

UNIVERSITY OF MIAMI FACULTY MANUAL

2023-2024

curriculum vitae in standard professional format; c) a completed “[Faculty Senate Outstanding Teaching Award Nomination Form](#).”

The Committee will review the nominations and select a set of finalists. Each finalist’s nominator will be asked to submit student evaluations of courses taught within at least the past five years and four letters from colleagues or alumni describing the contributions that make the nominee worthy of this teaching award. The Committee may ask the nominators for additional information, including examples of the nominee’s teaching materials, if necessary. Nominators may work with members of the University Community to assemble materials such as student evaluations and letters from other members of the University Community including alumni. If possible, nominees should not be told they are finalists. The awardee should have a substantial record of teaching students of the University of Miami and will ordinarily be a member of the Regular Faculty.³¹⁹

At the awards ceremony, the recipient will be invited to make brief remarks.

Visit <https://fs.miami.edu/assets/pdf/facultysenate/Documents/Awards/OTAlist-web.pdf> view a list of the past awardees.

*The names of the nominees should not be revealed, but the following information should be included in the report to the General Welfare Committee and the Senate: the number of total nominations considered³²⁰; the affiliation (Department, School, or discipline, as appropriate) of the nominees to whom serious consideration was given; the name of the recommended recipient; and a short summary of the individual’s credentials.

C20 Miscellaneous Provisions³²¹

C20.1 Use of Academic Counsel and Legal Counsel

- (a) Members of the UNIVERSITY FACULTY have a right to be represented by Academic Counsel whenever there is an issue regarding a right provided by the *Faculty Manual* or an alleged violation of the *Faculty Manual*. Specifically, representation is available in, but is not limited to, cases where allegations of professional misconduct are brought before the Committee on Professional Conduct by or against a member of the UNIVERSITY FACULTY under Section B4.10; a member of the UNIVERSITY FACULTY appeals an unfavorable administrative decision before the Committee on Rank, Salary, and Conditions of Employment under Section B4.11; or a recommendation is made under the procedures of C15 to terminate a tenured faculty member or to reduce the term of a contract of a member of the UNIVERSITY FACULTY. Representation is also available in cases where attempts are being made to resolve informally a matter that could be brought before one of the listed committees in this paragraph. In the case of allegations brought under Section B4.10, representation by Academic Counsel is available to both the complainant and accused, but the same Academic Counsel may not represent both

³¹⁹ [#2008-26\(D\)](#)

³²⁰ [#2021-37\(D\)](#)

³²¹ [#2010-05 \(C\)](#)

parties. Representation should ideally only be provided by Academic Counsel who is not also a faculty member of the same school or college as any of the involved parties.³²²

Academic Counsel shall not represent a member of the University Faculty who is from the same department or undepartmentalized school or college.³²³

- (b) Except as provided in paragraph (a)³²⁴, no Academic or Legal Counsel may make an appearance in that capacity before the Senate, its committees, or its hearing panels except:
 - (i) as agreed by all interested parties and authorized by the Senate; or
 - (ii) by the committee or hearing panel concerned.
- (c) The provisions above do not preclude any member of the UNIVERSITY FACULTY³²⁵ from seeking the advice of an attorney or having an attorney prepare legal documents in connection with any matter before the Senate, its committees, or its hearing panels.

C20.2 Eligibility to Serve as Counsel

- (a) Subject to the two restrictions noted below, any current member of the UNIVERSITY FACULTY³²⁶ may serve as Academic Counsel, without regard to whether or not the person serving as Academic Counsel is a member of the bar of any American jurisdiction or otherwise has legal training.
 - (1) No faculty member who is compensated for his or her services regarding a particular matter may serve as Academic Counsel in that matter.
 - (2) No faculty member who has represented another faculty member before any court, arbitral tribunal, or non-university administrative body may serve as Academic Counsel in the same or substantially the same matter.
- (b) Any member of the bar of any American jurisdiction may serve as Legal Counsel, without regard to whether or not the person serving as Legal Counsel is a member of the UNIVERSITY FACULTY. Any issue concerning the unauthorized practice of law under Florida Law is a matter to be dealt with solely by the attorney.
 - (1) Legal Counsel representing a member of the faculty before the Senate or any of its entities shall provide notice of appearance to any adverse party, to the Secretary of the Faculty Senate, and to the office of the General Counsel. The notice shall specify the person being represented, the jurisdiction(s) in which the attorney is licensed, the number(s) of the attorney's license(s), and the attorney's address and other contact information. Notice to the Senate shall be sent to the Faculty Senate Office by Certified Mail or hand delivery.

³²² [#2012-16\(B\)](#)

³²³ [#2021-57\(B\)](#)

³²⁴ [#2012-16\(B\)](#)

³²⁵ [#2012-16\(B\)](#) – effective June 1, 2013

³²⁶ [#2021-57\(B\)](#)

- (2) An attorney acting as Legal Counsel under this *Faculty Manual* shall sign the established form pledging³²⁷ to abide by reasonable rules concerning confidentiality, decorum at hearings, the need to follow the direction of any hearing panel chair, provision of documents only through the Faculty Senate office except as provided in this *Faculty Manual*, and other relevant matters. Attorneys who engage in a single serious violation of such rules, or repeated violations of a lesser character may be warned, reprimanded or precluded from future practice before any entity of the Senate by the Chair of the Faculty Senate. In particularly severe cases, the violations may be reported to the bar of the jurisdiction(s) in which the attorney is licensed.
- (3) An attorney acting as Legal Counsel who has had an adverse action taken by the Chair of the Faculty Senate under sub-paragraph (b) may appeal the decision to the Committee on General Welfare. Such an appeal is timely only if made within 15 academic days after notice of the action is provided to the attorney.
- (4) Provisions of sub-paragraphs (a) and (b) above shall not apply to representations begun before the adoption of these provisions.

C20.3 (a) Rights and Duties of Academic Counsel:

- (1) an Academic Counsel has a duty to hold all communications from the Faculty Member in strict confidentiality, unless the member expressly authorizes its disclosure;
 - (2) no one in the University has the authority to compel a complaining faculty member or his or her Academic Counsel to reveal the substance of a communication between them. Any attempt to do so, or to retaliate against the Academic Counsel for refusing such a request, may constitute unprofessional conduct within the meaning of B4.10.
 - (3) anyone serving in the capacity of Academic Counsel has the same rights, duties and privileges concerning confidential communications and work product that they would have if the Academic Counsel were a licensed attorney in Florida.
- (b) The provisions of paragraph (a) of this section apply where there has been an informal request for such information from outside the University.
- (c) The provisions of paragraph a. do not apply where there has been a court order, subpoena, or formal request from a local, state, or federal agency requiring the production of testimony or documents. The provisions of paragraph (a) shall also not apply if state or federal law requires disclosure of the information to the University and/or to law enforcement agencies.
- (d) The provisions of paragraph (a) are inapplicable once the complaining faculty member has brought a legal action (whether in a court or governmental agency) against the University or where the University has become a defendant or

³²⁷ Click [HERE](#) for current version of the legal counsel form.
Version 6/1/2023

respondent in another legal action involving the complaining faculty member. However, if a faculty member has acted as Legal Counsel (as outlined in the *Faculty Manual*) in the same matter, the privileges and immunities are governed by federal or state law, as the case may be.³²⁸

C20.4 Lists of Academic Counsel

- (a) The Secretary of the Senate shall maintain a list of UNIVERSITY FACULTY members who are willing in principle to serve as Academic Counsel. Persons named on the list are not obliged to serve in any particular case. Academic Counsel on the list specified in this paragraph shall ³²⁹not represent faculty members who are in their department or their undepartmentalized school.³³⁰
- (b) No officer of the Senate may recommend the use of any particular Academic Counsel or Legal Counsel to handle a matter before the Senate or any of its committees or hearing panels. This restriction does not apply to other members of the Senate. Any recommendation they make is personal, and is not the recommendation of the Senate.

C20.5 Lists of Mediators

1. The Secretary of the Senate shall maintain a list of university employees with relevant training or experience who are willing in principle to serve on a *pro bono* basis as mediators of a dispute between a faculty member and a unit of the university, or between two faculty members. No mediation may take place under this section between a student and a faculty member.
2. No officer of the Senate, no holder of any administrative position specified in section A7.1(f) or (g), and no member of the Committee on Professional Conduct, the Committee on Rank, Salary and Conditions of Employment, the Tenure Review Board, or the Termination for Cause Committee specified in C15.9 may serve as mediator under this section. This paragraph does not preclude Officers of the Senate or administrators from engaging in informal mediation efforts.
3. Use of a mediator pursuant to this section requires the written consent of all parties to the dispute. Persons named on the list are not obliged to serve as mediator in any particular case.
4. A mediator serving under this section shall be bound by the ethical standards and the requirements of confidentiality, and is entitled to hold matters in confidence from the university and all its employees, as if the mediation were taking place under judicial auspices in Florida.

C20.6 Academic Days

³²⁸ [#2017-34\(B\)](#)

³²⁹ [#2021-57\(B\)](#)

³³⁰ [#2012-16\(B\)](#) – effective June 1, 2013

1. For all purposes under this *Faculty Manual*, the terms “academic day” applies as specified in the *Faculty Manual*, and ordinarily concerns the business of Faculty Senate and Senate Committees. The use of the term “academic day” in this context does not prohibit other meetings such as department, program, or school-based meetings called within regular faculty pay schedules.³³¹
2. Specifically, for the business of the Faculty Senate and Senate Committees,³³² weekend days, University holidays, days from the last day of undergraduate examinations in the Fall Semester to the first day of classes in the Spring Semester, weekdays during inter-sessions, and any days during fall and spring breaks are not considered academic days, even if some classes are held on those days. Days designated by the University as major religious holidays, but which are not university holidays, are considered academic days. Meetings of any Senate panel hearing a complaint or dispute will not, however, be scheduled on such a holiday if any party makes a request based on religious observance. Such requests must be submitted to the Faculty Senate Office at least 10 academic days before the religious holiday.
3. Except as provided in paragraph 2 above, an academic day shall be any day taking place from the first day of undergraduate classes in the Fall Semester until the last day of scheduled final undergraduate examinations of the Spring Semester.
4. Any interested party may petition the Chair of the Faculty Senate to construe other weekdays³³³ as academic days for purposes of that matter if:
 - a. All interested parties agree; or
 - b. The petitioner can demonstrate that the interests of the petitioner would be severely harmed by delay by postponing until the next following academic day. The Chair of the Faculty Senate shall grant such a request unless the harm to the interests of other parties from moving forward during the academic days would exceed the harm to the petitioner from a delay until the next academic day³³⁴.

C20.7 Discretionary Authority of Senate Officers During Academic Breaks and in Emergency Situations^{335 336}

If a matter requires timely attention from the Committee on Rank, Salary and Conditions of Employment, Tenure Review Board, Committee on Professional Conduct or the Hearing Panel during an academic break such as the summer period, and a sufficient number of appropriate elected members is not available, the officers may agree by majority vote to add other appropriate individuals to the Committee having jurisdiction over the matter. A report of any such temporary addition will be made to the Senate at its next meeting following the academic break.

