

## Faculty Grievance Committee

Annual Report for 2022-23

**Membership:** Six to seven tenured faculty (one elected from tenured faculty of each College and the Library and one tenured representative from the Faculty Welfare Committee who is elected for a one-year term).

**Membership Conditions:** Membership is limited to tenured faculty. No member may concurrently serve on the University Promotion and Tenure committee.

**Purpose:** The duties of this committee are to conduct reviews of grievances brought to the President following the third step of the Faculty Grievance Procedure (see 5.3 Faculty Grievance Procedure, p. 39). A faculty member serving on this committee cannot be directly or indirectly involved in the case to be heard. In case of such a conflict of interest, the Chair of the Faculty Senate appoints a temporary replacement to maintain the College's representation. Also, in cases of a member's inability to serve, such as approved absence from the University, the Chair of the Faculty Senate appoints a temporary replacement to maintain the College's representation. This committee conducts its proceedings in accordance with the guidelines defined in STEP 3 of the Faculty Grievance Procedure, p. 42.

### **Membership for 2022-23:**

Arlise McKinney, Wall College of Business (Chair of committee)

Ina Seethaler, HTC Honors College (Scholarly Reassignment for Fall 2023, no sub provided)

Suheir Daoud, Spadoni College of Education and Social Sciences

Jane Guentzel, Gupta College of Science

Jose Sanjines, Edwards College of Humanities and Fine Arts

Arianna Baker, Kimbel Library

College of Health and Human Performance (vacant)

**Scheduled Meetings for 2022-23:** 2<sup>nd</sup> Wednesday of each month (minimum of 2 meetings per academic year)

The committee met virtually in the fall for the initial meeting to address the status of outstanding action items from 2021-22 academic year. There were two new committee members joining to include Jose Sanjines and Arianna Baker.

Per the CCU Faculty Manual, this committee is not required to meet monthly but should have two meetings per academic year. The committee met in Fall 2022 to review the outstanding motions that were submitted to the Faculty Senate Executive Committee in May 2022. No new agenda items were discussed. There were no meetings in Spring 2023 and no new action items. The chair, Arlise McKinney, convened a meeting with Brian Bunton, Faculty Senate Chair in April 2023 to update the status of the outstanding motions (Appendix A and Appendix B). Given the pending administrative changes, it was determined it would be best to have new/interim Provost in place and then address the motions. Thus, the motions would be presented in the 2023-24 academic year.

**Charge for the 2021-2022 AY that continued through 2022-23 AY:** Review the faculty grievance procedure to address deficiencies in the policy as it relates to SC law and alignment of policy with AAUP. The committee activities were as follows:

- Based on the review of the reference colleges and universities, we examined five possible areas for inclusion in the current faculty grievance procedure to include:
  1. Irregularities in procedures regarding appointment, evaluation, promotion, suspension or termination of any academic member for any reason
  2. Disciplinary action taken by the administration against a faculty member concerning matters other than an administrative appointment
  3. Retaliation by a colleague, supervisor, or administrator against a faculty member who filed a grievance in good faith or who assisted with the grievance process
  4. Disputes between faculty members and colleagues or administrators concerning substantial matters of salary, working conditions, allocation of space or academic duties that arise from causes apparently arbitrary or discriminatory.
  5. Denial of tenure/promotion based on discrimination and/or retaliation
  
- The committee determined that only “*Irregularities in procedures regarding appointment, evaluation, promotion, suspension or termination of any academic member for any reason*” would be considered under the purview of the Faculty Grievance Procedure as established by the CCU Faculty Manual, AAUP Guidelines for Due Process for faculty terminations, and referent comparisons.
  
- The committee drafted a revision to the Faculty Grievance Policy set forth in the CCU Faculty Manual for review by university stakeholders. The policy modifications are included in Appendix A and Appendix B of this review.
  
- **Recommended course of action/next steps:**
  1. Review of proposed changes with the Faculty Senate Executive Committee and Office of the Provost
  2. Address policy gaps in the Faculty Manual with the Faculty Welfare Committee.

In addition to the above actions of the committee, Scott Bacon served as the Faculty Grievance representative on the Anthology workgroup to address faculty needs in refining the repository for promotion and tenure documents. Dr. Scott Bacon reported that the workgroup finalized the table of contents that would outline the system for future use. Dr. Ina Seethaler also reported that the workgroup will continue to work on the repository to include automating the faculty annual review process in the 2022-23 academic year.

