

[from PSU Faculty Handbook]

2.18 Grievance Policy

[October, 2004: Certain revisions to this policy have been suggested by the PSU Office of Human Resources and considered by the Faculty Welfare Committee. One pending suggestion is noted in green highlighted text below. The Faculty Welfare Committee is considering this suggestion, and would bring any proposed change to the faculty for a vote.]

The Faculty and Administration of Plymouth State University affirm their conviction that the University is an academic community in which policies should be characterized by, and individuals treated in, a spirit of fairness and equity. However, it is recognized that from time to time grievances may arise. It is the purpose of this procedure to encourage prompt resolution of such grievances and to recognize the importance of settling them fairly, without fear or prejudice or reprisal and in a manner which protects the rights of everyone concerned. The aggrieved will follow the orderly process hereinafter set forth, and these procedures shall be the final campus remedy used for their resolution.

Any status faculty member – including tenure-track faculty, faculty-in-residence, and contract faculty – is eligible to use this grievance procedure. *[revised 12-30-04 in accord with USNH OLPM USY.V.D.12.3.1.2]*

A. Definition

A grievable act is defined as any action (s) which allegedly:

1. violates a Board of Trustees, University System, or institutional policy *[revised 12-20-04 to use wording from USNH OLPM USY.V.D.12.3.1.1]*
2. abrogates or denies a faculty member's academic freedom;
3. unfairly discriminates against a faculty member on the basis of sex, sexual orientation, race, age, religion, color, marital status, national origin, or handicap;
4. violates accepted University procedure for renewal of contract, promotion and/or tenure;
5. violates employment-related policies and procedures, excluding dismissal of tenured faculty (see Section 2.9 for conditions involving dismissal including tenured faculty);

B. Grievance Resolution Committee

Grievance Resolution Committee membership is established under Article XI. F. 11 of the Bylaws of the Plymouth State University Faculty. The Grievance Resolution Committee will strive to maintain confidentiality at all steps throughout the grievance procedure. Attendance at meetings of the Review Committee is by invitation only.

In cases involving promotion or tenure, the Grievance Resolution Committee will not act to substitute for the judgment of a department promotion and tenure committee; but upon application of an aggrieved party will review the fairness of the application of the departmental committee's procedures.

Any member of the Grievance Resolution Committee who either has or perceives a conflict of interest in his or her involvement in a particular grievance shall so inform the Chair and recuse himself or herself from further participation in the formal grievance procedure. If the impartiality of the Chair of the Grievance Resolution Committee is challenged by a party of interest, the Chair of the Faculty Welfare Committee will make the determination as to whether or not a conflict of interest exists. If the impartiality of any other member of the Grievance Resolution Committee is challenged by a party

of interest, the Chair of the Grievance Resolution Committee will make a determination as to whether or not a conflict of interest exists. If the currently sitting Chair of the Grievance Resolution Committee is to be removed because of an upheld challenge of impartiality, the new chair (as prescribed in the following paragraph) will make the determination on challenges to any other members of the Grievance Resolution Committee.

In either case, the Faculty Speaker will appoint a replacement who is acceptable to both parties to the grievance to serve as a replacement member on the hearing panel. If the Chair of the Grievance Resolution Committee is replaced, then the new constituted hearing panel shall elect a new chair for the impending hearing.

C. Grievance Procedure

Any faculty member eligible to use this grievance procedure who feels that he or she has been aggrieved must initiate the grievance process within 10 calendar days following the time when the faculty member could reasonably have been aware of the existence of the situation which is the basis of the grievance and within one year of its occurrence. *[revised 12-20-04 in accord with OLPM V.D.12.3.1.3]*

[Suggestion by HR Office: “Deadlines: Faculty members are encouraged to file a grievance according to the filing requirements of the process. All grievances will be handled as expeditiously as possible adhering to the deadlines outlined. However, the Chair of the Grievance Resolution Committee has discretionary authority at any time during the grievance procedure to extend a deadline to ensure a thorough and fair process.” The Faculty Welfare Committee (4-05) suggests the following wording of the last sentence: “However, the Grievance Resolution Committee has discretionary authority at any time during the grievance procedure to extend a deadline as necessary to ensure a thorough and fair process.” This has not yet been brought to the full faculty for a vote.]

1. Informal Grievance Procedure

Written notification of informal grievance shall be submitted to the Chair of the Grievance Resolution Committee with a copy to the Director of Human Resources who will be responsible for coordinating the stages of the informal grievance process.

Prior to initiating a formal grievance, the aggrieved must attempt reconciliation with all appropriate administrators and faculty. These discussions may include Department Chairs, members of the administration, parties of interest, and other persons who are either involved in or affect the situation and/or action for which a grievance may be brought. A qualified mediator agreeable to both parties may be used. Reasonable expenses will be paid by the University.