³³¹ [#2021-36\(B\)](#)

³³² [#2021-36\(B\)](#)

³³³ [#2021-36\(B\)](#)

³³⁴ [#2021-36\(B\)](#)

³³⁵ [#2000-25\(C\)](#)

³³⁶ [#2019-90\(D\)](#)

Similarly, if a matter requires timely action from the Faculty Senate during an emergency situation, such as natural disasters, the majority of the officers of the Senate may speak on behalf of the Faculty Senate after making all reasonable attempts to consult with the members of the Committee on General Welfare. The Faculty Senate shall be given appropriate notice of the officers' action(s) at the following Senate meeting.³³⁷ Where warranted by an emergency situation, the majority of the officers of the Senate may also determine that the Senate shall conduct meetings and voting via electronic or telephonic means.³³⁸

C20.8 Form and Effective Date of Required Notices³³⁹

In any matter arising under the *Faculty Manual* where a member of the UNIVERSITY FACULTY must provide notice to the Senate, to the Administration or both, or where the Administration or the Senate must provide notice to a faculty member, such notice must be accomplished by one of the following means:

(a) Notices to Individuals: It is vital that there be a high degree of reliability that the faculty member will receive the notice, and accordingly that except for mail sent USPS with Tracking, each notification method requires both initial notice and a means of confirming documentation. Allowable methods and the effective date of the notice are shown in the following chart.

Initial Notice	Confirmation	Effective Date*
In writing by USPS with Tracking ^{340**}	None necessary	When mailed
Orally, in person	Written Witness Statement	Date of witness statement
Orally, in person	In writing at the same time	When provided
Orally, in person or by phone	In writing via USPS***	When dated
By electronic means***	In writing via USPS***	When dated
<p>NOTES:</p> <p>* Failure to accept notice has no effect on its validity or effective date</p> <p>** Ordinary First-class mail, with additional Tracking number.</p> <p>*** University e-mail, fax</p>		

In the case of hard-copy delivery of initial notice or confirmation to a faculty member by mail, the notice shall be addressed to the home address on file with Human Resources.

(b) Notices from Individuals to the Senate: All notices must be in writing, and be delivered electronically via email, or in person to the Senate Office (325 Ashe Administration Building, Coral Gables) by appointment during normal business hours, or be sent by inter-office mail (325 Ashe Administration Building, Locator Code 4634), or U.S. Mail (PO Box 248106, Coral Gables 33124). The Senate Office will acknowledge

³³⁷ [#2017-15\(B\)](#)

³³⁸ [#2019-90\(D\)](#)

³³⁹ [#2011-26\(B\)](#)

³⁴⁰ [#2021-49\(B\)](#)

receipt. If no such acknowledgement is received, it is incumbent on the sender to contact the office (305-284-3721).

(c) Notices from Individuals to the Administration on Matters Involving the Senate. All notices shall be in writing, and addressed and delivered to the Office of the Vice Provost for Faculty Affairs, 235 Ashe Administration Building, Coral Gables.

The fact that a notice could be revoked by the sender, or in the case of the Administration that there is the possibility of a reversal of the decision by a more senior authority shall not change the effective date of the notice unless such revocation or reversal actually transpires.

This section shall not apply to notices required to be provided to a substantial number of faculty members, such as notice of meetings of a School or Department faculty, meetings of a School Council, or Senate meetings.³⁴¹

C20.9 Voting Procedures for Departments and Schools/Colleges^{342 343}

1. The following formal voting procedures shall be followed when conducting a Special Review under C13.4 or an immediate award of tenure under A14.2; before appointing a new chair or dean under A13.2 or A13.3³⁴⁴; when establishing or disestablishing a department or school/college or a new degree under A4.1; prior to the adoption by a department or school of special additional standards for reappointment, promotion and tenure under C13.1; and before the adoption or amendment of departmental or school bylaws or the initial advisory vote of new appointments under section A14.1³⁴⁵.
2. The appropriate voting faculty, or the Ad hoc Review Committee when one is required, shall be assembled to consult on the matter. Notice shall be sent in writing not less than five academic days prior to the meeting and shall include a brief description of the matter under consideration, or the names of the candidates if voting on candidates to serve as a new chair or dean. The voting faculty shall then vote by secret ballot, which shall be counted by two designated members of the voting faculty, and the results announced to the electorate. In an effort to encourage transparency and emphasize anonymity in the case of a Special Review, there shall be an announcement of the numerical breakdown of the votes. A Department or School, in a written Bylaw, may provide for announcement of the result without a numerical breakdown if a Department has six or fewer eligible voting faculty members, or there are other circumstances where a voter's anonymity will be jeopardized.³⁴⁶ Absentee ballots shall not be counted unless they are authorized in writing by a school's Bylaws and have been submitted prior to the balloting. Voting by proxy at the meeting is not permitted³⁴⁷.

³⁴¹ Meetings which do not require notice with the formalities of this section as of June 1, 2012 include B4.12; C13.4(b)(iv)-(x); C14 (favorable notice from the Provost); and C15.3.

³⁴² [#2012-26\(B\)](#)

³⁴³ [2013-46\(B\)](#)

³⁴⁴ Section A13.3 requires that the Search Committee consult with the school faculty prior to making its recommendation to the appointing authority, and section 20.8 provides that this consultation shall incorporate the formal voting procedures

³⁴⁵ Section A14.1 requires that the chair consult with the department or appointed committee to obtain recommendation on appointments, and section C20.9 provides that this consultation shall incorporate the formal voting procedures

³⁴⁶ [2014-43\(B\)](#)

³⁴⁷ [#2011-60\(B\)](#)

3. A School or College may, by written bylaw, provide for other means of obtaining assent or advice from the faculty, as required by paragraph 1 of this subsection, provided those means accord an equivalent degree of notice, opportunity for interactive discussion, voting anonymity, and verification of results, which would be obtained if the procedures in paragraph 2 of this section had been followed. A bylaw provision authorizing these procedures becomes effective upon the approval of the Faculty Senate.

Office of the Provost and Executive Vice President

University Handbook, Appendix G: Administrative Appeal and Grievance Policy and Hearing Procedures

(FSM 9-8-81, 2-16-88, 9-10-91, 1-21-92, 12-14-99, 4-14-09, 11-15-2011, 2-14-2012, 5-16-2014)

Introduction

The Administrative Appeal and Grievance Policy and Hearing Procedures are part of the university's dispute resolution system. This policy is to provide a process for addressing grievances of faculty and unclassified professionals. In cases regarding the dismissal of a tenured faculty member, the policies and procedures of Appendix M of the University Handbook shall be followed. In cases regarding allegations of discrimination or harassment based on race, color, ethnic or national origin, sex, sexual orientation, gender identity, religion, age, ancestry, disability, military status or veteran status, or retaliation resulting from filing a complaint or participating in the resolution of a complaint of the preceding issues, the policies and procedures as described in the PPM shall be followed. All reasonable efforts should be made by the aggrieved person to resolve the issue through the normal administrative and dispute resolution channels prior to submitting a grievance hearing request. KSU has several resources available to faculty and unclassified staff for dispute resolution. For more information see [Dispute Resolution \(http://www.k-state.edu/hcs/work-life/employee-relations/dispute-resolution/\)](http://www.k-state.edu/hcs/work-life/employee-relations/dispute-resolution/).

Resources

Ombuds are available to provide assistance to faculty and unclassified professionals in the resolution of concerns and disputes that arise within the university. Faculty and unclassified professionals are encouraged to contact an ombudsperson before making an administrative appeal or filing a grievance. Ombuds are neutral parties and do not serve as advocates.

Mediation is also an option available to faculty and unclassified professionals at any time, including during the process of filing or actively going through the grievance process. See Appendix U: Policy on Mediation. If mediation is entered into during the pre-hearing grievance process, the process will be stopped and if the mediation is unsuccessful, the process will resume where it was interrupted. In cases of unsuccessful mediation when a grievance panel has been assembled but the hearing has not yet convened, and the faculty or unclassified professional wishes to continue with the grievance process, then it will resume as described in Section II D.

Human Systems Consulting is available to all faculty and staff of Kansas State University at no cost to the person or persons receiving services. The service is designed to help resolve problems with workplace relationship issues and can focus on communication, relationship style, stress management, attitude, and other related issues. The goal of the consultation is to help people work better together and prevent more serious problems from developing.

A representative is a person who may advocate on behalf of the complainant or grievant. The representative may assist in the preparation and presentation of information as part of an administrative appeal or grievance. The representative may not be a practicing attorney; however, complainants or grievants may have the assistance of attorneys to advise them at any time, including having them present during grievance hearings as provided in the grievance hearings section of this policy.

Jurisdiction

The Administrative Appeal and Grievance Policy and Hearing Procedure's jurisdiction shall extend to charges or allegations, hereafter referred to as complaints, arising out of administrative action or for which administrative action could provide a remedy. It is required that a complainant pursue administrative appeal prior to requesting a grievance hearing.

- 1) Nature of complaints: Complaints may arise out of decisions concerning reappointment, tenure, dismissal, promotion, salary, working conditions, or any other matters related to the employment of a faculty or unclassified professional member or other unclassified personnel.
- 2) Eligibility: Administrative appeals and requests for grievance hearings may be filed by current faculty or unclassified professionals.
- 3) Grounds: Grounds for a complaint shall include, but are not limited to:
 - a) violation or misapplication of the written rules, regulations, or established practices governing the university and its units;
 - b) improper, arbitrary, or capricious action of the university or its agents; and
 - c) violation of academic freedom.
- 4) Exhaustion of administrative remedies: Before submitting a request for a grievance hearing, the complainant must attempt to resolve the complaint through normal administrative processes, culminating in the required administrative appeal specified by Section I. The complainant should pursue all appropriate avenues of dispute resolution prior to requesting a grievance hearing.
- 5) Grievance hearings: For most complaints, the final step available in the process is the Administrative appeal. Complaints based on the following actions are eligible to proceed to a grievance hearing:
 - a) termination for cause of a continuous appointment or dismissal for cause previous to the expiration of a term appointment;
 - b) non-reappointment of tenure-track faculty;
 - c) denial of tenure;
 - d) denial of promotion of tenure-track or tenured faculty; or
 - e) an evaluation rating of fails to meet minimum-acceptable levels of productivity as referenced in Section C31.5

I. Administrative Appeals

A written appeal to the appropriate administrator is the first step in the grievance process and must be completed before proceeding to a grievance hearing. This appeal should include all issues of concern to the complainant that may be brought up during the grievance process. Issues not raised in this appeal may not be included in a grievance hearing pertaining to the administrative action in question. Proposed remedies may also be included in the appeal. The written appeal must be submitted within thirty (30) work days from the administrative action at issue.

For the purpose of Appendix G, a "work day" is defined as any weekday on which classes are held that falls within the nine-month academic year (meaning the span of time beginning with the first day of fall classes through the last day of spring classes), including winter intersession class days, plus fall finals days and weekdays during spring break. All other days are excluded from the definition of "work day." (Revision, FS 5/4/12)

A. Tenure-related

For a complaint regarding tenure, the complainant shall follow the procedures in the sections C114.2-C114.3 of the University Handbook. For a complaint regarding promotion of faculty members, the complainant shall follow the procedures in section C154.2-C154.3 of the University Handbook. For a complaint against the primary action of a dean or regarding reappointment of a tenure-track faculty member, the complainant shall present the complaint in writing to the provost or designee.

B. Other

For all other complaints, the complainant shall present the complaint in writing, which is the administrative appeal, to the appropriate dean or vice president.

C. Process

Once the written administrative appeal is submitted, the administrator will investigate and arrange a meeting with the complainant to discuss and attempt to resolve the complaint.