## Appendix A

### Motion # 1 - Proposed Modifications to Faculty Grievance Policy (scope) noted in red font.

#### 5.3 Faculty Grievance Procedure

It is the intent of the University to extend to each member of the faculty and associated faculty with academic titles (6.3.2.1 Temporary Appointments with Academic Titles, p. 49) the right to a fair review of any appropriate request or serious complaint arising in the course of employment. A formal grievance may be filed by any employee holding academic rank or title (see 6.3.1 Faculty and 6.3.1.1 Tenured and Tenure Track Appointments with Academic Rank, p. 48).

In this section the term “grievant” refers to Visiting Assistant, Associate, Professor/Librarian; Teaching Associate; Lecturer; Senior Lecturer; Senior Instructor; Assistant, Associate, Professor/Librarian; Professor; Librarian; and academic administrators who hold faculty rank.

Grievances are limited to issues concerning:

- (1) Denial of due process. Due process should include written notice of grounds for disciplinary action, disclosure of evidence supporting disciplinary action, the right to confront witnesses, an opportunity to be heard in person and present witnesses and documentary evidence, a neutral and detached hearing body, and written statement by fact finders as to the evidence relied upon (Source for Due Process: AAUP statement on due process in faculty terminations).
- (2) Failure of proper notification in reference to changes to the terms of employment. ~~of~~
- (3) Breach of academic freedom.
- (4) The University also extends the right to a fair review of any request or complaint arising from the denial of academic freedom to all persons teaching a for-credit class.
- (5) Promotion, tenure, and post-tenure review are proper subjects for consideration only as they relate to procedural errors not caused by the grievant, or failure of notice of opportunity to be heard.
- (6) Irregularities in procedures regarding appointment/reappointment, evaluation, promotion, suspension, or termination of any academic member for any reason.

Any faculty member who receives notification of termination because of financial crisis is entitled to a fair review in accordance with the Faculty Grievance Procedure.

The termination of employment of a tenured faculty member cannot be grieved through this process (6.10 Forfeiture of Tenure and Termination for Cause, p.72). All complaints pertaining to discrimination based on race, color, gender, age, creed, or national origin are to be referred to the EEO Officer (University Policy UNIV-HREO-444 Equal Employment Opportunity).

Discrimination includes *retaliation* by a colleague, supervisor, or administrator against a faculty member who filed a grievance in good faith or who assisted with the grievance process. The time limits indicated in this policy must be strictly adhered to. Timelines in this section are expressed in calendar days. When such a timeline spans University holidays, as specified in the University Holiday Schedule, the timeline will be paused for the duration of the holiday. When a due date falls

on a weekend or a University holiday or when the University is closed due to an emergency, the first business day after that date will serve as the due date. Failure of the administration to comply with given time limits entitles the grievant to carry the appeal to the next step in the process. Failure of the grievant to comply with the time limits will result in forfeiture of the right to continue the grievance. Grievances will be considered filed according to the recorded date of receipt. The appropriate parties are responsible for obtaining a signed, dated proof of receipt for all official communications at each step of the process. At any time during this process the grievant has the right to legal representation or any other counsel. If an attorney will be present at any formal proceedings, University Counsel must be notified in writing at the time that the formal grievance or appeal is filed with the appropriate body (see STEP 2-4 below)

## Appendix B

### **Motion # 2 - Proposed Modifications to Faculty Grievance Policy (hearing procedures) noted in red font.**

#### 5.3 Faculty Grievance Procedure

It is the intent of the University to extend to each member of the faculty and associated faculty with academic titles ([6.3.2.1 Temporary Appointments with Academic Titles](#)) the right to a fair review of any appropriate request or serious complaint arising in the course of employment.

A formal grievance may be filed by any employee holding academic rank or title (see [6.3.1 Faculty](#) and [6.3.1.1 Tenured and Tenure-Track Appointments with Academic Rank](#)<sup>8</sup>). In this section the term “grievant” refers to Visiting Assistant, Associate, Professor/Librarian; Teaching Associate; Lecturer; Senior Lecturer; Senior Instructor; Assistant, Associate, Professor/Librarian; Professor; Librarian; and academic administrators who hold faculty rank.

Grievances are limited to issues concerning denial of due process, failure of proper notification in reference to changes to the terms of employment, or breach of academic freedom. The University also extends the right to a fair review of any request or complaint arising from the denial of academic freedom to all persons teaching a for-credit class.

