securing witnesses and making available documentary and other evidence. Where the witnesses cannot or will not appear, but the Faculty Hearing Committee determines that the interests of justice require admission of their statements, the Faculty Hearing Committee will identify witnesses, disclose their statements, and if possible provide for written interrogatories.
5. To be represented by a lawyer or other person (at the petitioner's or respondent's expense).
6. To ask a representative of an appropriate educational association to attend the proceedings as an observer.
7. To be present during testimony and to cross examine those who testify.

Comment: Added following III.B.4.d.

Comment: Changed "responsible" to "appropriate" consistent with change in III.C.2.d.i.

¹ This policy applies to administrators who hold academic rank, but only in their capacity as faculty members.

The Committee shall keep a verbatim record of any oral evidence taken during the hearing. The Committee, in consultation with the parties, shall determine whether the hearing will be public or private.

Comment: In the sanctioning procedures, this decision includes the President—should it here?

The burden of proof rests with the petitioner and shall be satisfied only by clear and convincing evidence² in the record considered as a whole. The Faculty Hearing Committee will not be bound by strict rules of legal evidence, and may admit any evidence which is of probative value in determining the issues involved. Reasonable effort will be made to obtain the most reliable evidence available.

The Faculty Hearing Committee shall render a formal finding based upon the evidence admitted at the hearing or hearings, and recommend appropriate action by the College. The formal finding and recommendation shall be based solely on the hearing record, and shall be in writing. The formal finding shall reflect the majority opinion of the Faculty Hearing Committee, and shall contain a summary of the committee's proceedings and deliberations. It should also describe the policies and procedures under which the investigation was conducted, how and from whom information was obtained relevant to the investigation, the findings, and the basis for the findings. The petitioner(s) and the respondent(s) shall receive a copy of the formal finding and, should either one request it, a copy of the record of the hearing. Both shall have ten calendar days to respond to the Provost (or, should the Provost be a respondent, to the President).

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The formal finding and recommendation shall also be submitted to the Provost, or to the President if the Provost is a respondent. Within fifteen calendar days, the Provost or President shall deliver a written copy of his or her decision, specifying any action to be taken by the College, to the petitioner(s), the respondent(s), and the Faculty Hearing Committee. If the Provost or President rejects the Committee's finding and/or recommendations, he or she shall state the reasons in writing to the Committee and to all parties.

If a grievance raises policy issues, the Faculty Hearing Committee will report its findings to the Faculty Assembly and/or to the appropriate committees in a Faculty or School.

² Clear and convincing evidence does not require evidence that is beyond a reasonable doubt. Rather it is defined as that degree of proof which will produce a firm belief in the allegations sought to be established. Clear and convincing evidence thus is an intermediate standard requiring more than a preponderance of evidence, but less than the certainty required by evidence that is beyond a reasonable doubt.