Except under extenuating circumstances, the administrator will contact the complainant within ten (10) work days after receiving the written administrative appeal to schedule a meeting. A good faith effort should be made to hold the meeting in a timely manner. An [ombudsperson \(http://www.k-state.edu/disputeresolution/ombudspersons.html\)](http://www.k-state.edu/disputeresolution/ombudspersons.html) may be included in the meeting at the request of the complainant. Within ten (10) work days after the meeting, the administrator will provide the complainant with a written response.

If the appeal is not resolved by the appropriate administrator to the satisfaction of the complainant, the complainant may submit a written request for a grievance hearing to the grievance chair within thirty (30) work days following the receipt of the administrator's written response.

II. Grievance Hearings

A. Grievance Chair

Function

The Grievance Chair is appointed by and responsible to the executive committee of the Faculty Senate. The Grievance Chair is selected from faculty members and serves a three-year term beginning on the first day of the fall semester. It is desirable that the Grievance Chair have experience with dispute resolution at the university. The role of the Grievance Chair is to:

- a. receive complaints and review them to determine if criteria for grievances are met;
- b. facilitate with the parties the selection of the grievance hearing panel; and
- c. assist in organizing and overseeing the administrative processes of the grievance hearing.

B. Grievance Hearing Request

1. If the administrative appeal is not resolved by the appropriate administrator to the satisfaction of the complainant, and the complaint is eligible for a grievance hearing, the complainant may then submit a written request for a grievance hearing to the Grievance Chair within thirty (30) work days from receipt of the administrator's decision. The grievance hearing process shall be initiated by this written request, with a detailed statement of the grievance. The written request shall include:

- a. an account of the administrative action(s) that gave rise to the grievance and the respective dates;
- b. the name(s) of the administrator(s) who will be the respondent(s);
- c. the precise grounds and the specific factual allegations upon which the grievance is based;
- d. whether an "open" or "closed" hearing is requested; and
- e. the nature of the relief sought.

Immediately upon receipt of a written request for a grievance hearing, the Grievance Chair shall notify and provide copies of the request to the respondents, the administrator who decided the administrative appeal, if any, and the Office of General Counsel.

Only issues cited in the written grievance request and in the preceding administrative appeal may be addressed in the grievance hearing request. Additional issues that were not subject to the administrative appeal may not be added by the complainant at the grievance stage.

2. Delay of Grievance Hearing Request Time Limit

The thirty (30) work day time limit may be extended for good cause. Before the expiration of the 30 work day time limit, the grievant may file a written request for an extension of the thirty (30) work day time limit to the Grievance Chair, who will review and rule on the request after consultation with both parties and may consult with the Faculty Senate President. Grounds for an extension may include but are not limited to:

- a. ongoing dispute resolution process, or
- b. extenuating personal circumstances.

C. Eligibility Determination

The Grievance Chair shall determine whether the grievance falls within the jurisdiction of the Grievance Policy, and whether the materials presented by the grievant meet adequate standards of detail and clarity. If the Grievance Chair wishes to consult with a grievance hearing panel attorney, as specified in section H.1, to make

eligibility determinations, administration should be notified to make the arrangements.

1. Within five (5) work days from the receipt of the materials, the Grievance Chair will make a determination on the acceptance of the grievance, *i.e.* the Grievance Chair's determination as to whether the grievance meets all jurisdictional eligibility requirements.
2. If the grievance is not accepted, the Grievance Chair will so notify the complainant, the respondent(s) and the administrator who decided the administrative appeal, if any, and the Office of General Counsel.
3. If the grievance is accepted, within five (5) work days from the date of acceptance the Grievance Chair shall give to both parties written notification of the acceptance, including a list of the materials to be submitted (see II.D.3). The date appearing on the written notification from the Grievance Chair is the date of notification.

D. Pre-Hearing Resources and Activities

1. Before the hearing is convened, each party may designate one or both of the following to assist the party in the hearing:

- a. a representative, who is neither a practicing attorney nor an ombudsperson, to serve as an advocate and/or assist in the preparation and presentation of the grievance;
- b. a second person, who may or may not be a practicing attorney, and who may advise the party but not otherwise participate in the proceedings.

Each party should inform the Grievance Chair of the person, if any, designated to fill each role. If the grievant chooses not to be accompanied by a practicing attorney, the respondent(s) also will have no practicing attorney present.

Representatives who are state employees and are acting within the scope of their employment are eligible for legal representation and indemnification under the Kansas Tort Claims Act. The representative is only expected to make a best effort and the outcome of the hearing cannot be appealed based on the actions/performance of the representative. While the representative can aid in preparing the presentation and can participate in the hearing, the primary responsibility for establishing the validity of the grievance or presenting a defense rests with the grievant and the respondent(s). Representatives will appropriately respect the confidential nature of information and materials that are part of a grievance hearing. Activities as a representative will be considered service to the university that must receive positive recognition and shall not jeopardize the person's yearly evaluation for performance, merit increases, or tenure/promotion.

2. Within five (5) work days from the notification of acceptance of grievance, the Grievance Chair shall designate a list of thirteen (13) eligible tenured faculty members or unclassified professionals, by random selection, from a list of eligible faculty or unclassified professionals. See Composition of Grievance Panel, Section II.F.
3. Within ten (10) work days following such notification of acceptance of grievance, each party shall submit to the Grievance Chair, with copies to the other party, the following materials:

- a. a list of all documents to be introduced;
- b. a preliminary list of witnesses to be called;
- c. a list of documents requested from the other party;
- d. the name and title of the non-lawyer representative, if one is to accompany the party to the hearing;
- e. the name of the practicing attorney, if a practicing attorney is to accompany the party to the hearing;
- f. whether the party will arrange for a court certified reporter to record the hearing (See Conduct of Grievance Hearings, II.J.1.a.); and
- g. a list of dates for pre hearing availability to be within 20 work days of date of notification

In addition, the respondent(s) shall submit a written response to the allegations contained in the grievance.

4. Within fifteen (15) work days from the date of notification of acceptance of grievance, the Grievance Chair shall provide to each party:

- a. the list of names of potential panel members; and
- b. notification of the date(s), time(s), and place(s) of the hearing.

5. Within twenty (20) work days from the date of notification of acceptance of grievance, the Grievance Chair and both parties, and/or their respective representatives, shall meet to accomplish 3 goals:

- a. exchange, with copies to the Grievance Chair, an updated list of witnesses who may be called;
- b. assemble a common set of documents, consecutively numbered and with duplications eliminated. The documents shall include those requested in Section II.D.3 or a statement as to why the documents are not being provided (*e.g.*, they are irrelevant or nonexistent) and all other documents to be introduced during the hearing. The claim that documents are privileged or confidential shall not in itself be sufficient justification for withholding them from the other party. The validity of the basis for not producing a requested document will be judged by the Grievance Chair, whose ruling can be appealed to the panel at the time of the hearing;
- c. select the panel. From the list of thirteen (13) names, each party shall remove three names, one at a time, in alternating sequence, with the respondent striking the first name. From the remaining seven names, five shall be selected at random; the sixth and seventh shall serve as alternates. This process will be repeated if any of the seven panel members cannot serve and will continue until a panel of seven is selected. Panel members are confirmed by the Grievance Chair within 5 work days of parties meeting, and both parties are notified of the panel composition.

6. Within thirty (30) work days following notification of the acceptance of the grievance, the Grievance Chair shall convene the panel where the members shall select one member as their (nonvoting) presiding officer. At this meeting, the Grievance Chair shall inform the panel of the nature and grounds for the grievance, as stated in Jurisdiction sections 1 and 3 (*e.g.*, Nature of grievance: denial of tenure; Grounds: violation of University rules). Prior to the hearing, the Grievance Chair will convene a pre-hearing meeting of the panel to review the procedures that will take place during the hearing. This meeting may include the panel's legal counsel.

7. Within forty (40) work days from the date of notification of acceptance of the grievance by the Grievance Chair, the hearing shall begin, except as provided below.

8. If the pre-hearing grievance process is stopped because a faculty or unclassified professional entered into mediation and that mediation was unsuccessful, the grievance process may be resumed where it was interrupted. If a grievance panel had already been assembled but the hearing had not yet convened and the

faculty or unclassified professional wishes to continue with the grievance process, the process will resume as provided in II.D.9 to allow the Grievance Chair to assemble a new panel if necessary and reschedule the hearing. If a new panel is assembled, legal preparation will occur as prescribed in II.H.

9. Within ten (10) work days of the grievance process resuming, the Grievance Chair shall provide to each party:

- a. a list of the members of the new panel, the presiding officer, and two alternates; and
- b. notification of the date(s), time(s) and place(s) of the hearing.

10. In no more than twenty-five (25) work days from the date of the resumption of the grievance, the hearing shall begin.

E. Purpose of the Grievance Hearing Panel

A grievance hearing panel (hereafter referred to as a "panel") is convened for the purpose of hearing grievances that meet the criteria specified under Appendix G, Jurisdiction. The panel shall hear grievances to provide peer review for faculty and unclassified professionals of Kansas State University. Functions of each panel shall be to:

1. hear all evidence pertinent to the grievance provided in time periods specified;
2. make findings of fact;
3. decide whether the findings of fact substantiate the allegations of the grievance.
4. decide whether or not it believes university policy or generally accepted principles of academic conduct have been violated;
5. decide whether any of the violations are sufficiently serious that some corrective action(s) should take place, if one or more violations have occurred; and
6. recommend to the President of the University what, if any, action(s) should take place.

F. Composition of Grievance Hearing Panel

1. Each grievance shall be heard by a panel composed of four voting members, a presiding officer and two alternates, appointed by the Grievance Chair as specified in Section II.G. The presiding officer chairs the hearing but shall vote only to break a tie vote of the panel. During the course of a hearing, the Grievance Chair may replace a panel member with an alternate based on justification(s) provided by the presiding officer. The Grievance Chair and the panel alternates will attend the hearing.

2. For faculty grievances, none of the panel members shall be administrators or faculty with administrative tenths time. One of the five shall serve as the presiding officer. Faculty of the college in which the grievant member holds an appointment shall not be eligible with the exception of College of Arts and Sciences. In the instance of Arts and Sciences, faculty of the unit/department in which the faculty member holds an appointment shall not be eligible. Members of the panel shall hold appointments of at least nine-tenths time at or above the academic rank of the grievant. In addition, the composition of the panel shall reflect as nearly as possible the numerical balance of faculty in each of the remaining colleges.

3. A grievance brought by an unclassified professional who is not a faculty member, shall be reviewed in accordance with the provisions of Appendix G.II and the grievant shall have a choice of:

- a. a panel of the composition specified, or
- b. a panel selected from a separate pool that shall include all unclassified professionals who are not faculty members, except persons holding positions in the administrative unit in which the grievant or respondent(s) are appointed

G. Expectations and Procedures for Hearing Panel Service

As a component of their duties, eligible members of the university community are expected to serve on a grievance panel when called to do so. It is recognized that to fulfill this obligation may require reasonable adjustments in other responsibilities, which should be facilitated by their supervisor. Appropriate reasons for being excused from service (including conflict of interest and time commitments) will be determined by the Grievance Chair, whose determination will be final. Service on a panel must receive positive recognition and shall not jeopardize the person's yearly evaluation for performance, merit increases, or promotion of the faculty member, or similarly job responsibilities, salary, and promotion of the unclassified professional. After the conclusion of the grievance hearing, a letter from the provost or appropriate vice president shall be sent to each unit/department head stating the need for participating panel members to be awarded appropriate merit for panel service following conclusion of their service. As state employees, when acting within the scope of their employment, individuals who serve on a panel are eligible for legal representation and indemnification under the Kansas Tort Claims Act.