Promotion, tenure, and post-tenure review are proper subjects for consideration only as they relate to procedural errors not caused by the grievant, or failure of notice of opportunity to be heard. The termination of employment of a tenured faculty member cannot be grieved through this process ([6.10 Forfeiture of Tenure and Termination for Cause](#)).

All complaints pertaining to discrimination based on race, color, gender, age, creed, or national origin are to be referred to the EEO Officer (University Policy [UNIV-444 Equal Employment Opportunity](#)).

The time limits indicated in this policy must be strictly adhered to. Timelines in this section are expressed in calendar days. When such a timeline spans University holidays, as specified in the University Holiday Schedule, the timeline will be paused for the duration of the holiday. When a due date falls on a weekend or a University holiday or when the University is closed due to an emergency, the first business day after that date will serve as the due date. Failure of the administration to comply with given time limits entitles the grievant to carry the appeal to the next step in the process. Failure of the grievant to comply with the time limits will result in forfeiture of the right to continue the grievance. Grievances will be considered filed according to the recorded date of receipt. The appropriate parties are responsible for obtaining a signed, dated proof of receipt for all official communications at each step of the process.

At any time during this process the grievant has the right to legal representation or any other counsel. If an attorney will be present at any formal proceedings, [University Counsel](#) must be notified in writing at the time that the formal grievance or appeal is filed with the appropriate body (see STEP 2-4 below).

### 5.3.1 Procedure

**Appointment of Designees:** At any step in the process, the person hearing the grievance may need to appoint an appropriate designee to hear the grievance in order to meet the time limits or when it is in the interest of fairness to the grievant. The grievant will be notified of the name of the designee and the reason for appointing the designee in writing at least five (5) days prior to the hearing. If the grievant believes that the designee is directly involved in the matter being grieved or is unable to maintain neutrality in the matter, the grievant may request to forego that step of the process as per the Recusals paragraph immediately below.

**Recusals:** The grievant may seek to forego steps in this process when the person hearing the grievance is directly involved in the matter being grieved (Chair/Supervisor, Dean/University Librarian, Provost, and/or President). In such cases, the grievant will notify in writing the person hearing the grievance at the step beyond the step(s) being foregone. This letter will state the reasons for the request to forego the previous step(s). Based on the reasons stated in the letter, the person hearing the grievance will determine whether the grievant should return to the previous step or to proceed with the hearing of the grievance at that point in the process.

#### STEP 1:

1. **Informal Conciliation:** Prior to filing a formal grievance, a faculty member must seek redress by filing a written Notice of Intent to File a Grievance to the Chair/Supervisor. This written intent to file a grievance notification will outline the nature of the matter being grieved and name the parties involved. If an attorney will be present during this step of the process, the person hearing the potential grievance during the conciliation phase must be informed in the Notice of Intent to File a Grievance or the Request for a Dean Hearing letter. Within twenty (20) days of receiving the formal intent to file a grievance notification, the Chair/Supervisor or a designee must hold a meeting with the grievant. It is the responsibility of both the grievant and the Chair/Supervisor or the designee to review the matter and its specific issues in good faith. The goal of the conciliation phase is to arrive at a mutually agreed upon, prompt resolution to the matter grieved. The Chair/Supervisor or the designee will supply the grievant with a written letter of resolution outlining the results of the conciliation meeting within seven (7) days of the meeting. If the Chair/Supervisor or the designee is directly involved in the matter being grieved, then the informal conciliation may be foregone if requested by the faculty member and approved by the Dean or a designee (see Recusals in this section).
2. **Post Conciliation:** In the event that the issue is not resolved within twenty (20) days of filing the notice of intent, or the grievant wishes to appeal the decision of the Chair/Supervisor or the designee, the grievant may file a written Request for a Dean Hearing letter to the Dean of the faculty member's academic area. This request must be made within seven (7) days of the end of the twenty (20) day

period or receipt of the written resolution letter written by the grievant's Chair/Supervisor or the designee. The written request for a hearing need not follow any particular format but should include a report of the conciliation effort to resolve the matter and the relevant facts at issue. In cases where the Dean or the designee is directly involved in the matter being grieved, the Dean Hearing may be foregone if approved by the Provost or the Provost's designee (see Recusals in this section).