At the informal discussion, every attempt should be made to reconcile differences through face-to-face discussion and negotiation of the issues. The Grievance Resolution Committee will not be involved in these discussions directly, but will maintain contact with parties involved to help ensure that a good faith effort at reconciliation is made. The informal grievance procedure must be completed within 60 calendar days after the initiation of the process.

If, by the determination of the complainant, no acceptable resolution is forthcoming from the informal process, he or she may then file a formal grievance with the Chair of the Grievance Resolution Committee within 30 calendar days after the completion of the informal grievance procedure but in no event later than 90 calendar days after the initial filing of the grievance at the informal stage.

2. Formal Grievance Procedure

Notification: The grievant shall file his/her grievance in writing with the Chair of the Grievance Resolution Committee. The grievance shall identify (1) the nature of the grievance, i.e. the specific action or pattern of actions which is being grieved; (2) the background and reasons why the grievant believes the action was in error; (3) where relevant, the specific provision of the Faculty Handbook, policy, practice or procedure alleged to have been violated and (4) the grievant's perception of the appropriate remedy of the grievance. Once the grievance has been filed, the Chair shall forward a copy of the grievance to the Respondent(s). The Committee shall meet to discuss the grievance among themselves and shall then schedule a hearing no later than 21 calendar days after receiving the grievance.

Procedure:

The following procedures are to be followed when a faculty member files a grievance:

- a. The formal grievance procedure shall include both a prehearing and a formal hearing. During the prehearing and the formal hearing both the grievant and the respondent and their advocates will be allowed to hear and to respond to all testimony. Each party may have one advocate. The advocate must be a PSU employee and shall not have a law degree.
- b. The Human Resources Office will make available to the Grievance Resolution Committee all necessary resources and will undertake the facilitation of both the prehearing and the formal hearing.
- c. The Prehearing

The Grievance Resolution Committee shall hold a prehearing with the grievant, the respondent, and their advocates. The purpose of the prehearing shall be:

- (1) to establish the procedures to be followed in the formal hearing.
- (2) to determine witnesses for the formal hearing. To determine these witnesses, the grievant, respondent and the Committee will work together closely, using as criteria (1) witnesses with information relevant to the grievance, and (2) witnesses who can share new information in an effort to avoid redundant testimony.
- (3) to determine the relevant documents to be used at the formal hearing.
- (4) to identify and summarize the general factual areas about which witnesses will testify.

- d. The Formal Hearing

All documents and a summary of areas of testimony identified during the prehearing shall be made available to grievant and respondent before the hearing.

The hearing will include, but is not limited to the grievant and his/her advocate, the person being grieved (respondent) and his/her advocate, and the Grievance Resolution Committee.

The Grievance Resolution Committee will conduct the formal hearing. The grievant, the respondent, and their advocates have the right to hear the testimony and to respond to testimony during the hearing, and question the witnesses. The Grievance Resolution Committee will make all appropriate decisions as to the conduct of the hearing and the evidence received.

- e. Within 10 calendar days of the conclusion of the hearing, the grievant and respondent may submit a written summary of their positions to the Grievance Resolution Committee. Within

21 calendar days from receiving any written summaries the Grievance Resolution Committee shall report in writing to the parties involved and to the President its findings and recommendations. If the Committee finds no recommendations appropriate, it will state its reasons for so finding in its report.

- f. If the President should determine that implementation of the Grievance Resolution Committee's recommendation(s) is impossible or would cause grave harm to the University, he or she shall, within 21 calendar days, so inform in writing the Chair of the Grievance Resolution Committee, the grievant and the respondent, setting forth in detail the reasons underlying his or her determination. No grievance resolution shall be considered precedent-setting.
- g. Remedies: Insofar as possible, the remedies available under this grievance resolution procedure shall be limited to those necessary to address the grievance.
- h. Record-keeping and Access to Records: All materials used in the grievance process, including tape recordings, exhibits, minutes and affidavits, shall be held in a sealed file in the PSU Human Resources Office. This file shall be separate from the individuals' personnel files. The only people authorized to open the files are the grievant, the respondent, and appropriate administrators who prove an official need to know.

D. Appeal

Appeals of decisions and/or recommendations of the Grievance Resolution Committee shall be made to the President, and shall be made within 21 calendar days of the report of the Grievance Resolution Committee. Appeals should clearly state all grounds for the appeal. The President shall decide whether the grounds for appeal have merit and may call for a rehearing of the case, if necessary.

[revised by Faculty 4-5-00; name changed from Review Committee to Grievance Resolution Committee on 2-7-07]