H. Legal Preparation for Hearing Panel Service

1. Legal counsel. Each panel shall have the continuing assistance of legal counsel, invited by the Grievance Chair, who may provide information about the role of the members of the panel in the grievance proceeding, requirements of due process with respect to the panel's procedures, the mechanics of fact-finding, prejudicial actions/information, and liability of panel members. The administration will arrange for the attorney and will provide the attorney's contact information to the Grievance Chair. The panel's attorney shall be present during the grievance hearing, grievance panel deliberations and be available to the presiding officer for pre-hearing counsel.

2. Instruction for Hearing Panel and Participants. Prior to hearing panel service, members shall attend an educational preparation session, which is in the form of an online tutorial that was prepared by the University General Counsel prior to and independent of any grievance hearing. Topics for discussion shall include but may not be limited to requirements of due process and open meetings law, ethical responsibilities during and after the hearing, mechanics of fact-finding, and liability of panel members. Parties, witnesses, and other interested members of the university community may also access the on-line tutorial. The panel also meets with the panel's assigned legal counsel prior to the scheduled hearing to review any issues or questions members may have specific to the particulars of the grievance or the hearing process.

I. Policies for Scheduling and Participation in Grievance Hearings

1. The grievance hearing procedures are to respect the ordinary standards of fairness but are not intended to be equivalent to a judicial hearing. The goal is to provide the panel with the best opportunity to determine the truth and to make a recommendation to the President of the University as to the most appropriate resolution of the matters in dispute.

2. Hearings are generally scheduled to occur on one day. Extensions of not more than one day may be granted by the Grievance Chair, upon justification by the presiding officer, and should be scheduled; if possible, to take place not more than five (5) work days after the first day of the preceding panel meeting. In scheduling the hearing, the Grievance Chair will determine whether or not conflicts are sufficiently valid to warrant a rescheduling of the hearing. Otherwise, the individual who has a conflict is obliged to attend the hearing.

3. Members of the university community are expected to participate in the grievance process whenever called upon to do so.

J. Conduct and Procedures for Grievance Hearings

General

1. Supplementary procedures. The presiding officer, in consultation with the Grievance Chair, shall have the discretion to establish supplementary procedural rules and shall inform both parties of such rules in a timely manner. At the discretion of the presiding officer and grievance chair, a pre-hearing meeting of the parties and/or their non-lawyer representatives may be convened to consider specific issues related to the procedures to be followed. On issues of procedures, evidence, relevance, and all other items related to the hearing, the presiding officer, in consultation with the panel and, if so desired, legal counsel, is the final authority.
2. Compliance with KOMA. All grievance proceedings shall be conducted in accordance with the Kansas Open Meetings Act (KOMA). The hearing of the evidence shall be conducted in closed executive session, unless the grievant requests the hearing to be open. Deliberations of the panel shall be in closed session. Any vote or other decision-making action must occur in open session. (Refer to the University Committee Handbook for further information about KOMA.)
3. Grievance Record. It shall be the responsibility of the Grievance Chair to ensure that an accurate grievance record is made. The record shall include the written submissions of the parties, the report of the panel, and response of the President of the University. In addition, either party may arrange for a court certified reporter to record the hearing at the party's expense. The party must notify the Grievance Chair in accordance with the Pre-Hearing Activities (II.D.3).
4. Venue, equipment, and supplies. At the direction of the Grievance Chair, the university will provide suitable space, associated equipment, supplies, and refreshments necessary to meet the reasonable needs of the panel and the parties involved.
5. Legal counsel for panel. During the hearing, the presiding officer and/or panel may recess to privately discuss specific issues related to the hearing and to confer with its counsel, specified in Section H.1. The panel is not to rely on its legal counsel for judgment of fact.
6. Assistance for presiding officer. The presiding officer may call upon the Grievance Chair or the Chair's designee to assist with logistical mechanics of the hearing.
7. Rules of Evidence. Because the hearing is a peer review, the panel shall not be bound by strict legal rules of evidence; it may admit any evidence it considers pertinent to the grievance, and may exclude evidence it considers not pertinent.

Process

1. The presiding officer shall call the hearing to order, state the nature of the grievance, and review the rules (including those appropriate for an open or closed hearing).
2. The grievant and the respondent(s), in that order, will make short opening statements not to exceed twenty (20) minutes. The panel members will then have an opportunity to ask questions of either party in order to clarify specific issues before presentation of evidence and testimony of witnesses.
3. The grievant shall present evidence, which may include testimony by supporting witnesses, documents, and/or other relevant material. The respondent(s) may:
 - a. cross-examine each witness following his or her testimony; and
 - b. object to any testimony on grounds it is irrelevant or repetitive.

Members of the panel will have the opportunity to ask questions of each witness after each cross-examination.

4. The respondent(s) shall present evidence, which may include testimony by supporting witnesses, documents, and/or other relevant material. The grievant may:
 - a. cross-examine each witness following the testimony; and
 - b. object to any testimony on grounds that it is irrelevant or repetitive.

Members of the panel will have the opportunity to ask questions of each witness after each cross-examination.

5. The grievant and the respondent(s), in that order, may then present evidence in rebuttal of previously introduced evidence. The other party may object to any rebuttal testimony on the ground(s) that it is a new subject, is irrelevant, or is merely repetitive. Members of the panel will have the opportunity to ask relevant questions of each rebuttal witness.
6. Witnesses shall not be present at the hearing until called to testify and then shall be excused, unless either party or the panel requests that they remain available. Only witnesses who have been excused may remain in the audience and then only when it is an open hearing. Witnesses who are also parties may be present during the entire hearing.
7. Members of the panel may question the parties and/or recall witnesses for questioning. At any time during or after the close of the hearing, the presiding officer after consultation with the panel may request from the grievant or respondent(s) the production of any other information the panel deems relevant. Refusal to comply with this request and the reason(s) will be noted in the panel's report. If the panel acquires such additional information, the presiding officer will reopen the hearing to afford all parties an opportunity to respond with comments or additional evidence. The panel's report will be based on the closing date of the reopened hearing.
8. The panel's deliberations are confidential and closed to all persons including the alternates and the grievance chair. Panel members are not permitted to individually contact persons involved in the grievance or conduct any form of fact-finding or investigation outside the grievance hearing. Furthermore, panel members shall not discuss case-specific aspects of a grievance hearing or panel deliberations outside of the grievance hearing.
9. The Faculty Senate President or designee, on behalf of the Faculty Senate, will provide support throughout the process to the Grievance Chair. Support will be provided as needed and appropriate and in compliance with confidentiality and the Kansas Open Meetings Act.

K. Findings, Recommendations, and Reporting Responsibilities

1. The decision of the panel shall be based only upon the testimony and other evidence presented at the hearing. The grievant shall bear the burden of demonstrating, by a preponderance of the evidence, that relief should be granted. The report of the panel shall include:
 - a. an evaluation of the evidence and findings of fact;
 - b. a description of the recommended specific relief or course of action that should be taken; and
 - c. reasons supporting the decision.

The panel may consult with its counsel to obtain recommendations for appropriate and legally sanctioned remedies. Any minority statement(s) may be appended to the report.

2. The panel shall have discretion to recommend that the relief sought should be granted or denied, or that some other form of resolution should be employed as long as such relief is consistent with policies set forth in the University Handbook. In the event of a finding that university policy has been violated, the panel may recommend that a brief statement of the finding become a part of the offending party's personnel file(s). Any disciplinary action that may be suggested will be in accordance with university policies and procedures, and depending on the severity of the offense, such sanctions may include, but are not limited to, a letter of reprimand, a formal warning, suspension, demotion, or termination of employment.

3. Within twenty-one (21) work days after the completion of the hearing, the presiding officer shall present the report to the Grievance Chair, who shall within the following five (5) work days, send copies to:

- a. the President of the University;
- b. both parties; and
- c. the President of Faculty Senate.

The findings of the hearing panel are final and cannot be appealed.

4. The President of the University shall respond to the recommendations of the panel within ten (10) work days of receiving the report. Copies of the response and notification of subsequent actions taken should be sent to the Grievance Chair, the parties of the grievance, and the president of the faculty senate. If confidentiality of the nature of the implementation of the President of the University's decision is part of the disposition and is agreed to by both parties, the President of Faculty Senate shall receive notice only of the fact that disposition has taken place and that it is confidential.

5. The complete record, including all evidence presented and all recordings and/or transcripts that have been made, shall be retained in the files of the Faculty Senate office for at least three years following the conclusion of the grievance hearing. Each party may, at its own expense, copy the record or any part thereof at a place and time to be determined by the President of Faculty Senate.

6. Without regard to the panel's finding or the response from the President of the University, the administration will make every effort to ensure that no one participating in the grievance hearing is subjected to retaliation.

7. At the first meeting of Faculty Senate each fall semester, the Grievance Chair who served the preceding year shall report:

- a. the number of grievances heard during the preceding year;
- b. the nature of the grievances;
- c. other information about individual grievances considered to be a concern of Faculty Senate; and
- d. recommendations for modification of relevant policies and procedures.

ACTION	Location in Handbook	Deadline in work days for GRIEVANT/COMPLAINANT	Deadline in work days for APPROPRIATE ADMINISTRATOR	Deadline in work days for RESPONDENT	Deadline in work days for GRIEVANCE CHAIR	Deadline in work days for HEARING PANEL and PRESIDING OFFICER
A written administrative appeal submitted to appropriate administrator	I.	Within 30 work days after administrative action at issue				
Administrator contacts complainant to schedule a meeting	I.C		Within 10 work days after submission of administrative appeal			
Review meeting held in a timely manner			As soon as possible			
Administrator provides decision letter to complainant	I.C		Within 10 work days after meeting with complainant			
Request for grievance hearing provided to Grievance Chair	II.B.1	Within 30 work days after receipt of written response from administrator				
Grievance Chair notifies and provides copies of the request for a grievance hearing to the respondents, the administrator who decided the administrative					Immediately upon receipt of a written request for a grievance hearing	