3. **Dean Hearing:** The Dean or the designee will conduct a hearing and prepare a response within fifteen (15) days following the receipt of the post conciliation request. The Dean or the designee will consider all documentation presented by the grievant and the Chair/Supervisor or designee, and may interview other individuals who are directly involved in the matter. In the event the Dean or the designee fails to respond within fifteen (15) days of receipt, the Dean Hearing is waived and the grievance proceeds to STEP 2. In the event that the grievant is not satisfied with the Dean's or the designee's decision the grievant may proceed to file a formal grievance in accordance with STEP 2. In cases where the Provost or the Provost's designee is directly involved in the matter being grieved, the formal grievance filing to the Provost may be foregone if approved by the President or the President's designee (see Recusals in this section).

#### STEP 2:

1. **Formal Grievance Filing to Provost:** To be considered formally, a grievance must be filed in writing with the Provost within seven (7) days following receipt of the written decision of the Dean or the designee if that hearing was held. The grievant must submit the following materials in the formal grievance notification letter:
  - A description of the issues involved in the grievance
  - A copy of the materials presented to the Dean or the designee (if any)
  - The Dean's or designee's written decision (if any)
  - Evidence of specific conciliation efforts made in Step 1 (if any)
2. **Provost Action:** The Provost/designee, will conduct a fact-finding review including separate consultations with the parties involved, an independent investigation, and take any other appropriate action in order to reach a resolution. The Provost/designee must complete this process and render a written decision to the grievant within fifteen (15) days after receipt of the grievance by the Provost. In cases where a large number of individuals are involved in the grievance, or if the issues involved are very complex, the Provost/designee may extend this period of time in consultation with the grievant. Extensions must be in writing and signed by both the Provost/designee and the grievant.
3. The grievant, if not satisfied with the Provost's/designee's decision as received,

may petition the President within seven (7) days of receipt of the Provost's/designee's decision. In cases where the President or the President's designee is directly involved in the matter being grieved, the petition will be filed with the Chair of the Grievance Committee within seven (7) days of receipt of the Provost's/designee's decision. The Chair of that committee will then convene to Grievance Committee as per STEP 3 below.

### STEP 3:

1. **Petition to the President:** If a petition is filed with the President, the President will convene the Grievance Committee to conduct a review and investigation of the grievance. The Chair of the Grievance Committee will take prompt, reasonable, and necessary actions to insure an equitable, orderly, and expeditious decision. The Provost or the Provost's designee will serve in any capacity deemed appropriate by the Chair of the Committee, but is not to be directly involved in the grievance proceedings. The review will commence within fifteen (15) days from the date the grievant files the petition to the President/designee or Chair of the Grievance Committee.
2. **Grievance Committee Hearing Process and Conflict of Interest Policy:** At this stage of the process, members of the Committee may disqualify themselves due to any bias or conflicts of interest, and the parties involved may raise questions regarding disqualification of committee members. The Chair of the Grievance Committee will determine if the bias raised is significant enough to warrant disqualification. As a basis for making disqualification decisions, the Chair will be mindful of the need for committee members to avoid conflicts of interest or the appearance of conflicts of interest.

If the Chair cannot make such a determination, or if the Chair has been asked to recuse herself/himself, the eligible members of the Committee will elect an Acting Chair to make a determination. An alternate committee member from that College/Library will replace any disqualified member(s) for the duration of the proceedings. The alternate(s) will be appointed by the Chair of the Faculty Senate, or by the Faculty Welfare Committee if the Chair of the Faculty Senate is deemed to have a conflict of interest by the Grievance Committee.

### **Hearing Process Requirements**

The procedures below delimit the nature and scope of the inquiry as an official University process. The committee hearing is not a formal court of law; therefore, the rules of evidence and rights to make motions will be those and only those stipulated below. The committee will not be bound by the strict rules of legal evidence and may admit any evidence which is of probative value in determining the issues involved. Every possible effort will be made to obtain the most reliable and comprehensive evidence available.

- The faculty member will be permitted to have an advisor and/or counsel of choice

present during the proceedings.