ACTION	Location in Handbook	Deadline in work days for GRIEVANT/COMPLAINANT	Deadline in work days for APPROPRIATE ADMINISTRATOR	Deadline in work days for RESPONDENT	Deadline in work days for GRIEVANCE CHAIR	Deadline in work days for HEARING PANEL and PRESIDING OFFICER
appeal, if any, and to the Office of the General Counsel						
Grievance Chair determines acceptance or rejection of grievance request	II.C.1				Within 5 work days after receipt of grievance	
Grievance Chair notifies grievant and the administrator of acceptance or rejection of grievance. If grievance is accepted, notification includes a list of items to be submitted	II.C.2 & 3				Within 5 work days after date of acceptance or rejection of grievance	
Grievance Chair designates a list of 13 eligible tenured faculty members or unclassified professionals as potential panel members	II.D.2				Within 5 work days from notification of acceptance of grievance	
Both parties submit a list of all documents to be introduced as well as witnesses, representatives, attorneys, court reporter, etc. The respondent provides a response to the allegations in the grievance.	II.D.3	Within 10 work days after notification of acceptance of grievance		Within 10 work days after notification of acceptance of grievance		
Grievance Chair sends list of potential panel members to both parties, and notifies both parties of the date, time and place of hearing	II.D.4				Within 15 work days after notification of acceptance of grievance	
Grievance Chair and both parties meet to: 1. exchange updated witness lists 2. assemble common documents 3. select panel	II.D.5	Within 20 work days after notification of acceptance of grievance		Within 20 work days after notification of acceptance of grievance	Within 20 work days after notification of acceptance of grievance	
Seven grievance panel members confirmed (5 regular & 2 alternates)	II.D.5.c				Within 5 work days of meeting	
Grievance Chair convenes the panel to determine presiding officer AND inform panel members about grounds of the grievance and procedures for hearing	II.D.6				Within 30 work days after notification of acceptance of grievance	Within 30 work days after notification of acceptance of grievance
Pre-hearing panel meets to review procedures	II.D.6				Prior to hearing	Prior to hearing
Hearing begins and is completed in 1-2 days	II.D.7 & II.I.2	Within 40 work days after notification of		Within 40 work days after notification of	Within 40 work days after	Within 40 work days after

		acceptance of grievance		acceptance of grievance	notification of acceptance of grievance	notification of acceptance of grievance
	Location in Handbook	Deadline in work days for GRIEVANT/COMPLAINANT	Deadline in work days for APPROPRIATE ADMINISTRATOR	Deadline in work days for RESPONDENT	Deadline in work days for GRIEVANCE CHAIR	Deadline in work days for HEARING PANEL and PRESIDING OFFICER
ACTION Presiding officer submits report to Grievance Chair and presiding officer is finished	II.K.3					Within 21 work days after the hearing concludes
Grievance Chair provides hearing report to both parties, President of the University, President of Faculty Senate	II.K.3				Within 5 work days after receipt of report from the presiding officer	
President of the University renders decision and provides it to both parties, the Grievance Chair, and the President of Faculty Senate	II.K.4		Within 10 work days after receipt of report from the Grievance Chair			

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Faculty Code and Governance

Faculty Code

Chapter 28

Adjudicative Proceedings for the Resolution of Differences

Section 28-33 Adjudication Panel and Hearing Panels ▼

This chapter sets forth the adjudicative procedures to be used in resolving disputes involving faculty members that cannot be resolved by informal means. Informal dispute resolution procedures are available at any time during the resolution process, including the time period after a hearing has been requested and before a final decision has been reached. Such procedures include the Conciliation procedure through the Office of the University Ombud. The parties are strongly encouraged to use those procedures and other informal mediation procedures whenever possible.

The adjudicative procedures set forth in this chapter comply with the requirements of the Washington Administrative Procedure Act ([Chapter 34.05 RCW](#).) There are two types of adjudication: the brief adjudication, held before a hearing officer and used in cases that do not warrant an extended fact-finding hearing, and the comprehensive adjudication, which uses a hearing officer as well as a faculty panel, or in some cases, a faculty/student or staff panel. Results of brief adjudications are appealable only if the Brief Adjudication Review Panel reverses or amends the decision of the hearing officer. Results of brief or comprehensive adjudications in which the President is a party to the controversy are appealable to the Board of Regents. Results of adjudications in which the President is not a party to the controversy are appealable to the President. Subject to the provisions of [Chapter 34.05 RCW](#) relating to exhaustion of administrative remedies, parties shall avail themselves of these proceedings prior to seeking review beyond the University.

Section 28-31 Definitions

The following terms used in this chapter shall have the meanings set forth below:

- A. Adjudication Panel** is the standing committee of faculty members selected pursuant to [Section 28-33, Subsection B](#). Members of any hearing panel or other decision making group for a specific case are selected from the Adjudication Panel.
- B. Brief adjudication** is an informal adjudication used for cases involving a limited number of persons, simple factual issues and minor impact on the persons involved. [Section 28-41](#) sets forth the types of cases for which brief adjudications are used and the procedures to be followed.
- C. Comprehensive adjudication** is the formal hearing process used for all cases except the minor cases that are resolved with brief adjudications. Sections [28-51](#) through [28-54](#) set forth the procedures to be followed.
- D. Hearing Officer** is an attorney appointed by the Chair of the Faculty Senate and the President, who performs the following functions:
 - 1.** For comprehensive adjudications, the Hearing Officer coordinates the comprehensive adjudication but generally does not have voting power

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EMPLOYMENT AND ADMINISTRATIVE POLICIES (EAP)*

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on the final decision; and

2. For brief adjudications, the Hearing Officer conducts the adjudication without a hearing panel and is the initial decision maker, subject to review by a panel of faculty.
3. May be appointed to serve as the Adjudication Panel Chair under [Section 28-33, Subsection B.](#)

The hearing officer's qualifications and appointment procedure are specified in [Section 28-33, Subsection C.](#)

- E. **Hearing panel** is a group consisting of members of the Adjudication Panel who preside over comprehensive adjudications. The composition of a panel for specific types of cases, and the method of selecting members of a panel, are set forth in Section 28-33, Subsections [D](#) and [E](#). When used alone, the term "panel" refers to a hearing panel.
- F. **Day** is any calendar day. Any time period specified in this chapter shall not include the day of the act or event from which the time period begins to run. If the time period specified is less than five days, then "day" shall include only business days.
- G. **Party** is the person who has requested an adjudication and the person or persons whose actions or failure to act are identified in the petition as having given rise to the grievance. The term "party" as used herein does not include nonparty participants and does not include persons, such as a dean or the University Complaint Investigation and Resolution Office (UCIRO), who refer a matter to the Provost for possible action pursuant to [Section 28-32, Subsection A.](#)
- H. **Administrative party of right** is a person, not identified in the petition, who, for good and valid reason, is a necessary party by virtue of being immediately superior in administrative rank to a respondent (for example, the dean of a school or college in which a department chair is a respondent) and whose request to participate in the proceeding has been granted by the hearing officer. The administrative party of right shall participate as a respondent to the petition and shall have the same rights and be subject to the same responsibilities as a party.
- I. **Nonparty participant of right** is the person or persons who are alleged to be the victims of any harassment, discrimination or other wrongdoing alleged in the petition, such as a person whose ideas or research allegedly has been misappropriated by a faculty member.
- J. **Permissive nonparty participant** is any person who has a substantial interest that will be affected by the outcome of a comprehensive adjudication and whose request to participate in the proceeding has been granted by the hearing officer, pursuant to the provisions of [Section 28-51, Subsection A.](#)
- K. **Nonparty participant**, where not specified, applies both to nonparty participants of right and to permissive nonparty participants.
- L. **Faculty member** is any person who, at the time of the decision, action or inaction being contested, meets the definition of faculty member as set forth in [Chapter 21, Section 21-31](#) and would be eligible to invoke the adjudication procedures of this chapter for resolution of a grievance described in [Section 28-32, Subsection B.](#)
- M. **Petition** is the document filed by the person requesting an adjudication, in order to begin the adjudication. The contents of the petition and the manner of filing are specified in [Section 28-36.](#)
- N. **The Record** of an adjudication or dispositive decision by the Chair of the Adjudication Panel or intermediate panels described below shall consist of only the following:
 1. The notice and petition filed by the party initiating the adjudication, all responses filed by other parties, and decisions and appointments

of panels and hearing officers by the Chair;

2. Evidence received or considered;
3. All written statements submitted by persons and parties;
4. The transcript or recording of any hearing held during the course of the adjudication;
5. In a Brief Adjudication, the record shall also include:
 - a. All written records of oral communication prepared by the hearing officer and circulated to the parties pursuant to [Section 28-41, Subsection C](#) below, and all amendments thereto that have been submitted;
 - b. Any other document regarding the matter that was considered or prepared by the Brief Adjudication Panel, or by the hearing officer or by the Brief Adjudication Review Panel during review of the hearing officer's decision; and
 - c. When applicable, the Adjudication Summary prepared by the Chair of the Adjudication Panel.
6. The record shall not consist of deliberations referenced in [Section 28-82](#).

S-A 73, May 24, 1985; S-A 101, July 7, 2000; S-A 135, January 7, 2016; S-A 164, May 9, 2023: all with Presidential approval.

Section 28-32 Cases Subject to Adjudications

A. Determining Reasonable Cause

If the University Complaint Investigation and Resolution Office (UCIRO), a dean or any other authorized administrative official files with the Provost a written report that claims reasonable causes exist to adjudicate charges that a faculty member has violated University regulations or state or federal laws pertaining to the performance of the faculty members' duties, the Provost shall determine whether such reasonable cause exists. If the report is filed by the UCIRO, the Provost shall first appoint a special committee of three faculty members who are not involved in the matter being considered and who are members of the Adjudication Panel. No member of this special committee shall subsequently serve on any panel hearing or review any adjudication arising out of or related to the matters set forth in the report. Based solely on the written record of the investigation, the special committee shall assist and advise in the Provost's evaluation of whether reasonable cause exists. If the Provost believes such reasonable cause exists, then, before taking any disciplinary or punitive action against such faculty member, the Provost shall initiate an adjudication for resolution of such charges by filing a petition in the time and manner specified below.

B. Initiating an Adjudication

A faculty member may initiate an adjudication under this chapter by filing a petition for adjudication within the time limitations specified in [Section 28-35](#) and in the manner specified below, for resolution of a dispute which falls within one or more of the following categories:

1. Cases in which it is alleged that an authorized University official, through action or inaction, has violated University regulations thereby affecting the terms, conditions, or course of employment of the petitioning faculty member. Examples of such cases include, but are not limited to, allegations that University regulations were violated in the denial of tenure or promotion or in the process of program elimination.
2. Cases where the right to an adjudication is specifically granted to a faculty member under another section of the *Faculty Code*.

3. Cases in which the petitioning faculty member alleges an injustice resulting from decisions, actions, or inactions of any persons acting on behalf of the University in an administrative capacity and affecting the terms, conditions, or course of employment of the faculty member by the University. In cases involving denial of tenure or promotion, program elimination or discriminatory salary reduction, decisions relating to merit or quality of the faculty member can be reviewed only to the extent necessary to determine whether the decision being questioned was affected by factors other than the relevant and permissible considerations in making the particular decision being challenged. Such relevant and permissible considerations are set forth in sections of the *Faculty Code* chapters addressing appointment, promotion and tenure of faculty members, including but not limited to Chapter 24, Sections [24-32](#), [24-33](#), [24-34](#), [24-35](#) and [Chapter 25, Section 25-32](#), as amended.

For purposes of this section, "injustice" shall include, but is not limited to:

- a. Any action taken that was based at least in part on a legally impermissible reason or on any other reason that was unfair in light of the decision being made; and
- b. Any action that was not supported by an articulated reason that can be shown to be fair and relevant to the circumstances.

S-A 73, May 24, 1985; S-A 78, December 14, 1988; S-A 91, July 11, 1994; S-A 101, July 7, 2000; S-A 135, January 7, 2016; S-A 164, May 9, 2023: all with Presidential approval.

Section 28-33 Adjudication Panel and Hearing Panels

A. The Hearing Officer

Brief adjudications shall be heard by a hearing officer who has been appointed under the procedures specified below. Every other adjudication under this chapter shall be heard by a hearing officer and a hearing panel, appointed by the Chair of the Adjudication Panel under the procedures specified below.

B. The Adjudication Panel

The Adjudication Panel shall be a standing committee consisting of: at least 24 members of the faculty, selected broadly from the colleges, schools, and campuses, nominated by the Senate Executive Committee and approved by the Faculty Senate. Eligible members shall be limited to voting faculty and emeritus faculty who were voting faculty at the time of retirement. Faculty members of hearing panels for specific cases are selected from the Adjudication Panel. Students, staff members, and non-faculty academic personnel may serve on a hearing panel on a case by case basis if called to serve under the provisions of [Subsection D](#) below.

During the selection and appointment process for the Adjudication Panel, the commitment of the University to affirmative action and the necessity of diversity in the decision making body shall be adhered to. No department chair, school director, assistant dean, associate dean, or dean shall serve on the Adjudication Panel. Faculty Adjudication Panel members shall serve three-year terms. Adjudication Panel members and the Chair of the Adjudication Panel are eligible for reappointment except that in the event that a panel member has served two consecutive terms, then such a member shall be ineligible for reappointment for a period of three years. A Chair and Vice Chair of the Adjudication Panel shall be nominated annually by the Senate Executive Committee and shall be approved by the Senate. In the extraordinary event that neither a Chair and/or Vice Chair can be identified from among the faculty, a hearing officer may be temporarily appointed in the same manner to serve as Adjudication Panel Chair.

C. Hearing Officer Appointments

At least three hearing officers shall be appointed jointly by the President and the Chair of the Faculty Senate. The terms and conditions of a hearing officer's appointment shall be determined jointly by the President

and the Chair of the Faculty Senate. All such hearing officers must be attorneys admitted to the practice of law in at least one United States jurisdiction and shall have knowledge of hearings procedures and university and faculty matters. No University of Washington employee shall serve as a hearing officer.

D. Nonparty Participant of Right

All comprehensive adjudications involving a nonparty participant of right who is a student, staff member, or non-faculty academic personnel, shall be heard by a hearing officer and, unless waived by all of the parties, a hearing panel composed of:

1. Three faculty members or, upon the request of one party, five faculty members of the Adjudication Panel and;
2. In a case arising from allegations by a student, two student members, who shall be appointed from a list of at least six eligible students selected by the ASUW and the GPSS, under procedures established by the ASUW and the GPSS, and approved by the Faculty Senate Chair; or
3. In a case arising from allegations by a staff member or non-faculty academic personnel, two members from the relevant constituency, who shall be appointed from a list of at least six candidates, nominated by the Secretary of the Faculty, in consultation with the campus organization(s) most closely representing the constituency of the nonparty participant, and approved by the Faculty Senate Chair.

E. Number of Hearing Panel Faculty Members

All other adjudications shall be heard by a hearing officer and a hearing panel of three faculty members, except that upon the request of at least one of the parties, the hearing panel shall be increased to five faculty members, or with the unanimous consent of the parties the hearing panel may be waived.

F. Role of Hearing Officer

The role of the hearing officer serving with a hearing panel on a comprehensive adjudication shall be that of administrative coordinator. The hearing officer shall not have a vote on the final decision of the panel or on interim decisions of the panel while the adjudication is pending, except as specifically noted below. The hearing officer shall be responsible for communications between the parties and the panel while the adjudication is pending and shall be responsible for conducting the adjudication in compliance with the *Faculty Code* and any applicable law. All actions other than the final decision that are to be taken by the panel under this chapter may be taken by the hearing officer if so directed by the panel. The hearing officer shall make all legal rulings, as specified below, but any such rulings, including procedural decisions and interpretations of the *Faculty Code* or applicable law, are subject to revision or reversal by the hearing panel.

G. Diversity and Impartiality of Hearing Panel

In selecting members of a particular hearing panel, the Chair of the Adjudication Panel shall attempt to achieve the highest degree of diversity and impartiality and make every possible effort to select panel members with differing backgrounds that the Chair deems relevant to the issues at hand and the persons involved. This requirement is especially important to observe in cases where unlawful discrimination is alleged. The purposes of this provision are to broaden the perspective of the panel, and increase the panel's ability to understand the motivations of the persons involved.

H. Role of Hearing Panel Members

The role of any member of a hearing panel, including students or staff, or non-faculty academic personnel who may serve on a panel, shall be that of an impartial fact finder and judge and shall not be that of an advocate

for any of the parties to the adjudication.

I. Hearing Panels Meeting During Summer

Hearing panels may, but are not required to, meet during the period of June 16 through September 15.

S-A 73, May 24, 1985; S-A 91, July 11, 1994; S-A 101, July 7, 2000: all with Presidential approval; RC, April 22, 2010; S-A 135, January 7, 2016 with Presidential approval.

Section 28-34 Burden and Standard of Proof

The burden of proof with respect to claims made in the petition that commences an adjudication under this chapter is on the party filing the petition. The burden of proof with respect to any counter claims made by a party in a responsive pleading is on that party. The applicable standard of proof for all adjudications under this chapter shall be the preponderance of the evidence.

S-A 91, July 11, 1994 with Presidential approval.

Section 28-35 Time Limitations on Initiating Adjudications

A. Initiation of an Adjudication by the Provost

In order for the Provost to initiate an adjudication pursuant to [Section 28-32, Subsection A](#), the Provost shall file a Notice of Request for Adjudication and a petition in the form and manner specified in [Section 28-36](#) within 30 days after receipt by the Provost of the written report alleging that reasonable cause exists to adjudicate charges against a faculty member; provided that in cases where the report was filed with the Provost by the University Complaint Investigation and Resolution Office (UCIRO), the Provost shall file the Notice of Request for Adjudication and petition within 45 days after receipt by the Provost of such report.

B. Initiation of an Adjudication by a Faculty Member

In order for a faculty member to initiate an adjudication pursuant to [Section 28-32, Subsection B](#), the faculty member shall file a Notice of Request for Adjudication and a petition in the form and manner specified in [Section 28-36](#) and within:

1. Ninety days after the faculty member has received notice of the action, decision or inaction that gives rise to the faculty member's right to an adjudication under [Section 28-32, Subsection B](#); or
2. Ninety days after the faculty member has discovered or reasonably should have discovered the action, decision or inaction or the underlying facts regarding such action, decision or inaction that gave rise to the faculty member's right to adjudication, if later than [Subsection B.1](#). Notwithstanding the foregoing, the time periods specified in [Subsection B.1](#) and this subsection shall be suspended during the period of June 16 through September 15 if the faculty member's contract does not include such period.

C. Initiation of an Adjudication Following Informal Dispute Resolution

Notwithstanding Subsections [A](#) and [B](#) of this section, if the parties choose to engage first in informal dispute resolution activities, such as conciliation as described in [Chapter 27](#) or mediation, and such activities are commenced within the time limits required above for commencement of an adjudication, then the time limits required in this section for commencement of an adjudication shall be suspended until such informal dispute resolution activities are completed. If the informal dispute resolution activities do not resolve the dispute, then an adjudication must be initiated within 30 days of the conclusion of such activities. All parties involved in a dispute shall provide written notice to the Secretary of the Faculty of the commencement of any informal dispute resolution activities. Any party who is no longer willing to participate in informal dispute resolution activities shall notify the Secretary of the Faculty and

the other parties, and this shall end the suspension period.

D. Untimely Filing Special Committee

If a party does not file a Notice of Request for Adjudication and petition within the time limits prescribed in Subsections [A](#), [B](#) and [C](#) above, then the right to an adjudication shall terminate. Notwithstanding the foregoing, if a faculty member files a Notice of Request for Adjudication and a petition after the time limits prescribed in Subsections [A](#), [B](#) and [C](#) above have expired, and such notice and petition specifically and expressly allege that circumstances exist which would make it grossly unjust to refuse to grant the adjudication on the basis of untimeliness, then the Chair of the Adjudication Panel shall appoint a special committee of three panel members. The special committee shall determine whether the adjudication should be granted despite the untimely filing, on the grounds that it would be grossly unjust to refuse to grant the adjudication. In making such determination, the following factors shall be considered by the special committee:

1. The seriousness of the actions, events, or decisions from which a claim for relief allegedly arises, and the seriousness of the alleged impact on the person seeking relief.
2. The reasons for the untimely filing and the extent to which they were or were not within the control of the person seeking relief.
3. The degree of probable prejudice to other parties to the adjudication if the adjudication is granted. The special committee shall make its determination within ten days of notice of its appointment.

S-A 101, July 7, 2000; S-A 135, January 7, 2016; both with Presidential approval.

Section 28-36 Manner of Initiating Adjudications

A. Filing an Adjudication Petition with the Secretary of the Faculty

The person requesting an adjudication shall file a Notice of Request for Adjudication and a petition with the Secretary of the Faculty. The Secretary of the Faculty shall maintain and make available upon request written procedures for filing an adjudication petition and may decline to accept an incomplete or improperly submitted petition. Until a petition is accepted by the Secretary of the Faculty, it shall not be deemed filed for purposes of evaluating it under the time limits prescribed. The petition shall set forth with reasonable particularity the basis for the request for adjudication under [Section 28-32](#), the relief sought, and the facts relied upon as the grounds for the petition and the relief sought. If the Provost is the requesting party, the Provost shall include a copy of the written report from the University Complaint Investigation and Resolution Office (UCIRO), the dean, or other administrative official that forms the basis of the request for adjudication. Within seven days of receipt of a notice and petition, the Secretary of the Faculty shall deliver complete copies of the notice, the petition, and the time limits and procedures for response to the Provost, the Chair of the Adjudication Panel, other parties, nonparty participants of right, if any, and any other faculty member, dean, or official of the administration, student or staff member who is named in the petition.

B. Filing a Response to a Petition

Any party against whom relief is sought shall respond to the petition by filing a response, which sets forth which facts of the petition are accepted and which are contested and any further assertions of fact or reasons why the relief requested should not be granted. The response shall be filed with the Secretary of the Faculty within 30 days of receipt of the notice and petition. The Secretary of the Faculty shall deliver complete copies of the response within seven days of receipt to all persons who have received copies of the notice and petition. Notwithstanding the foregoing, the time period for filing the response shall be suspended upon commencement of informal dispute resolution activities after the filing of the notice and petition but before the due date of the response. In the event that informal dispute resolution activities have been initiated, the parties shall provide written notice to the Chair of the Adjudication Panel

and to the Secretary of the Faculty. If the informal dispute resolution activities terminate without resolving the dispute, a party shall notify the Chair of the Adjudication Panel and the Secretary of the Faculty. The response shall be due on the later of ten days after the termination of such activities and the expiration of the original 30-day period for filing the response excluding the days during which the conciliation proceeding was open.

C. Determinations by Chair of the Adjudication Panel

Within 14 days of receipt of the response, or within 14 days after expiration of the 37-day period following receipt of the notice and petition, whichever is earlier, the Chair of the Adjudication Panel shall:

- Determine whether the notice and petition have been properly and timely filed. In determining timeliness, the Chair shall have discretion to consider a petition, or response timely if the Chair determines that there has been a minor and nonprejudicial clerical or counting error in determining the applicable time limits;
- Determine whether a brief adjudication is appropriate under the provisions of [Section 28-41](#) below, and if so, appoint a hearing officer to conduct the adjudication;
- Identify the parties and the nonparty participants of right, if any, to the adjudication;
- If a comprehensive adjudication is required, appoint the hearing officer, determine the appropriate composition of the hearing panel and appoint the members of such panel, under the provisions of [Section 28-32](#) above;
- Determine, either upon the Chair's own motion or motion of any party, whether two or more petitions by one or more parties should be consolidated for hearing before a single hearing panel because the petitions contain related or substantially similar grievances or the petitions arise out of the same or similar factual circumstances;
- Make suggestions to the hearing panel regarding possible procedures to expedite the hearings, including, but not limited to, summary disposition based only on documentary evidence, including affidavits and declarations.