- No less than ten (10) days prior to the hearing, each party will deliver a written list of witnesses and evidence to the other. The faculty member will be afforded the opportunity to obtain necessary witnesses, cross examine witnesses, and present relevant documentary or other evidence. The Provost will cooperate with the committee in securing witnesses and making documentary and other evidence available in a timely manner
- The faculty member, any advisor or counsel, and the Provost or her/his designee will have the right to question all witnesses (such questioning will be limited to relevant issues). The Chair of the committee controls the manner and duration of questioning and testimony. Where the witnesses cannot or will not appear but the committee determines that the interests of justice require admission of a statement, the committee will identify the witnesses, disclose sworn statements, and, if possible, provide for interrogatories under oath.
- Members of the committee have the right to ask questions during the presentation of the case phases of the hearing with the permission of the Chair. Opening and closing statements will proceed without interruption.
- The committee may grant continuances to enable either party to investigate evidence as to which a valid claim of surprise is made. A claim of surprise is the only motion that must be considered by the committee Chair.
- The committee Chair reserves the right to call a recess to review new information and take appropriate breaks.
- All hearing information will be exempt under the provisions of the Freedom of Information Act unless deemed otherwise by law.
- ~~The burden of proof that adequate cause exists rests with the University and will be satisfied only upon a showing, taking account as a whole, of clear and convincing evidence in the record which is a less stringent standard than the beyond a reasonable doubt standard applied in criminal cases. If the faculty member had means, motive and opportunity, the alleged behavior/events did occur, and it is unlikely that another person is guilty of the behavior or brought about the events, then the standard of clear and convincing evidence will have been met.~~
- The findings of fact and the decision of the committee will be based solely on the hearing record.

A verbatim audio recording of the hearing or hearings will be taken by electronic means. Upon completion of the hearing, a copy will be delivered to the faculty member without cost within fifteen (15) days.

*Hearing Protocol:*

The hearing agenda will be as follows:

- Opening Statement by the Chair of the Committee (5 minutes maximum)\*
- Opening Statement by the Plaintiff's Representative (10 minutes maximum)\*
- Opening statement by the Defendant or Counsel (10 minutes maximum)\*
- Presentation of the case by the Plaintiff's Representative
- Presentation of the case by the Defendant or Counsel
- Closing Statement by the Plaintiff's Representative (10 minutes maximum)\*
- Closing by the Defendant or Counsel (10 minutes maximum)\*
- Closing Statement by the Chair of the Committee outlining next steps and timeline (

\*The Chair of the committee may extend time if necessary as long as equal time is given to each party.

~~The grievant, the Dean or the designee, and any person whose alleged conduct was the cause of the grievance will appear separately before the Committee. Each party has the right to call and cross examine witnesses and to produce whatever relevant evidence they wish. Cross examination may also be conducted by members of the Grievance Committee. The committee has the authority to call for files, records, and documents pertinent to the investigation, to determine the order of the appearance of witnesses, to call additional witnesses, and to take any other action deemed necessary to determine the facts of the case.~~

3. Grievance Committee Decision: The Grievance Committee will deliver a written finding and submit its specific recommendation, together with the committee's vote, to the President/designee and the grievant within ~~seven (7)~~ **fourteen (14)** days following the conclusion of the hearing. In cases where the President is directly involved in the matter being grieved, the grievant may appeal the decision of the committee directly to the Chair of the Academic Affairs Committee of the Board of Trustees (see Recusals in this section).
4. President's Decision: The President/designee may accept the recommendation of the Grievance Committee or conduct a further review and hold additional discussion of the case with the parties either together or separately. The grievant, the Provost, and appropriate committee Chairs will be notified of the President's/designee's decision within fifteen (15) days after the receipt of the committee's decision.

STEP 4:

1. Appeal to the Board of Trustees of Coastal Carolina University: Final authority for adjudication of grievances rests with the Board of Trustees of Coastal Carolina University. If the grievant wishes to appeal the President's/designee's decision, a written appeal must be sent to the Chair of the Academic and Student Affairs Committee of the Board of

Trustees within seven (7) days of receipt of the President's/designee's decision letter. In cases where the Presidential decision phase has been foregone, the grievant must file the written appeal within seven (7) days of receipt of the letter from the Chair of the Grievance Committee. In the event that the Chair of the Academic and Student Affairs Committee of the Board of Trustees cannot be reached, the appeal may be registered with the Chair of the Faculty Senate or with the Provost's Office. The Academic and Student Affairs Committee will review the record and may, at its discretion, conduct a new hearing. The Academic and Student Affairs Committee will have twenty-eight (28) days in which to complete its review and communicate its decision to the President and the grievant. The number of days may be extended by mutual consent of the grievant and the Chair of the Academic and Student Affairs Committee. The decision of the Academic and Student Affairs Committee of the Board of Trustees is final and binding within the University.