Where students, or non-faculty academic personnel are to be members of the panel, the Chair shall notify the Secretary of the Faculty who shall coordinate the selection of those persons.

Once the above specified determinations are made and the hearing panel, if required, is appointed, the Chair shall promptly notify the person who filed the notice and petition and all persons who are entitled to receive a copy of the notice and petition, as specified above, of such determinations, the identity of the hearing officer and hearing panel members, and the rights of the parties to challenge appointees for cause as provided in [Section 28-37](#). The Chair shall also promptly deliver to any nonparty participants of right a statement of their rights of participation in the adjudication.

D. Reassignment of Faculty Member Pending Resolution of Allegations

At any time after allegations have been made, if a dean, chancellor or the Provost believes there are compelling circumstances, such as danger to the health or safety of members of the University community, that warrant reassignment of the faculty member from teaching or other duties pending resolution of the allegations, the dean, chancellor or Provost may, after consultation with the Chair of the Faculty Senate, reassign the faculty member for a period not to exceed the duration of the [Chapter 25, Section 25-71](#) process and any resulting adjudication and assign the faculty member to other duties as the dean, chancellor or Provost deems appropriate. The faculty member's regular salary, benefits and other privileges shall continue during such period of reassignment. A decision under this section shall comply with the requirements of [RCW](#)

[34.05.479](#) to the extent applicable.

S-A 101, July 7, 2000 with Presidential approval; RC, March 3, 2013; S-A 135, January 7, 2016 with Presidential approval.

Section 28-37 Disqualification of Adjudication Panel Chair, Hearing Officer, and Panel Members

A. Disqualification Initiated by Panel Chair, Hearing Panel Member, or Hearing Officer

The Adjudication Panel Chair, a member of a hearing panel, or the hearing officer shall take the initiative to self-disqualify immediately upon discovery of a cause for disqualification. Cause for disqualification shall include:

1. Reason to believe that some personal consideration or relationship might interfere with the hearing officer's or panel member's ability to reach an unbiased decision;
2. The hearing officer or panel member, outside of the proceedings, has received communications or has obtained information which creates a significant risk of substantial unfairness; or
3. The matter directly involves a departmental colleague or, if the matter involves a faculty member from a non-departmentalized school or college, a college or school colleague of the panel member or the hearing officer.

B. Disqualification Initiated by Challenge

Any party or nonparty participant to the adjudication may challenge the Adjudication Panel Chair, any panel member, or the hearing officer, for cause for the reasons stated in [Subsection A](#) above. If the facts supporting the disqualification are then known to the party or nonparty participant, the challenge must be made in writing to the Secretary of the Faculty within seven days after receipt of notice that the person being challenged is the Adjudication Panel Chair, assigned hearing officer or a panel member. A copy of the written challenge shall also be provided to the other persons entitled to receipt of Notice of Request for Hearing. If the facts supporting the disqualification are discovered after notice of the person's appointment, the challenge shall be made in the same manner described above within seven days of discovery of such facts, and the written challenge shall include a statement regarding the circumstances of discovery of such facts. The Secretary of the Faculty shall appoint a disinterested hearing officer to review any such challenge to the Adjudication Panel Chair and decide whether there is sufficient cause to disqualify the challenged Panel Chair. If the Panel Chair is disqualified, the Vice Chair of the Adjudication Panel shall assume the responsibilities of the Chair for all decisions related to the matter(s) in question. The Chair of the Adjudication Panel shall review any such challenge to the hearing officer or panel members and decide whether there is sufficient cause to disqualify the hearing officer or challenged panel member.

C. Disqualification of Panel Member by the Hearing Officer or Chair of the Adjudication Panel

A hearing officer serving with a panel and the Chair of the Adjudication Panel may disqualify any members of such panel for failure or inability to make themselves available for the necessary proceedings, for repeated absences from the panel meetings required under this chapter, or for failure to familiarize themselves with the record of the adjudication or the necessary procedures.

D. Appointment Following Disqualification

If a hearing officer is disqualified, the Chair of the Adjudication Panel shall appoint another hearing officer. If a panel member is disqualified, then at the discretion of the Chair of the Adjudication Panel, the Chair shall either appoint another member of the Adjudication Panel to the hearing panel, or, if the adjudication is in a later stage, continue the adjudication with

the remaining panel members.

E. Distribution of Documents Following Finalization of Initial Appointments

Upon finalization of the initial appointments of the hearing officer and hearing panel members, including the consideration of any challenges filed within the initial time limit of seven days, the Secretary of the Faculty shall immediately distribute to each of them copies of all documents filed in the matter.

S-A 91, July 11, 1994; S-A 135, January 7, 2016; S-A 164, May 9, 2023: all with Presidential approval.

Section 28-41 Brief Adjudications

A. Matters that Warrant a Brief Adjudication

The Chair of the Adjudication Panel shall, pursuant to [Section 28-36, Subsection C](#), determine that a brief adjudication be used for all cases whose sole issue is one of the following:

1. The allocation of discretionary or merit salary increases;
2. The allocation of space, support staff, or other resources or materials;
3. Teaching, committee or other assignments within the department, school or other unit;
4. A conflict between or among faculty members, other than claims of sexual, racial, or other legally impermissible discrimination or harassment or claims of scientific or scholarly misconduct; or
5. Any other issue which a Brief Adjudication Panel determines is appropriate for brief adjudication. The Chair shall employ a Brief Adjudication Panel pursuant to this section, if the Chair determines that:
 - a. The case does not fall clearly within one of the categories specified in Subsections [A.1](#) through [A.4](#) above but which may nevertheless be appropriate for a brief adjudication, or
 - b. It is unclear for any other reason whether a brief adjudication would be the appropriate procedure.

In a case involving [Subsection A.5](#) above, the Chair shall convene a committee consisting of the selfsame Chair and any two members of the Adjudication Panel to constitute a Brief Adjudication Panel. The Brief Adjudication Panel shall review the matter, confer, and make a decision whether a brief adjudication is appropriate for the case at issue. The review shall include consultation with any faculty member whose interests would be directly affected by the adjudication and review of records of any previous Brief Adjudication Panel decisions for similar cases. The decision shall be made with sufficient speed so that the Chair may make the necessary determinations and appoint a hearing officer and a hearing panel, if necessary, within the time limits specified in [Section 28-36, Subsection C](#). The Chair shall prepare a written report summarizing the nature of any case submitted to a Brief Adjudication Panel, the decision made as to the type of adjudication to be used and the basis of such decision and shall include such report in the records of the Adjudication Panel. If the Chair and the two members of the Brief Adjudication Panel decide that a comprehensive adjudication is appropriate, none of the members of the Brief Adjudication Panel making such decision will serve on the hearing panel for that case.

B. Inappropriate Matters for a Brief Adjudication

Notwithstanding the foregoing, a brief adjudication shall not be appropriate for a case in which any one of the following factors is

present:

1. Complex factual issues that require a formal fact finding process for resolution;
2. A significant sanction or other significant adverse impact on the faculty member, such as discharge of employment or revocation of tenure, if the decision is adverse to the faculty member;
3. Significant impact on the affected faculty member's academic career;
4. A relatively large number of persons involved in the dispute or affected by its outcome;
5. A series of actions or non-actions that taken alone are not significant but together exhibit a pattern of unfairness;
6. Allegations of unlawful discrimination; or
7. The protection of the public interest requires notice and an opportunity to participate to be given to persons other than the parties, including persons who would qualify as nonparty participants under the definition herein.

C. Investigation

Upon appointment, the hearing officer shall review the documents on file in the matter and conduct an investigation of the matter. The initial investigation, at the discretion of the hearing officer, may include any of the following:

- Meeting with the parties, together or separately;
- Communicating with the parties through mail or by telephone;
- Communicating with any other person that the hearing officer thinks can provide information relevant to the dispute; and
- Requesting relevant documents from any person.

As part of the investigation, the hearing officer must contact each of the parties and give each of them an opportunity to present written and/or oral evidence (determined at the discretion of the hearing officer) supporting the party's position in the matter and a written or oral statement of the party's position. The decision to restrict the parties' responses to written submissions and the decision of whether an informal hearing where all parties are present and are allowed to present oral statements and evidence are at the sole discretion of the hearing officer. If the hearing officer determines that an informal hearing is appropriate, the hearing officer shall schedule such hearing at a time convenient for all the parties, that is at least ten days and no more than 14 days following the date of appointment of the hearing officer. At least five days prior to such a hearing, the hearing officer shall notify the parties in writing as to the issues that may be addressed at the hearing, the evidence that will be relevant at the hearing and the general procedures to be followed at the hearing. The hearing shall be either recorded (sound only or video), or transcribed by a court reporter, as determined by the hearing officer. The hearing officer shall make a contemporaneous written record of any oral communication (in person or by telephone) relating to the investigation which is not heard by a party and shall distribute such written record immediately to all parties and to the person with whom the communication occurred. If the person with whom the communication occurred has a different recollection of the conversation, that person shall immediately deliver to the hearing officer a written statement detailing the differences. The hearing officer shall immediately deliver such a statement to the parties and shall include such statement in the written record of the proceeding.

D. Converting a Brief Adjudication to a Comprehensive Adjudication

If the hearing officer discovers in the course of investigation that the issues are sufficiently complex or there are other factors that indicate that a comprehensive adjudication is required for fair resolution of the matter, the hearing officer will immediately notify the Chair of the Adjudication Panel and the parties of such determination. Upon receipt of such notification, the Chair of the Adjudication Panel shall appoint a hearing panel under the procedures described in [Section 28-33](#) and the matter will proceed as a comprehensive adjudication. At any time during the course of a brief adjudication a party may request that the adjudication be converted to a comprehensive adjudication by giving notice to the hearing officer and the other parties of such request together with a statement of the reasons why a comprehensive adjudication is required for a fair resolution of the matter. The hearing officer will rule on such a request within two days of receipt. If the hearing officer rules against such conversion, the brief adjudication will proceed and the party requesting the conversion may again request a comprehensive adjudication during the appeal process of the hearing officer's decision, as provided below in [Section 28-61](#).

E. Written Decision

Within 30 days of appointment, the hearing officer will render a written decision to the parties, together with a brief statement as to the reasons for the decision and a statement of the parties' rights to appeal the decision.

S-A 73, May 24, 1985; S-A 132, March 25, 2014; S-A 135, January 7, 2016; S-A 164, May 9, 2023: all with Presidential approval.

Section 28-51 Comprehensive Adjudications—Nonparty Participants

A. Administrative Party of Right

The hearing officer may grant a petition filed at any time for participation as an administrative party of right upon determining that the petitioner is a necessary party or by virtue of being immediately superior in administrative rank to the respondent. Such person's status as an administrative party of right shall commence only upon issuance of an order from the hearing officer allowing such person's participation.

B. Permissive Nonparty Participant

In addition to the persons who may be nonparty participants of right, the hearing officer may grant a petition filed by any person at any time for permissive nonparty participation, upon determining that the petitioner has a substantial interest that will be affected by the outcome of the adjudication, that participation by such party in the adjudication is necessary to protect that interest and participation by that party will not unduly delay or prejudice the determination of the rights of the parties to the adjudication. Such person's status as permissive nonparty participant shall commence only upon issuance of an order from the hearing officer allowing such person's participation. The hearing officer has the discretion to impose conditions on the permissive nonparty participant's right to participate, and may limit such person's right to participate, either at the time that the right to participate is granted or at any subsequent time. For a comment on nonparty participants' right to be represented by counsel, see [Section 28-52, Subsection G](#) below.

C. Nonparty Participants' Rights of Participation

All nonparty participants, both of right and permissive, in addition to the right to challenge the hearing officer or a member of the hearing panel for cause as provided above, shall have the following rights of participation in the adjudication:

1. Right to receive copies of all documents filed in the adjudication, within the same time limits as such copies are required to be

delivered to the parties in the adjudication.

2. Right to timely notice of date, place and time and to attend the prehearing conference, the hearing, and any interim proceedings.
3. Right to file written independent statements and responses to documents filed by the parties at any time prior to the hearing (including written statements and responses regarding a pending motion for summary disposition under [Section 28-52, Subsection D](#)), provided that any such statements or responses are delivered by the nonparty participant to each party to the adjudication within two days of delivery to the hearing panel.

In addition to the above listed rights, a nonparty participant may, at the discretion of the hearing officer and the panel, be granted the following rights of participation:

4. Right to have counsel accompany them to all proceedings.
5. Right to be represented by counsel during the proceedings, provided that if the parties choose not to be represented by counsel [see [Section 28-52, Subsection G](#)], then a nonparty participant may not be represented by counsel.
6. Right to cross-examine witnesses, introduce evidence and call additional witnesses during the hearing, either on the nonparty participant's behalf or through counsel, subject to the limitation in [Subsection C.5](#) of this section.
7. Right to give opening and closing statements, either on the nonparty participant's behalf or through counsel.
8. If unable to be present at the hearing or any preliminary proceeding, the right to be represented at the hearing and all preliminary proceedings by a special representative chosen by the nonparty participant and approved by the hearing officer.
9. Such other rights of participation in the adjudication as the hearing officer or hearing panel determines to be conducive to a fair and efficient hearing.

A nonparty participant shall have the rights specified in Subsections [C.4](#) through [C.9](#) above only to the extent the hearing officer or hearing panel has determined to be conducive to a fair and efficient hearing and which would aid in the panel's resolution of the matter.

The hearing officer shall make an initial determination prior to the prehearing conference as to the additional rights of participation, if any, that shall be given to the nonparty participant. The nonparty participant and any party may file a written request with the hearing officer prior to the prehearing conference regarding the extent of a nonparty participant's participation rights, and may make an oral request regarding participation rights at the prehearing conference. The determination of the extent of a nonparty participant's participation rights shall be made by the hearing officer, subject to revision by the hearing panel, and shall be included in the Prehearing Order. The Chair shall promptly deliver to any nonparty participants of right a statement of their rights of participation in the adjudication.

S-A 73, May 24, 1985; S-A 91, July 11, 1994; S-A 101, July 7, 2000; S-A 135, January 7, 2016; S-A 164, May 9, 2023: all with Presidential approval.

Section 28-52 Comprehensive Adjudications—Preliminary Proceedings

A. Summary Disposition Without Hearing

At the request of any party or on the panel's own motion at any time after the response has been received, the hearing panel may determine that the adjudication or a particular claim or issue material to the adjudication should be resolved by summary disposition without a fact-finding hearing.

If the answering party alleges or the panel preliminarily concludes that the petition does not present a controversy under [Section 28-32](#) that entitles the petitioner to a hearing when all factual allegations are viewed in the light most favorable to the petitioner, the panel shall give notice to the parties and any nonparty participants of:

1. The deadline for submission of written offers of proof by affidavit or otherwise, and for submission of argument, and
2. At the panel's option, a hearing concerning the proper interpretation and scope of [Section 28-32](#).

The panel shall issue a decision to grant or deny summary disposition within five days after the submission of the written materials or the conclusion of any hearing. If summary disposition is granted the panel shall dismiss the petition and issue a decision pursuant to [Section 28-54](#).

B. Initial Plan

As soon as possible after appointment, the hearing officer and hearing panel shall review the pleadings filed, identify the issues and discuss an initial plan for the conduct of the hearing. Such plan shall include the preliminary determination of the extent to which any nonparty participant will be allowed to participate. The hearing officer and hearing panel shall immediately consult with the parties and any nonparty participants as to a convenient time and place to hold the prehearing conference.

C. Notice of Prehearing Conference

Within ten days after appointment of the hearing panel, the hearing officer, at the direction of the hearing panel, shall prepare and deliver to the hearing panel, the parties and nonparty participants a Notice of Prehearing Conference, specifying the time and place of the prehearing conference. Such notice shall inform the parties as to the hearing officer's and panel's initial plan for the hearing and preliminary determinations, such as the extent of participation rights of nonparty participants and identification of issues, including all issues that the hearing officer and panel view as uncontested or irrelevant to resolution of the dispute. Such notice may further identify the evidence, including documents and witness testimony, that the hearing officer and panel consider necessary at the hearing. The prehearing conference shall be held no later than 20 days after appointment of the hearing panel.

D. Prehearing Conference

All parties and nonparty participants and their legal counsel (if otherwise allowed) shall be entitled to be present at the prehearing conference. The hearing officer and the entire hearing panel shall also be present. The hearing officer shall preside over the prehearing conference. At the prehearing conference, the hearing officer, the panel and the parties shall discuss and agree upon the evidence to be presented and the issues to be addressed at the hearing. The hearing officer, the panel and the parties shall also agree upon any issues that can be settled by the parties before the hearing, or are uncontested or irrelevant to the adjudication, provided that if the parties cannot reach agreement on these matters the decision of the panel shall control. The hearing officer, panel, and the parties shall also discuss the feasibility of informal dispute resolution procedures to attempt settlement of the dispute before the hearing. If the parties agree to informal dispute resolution procedures, then the adjudication process shall be suspended while such procedures are pursued. Any nonparty participants present at the prehearing conference shall be allowed to participate in the discussion and the decision making to the extent determined by the hearing officer and hearing panel.

E. Prehearing Order

Unless the adjudication has been disposed of completely by summary disposition, the hearing officer, at the direction of the panel, shall issue a Prehearing Order within 15 days of the prehearing conference, which shall set forth the issues to be addressed at the hearing, the factual issues which are uncontroverted, the witnesses to be called and the other evidence to be presented, the extent to which any discretionary rights to

participate will be given to nonparty participants, the extent to which depositions, requests for admission and any other form of discovery will be allowed and any other matters the hearing panel shall deem appropriate in setting the procedure to be followed at the hearing. Such notice shall also set the time and place of the hearing and shall contain the information required by [RCW 34.05.434](#). The hearing shall be set no less than ten days and no more than 30 days after the notice of the prehearing conference was issued.

F. Open or Closed Adjudication Proceedings

The Prehearing Order shall specify whether the adjudication shall be open or closed. A determination at a later date that the hearing should be closed shall be made by written protective order.

G. Representation by Counsel

Any faculty member who is a party to a proceeding under this chapter shall have the right to be represented by counsel at all stages in the proceedings. Normally, if the faculty member chooses not to be represented by counsel at proceedings before the hearing panel and/or the hearing officer, the administration will not be so represented, except in cases where the faculty member is an attorney. Where the faculty member chooses to be represented by counsel, the administration shall not be obligated to reimburse the faculty member for the attorneys' fees and costs incurred by the faculty member, except as provided under [Section 28-54, Subsection B](#).

H. Amending the Prehearing Order

If after the Prehearing Order is issued, a party shall receive additional information, the party may request that the panel amend the Prehearing Order to allow the presentation of such additional information at the hearing and may request leave to amend its pleadings on file. Such request shall be served on all parties and nonparty participants. The hearing panel has full discretion to allow or deny such request and may grant a continuance if a non-requesting party needs additional time in which to prepare for and respond to the additional information.

I. Hearing Officer's Instructions

The hearing officer may instruct any person who is a party to the adjudication or an administrative officer or administrative employee of the University to appear and to give testimony under oath or affirmation, or to produce a specific document or other thing belonging to a party or to the University relevant to the issues in the adjudication.

1. If the person to whom the instruction is directed is a non-administrative party to the adjudication and that person refuses or fails to appear at the time and place designated to give testimony or to produce the documents or things specified:
 - a. If the hearing officer finds that the testimony, documents, or things sought are under the control of the non-administrative party to produce and are not privileged for purposes of the adjudication, then the hearing panel may impose such sanctions as are appropriate.
 - b. Sanctions may include dismissal of the adjudication or the drawing of inferences, to be stated in the record, with respect to the issues to which the evidence sought would have been relevant, adverse to the position of the faculty member or other party to the adjudication.
2. If the person to whom the instruction is directed is an administrative officer or administrative employee of the University and refuses or fails to appear at the time and place designated to give testimony, or to produce the documents or things specified:
 - a. The hearing officer shall inform the President in writing of such refusal or failure and of the probable relevance of the testimony

or documents or things sought.

- b. Unless the President determines that the information sought is legally privileged from disclosure, or subject to overriding University policies as to confidentiality, the President shall take such steps as may be necessary to enforce compliance with the instruction.
 - c. If the President refuses or fails to secure such compliance, and if the hearing panel determines that the testimony, documents, or things sought are not legally privileged or confidential for purposes of the adjudication, then it may impose such sanctions as it deems appropriate. These sanctions may include dismissal of the adjudication or the drawing of inferences, to be stated in the record, with respect to the issues to which the evidence sought would have been relevant, adverse to the position of the University or administrative officer in the adjudication.
3. Statutory powers of subpoena are available to the hearing panel as specified in [RCW 34.05.588](#)(1).

J. Telephone, Television, or Other Electronic Participation

In the discretion of the hearing officer, and where the rights of the parties will not be prejudiced, all or part of any meeting or conference required hereunder may be conducted by telephone, television or other electronic means. Each participant in the conference or meeting must have an opportunity to participate effectively in, to hear, and if technically and economically feasible, to see the entire proceeding while it is taking place.

K. Discovery or Protective Orders by Hearing Officer

The hearing officer may at any time issue any discovery or protective orders that the Hearing Officer deems appropriate, and such orders shall be enforceable under the provisions of [Chapter 34.05 RCW](#) regarding civil enforcement of agency actions.

S-A 73, May 24, 1985; S-A 101, July 7, 2000; S-A 135, January 7, 2016; S-A 164, May 9, 2023: all with Presidential approval.

Section 28-53 Comprehensive Adjudication—Procedure at Hearing

A. Parties Entitled to Be Present

In both open and closed proceedings before a hearing officer and hearing panel the following persons are entitled to be present:

1. The parties and nonparty participants of right and their advisors and representatives, to the extent advisors and representatives are allowed under other terms of this chapter. Advisors may be present but may not speak on behalf of the parties in the proceedings unless agreed to by both parties.
2. The hearing officer, the hearing panel members and a secretary or recorder.
3. Persons serving in an advisory capacity to the panel, unless their presence is objected to for cause by either party and the panel sustains the objection.
4. Witnesses and their advisors, except that the hearing officer may upon a showing of good cause, as specified in the record of the proceeding, exclude witnesses and their advisors from the hearing room except while testifying.
5. Such other persons as specifically authorized by the hearing officer or the panel, unless their presence is objected to by either party and the objection is sustained.

B. Recording of Hearing

The hearing shall either be recorded, audio only or video, or transcribed

by a court reporter, as determined by the hearing panel. Such recording or transcription shall be made at University expense. Copies of the recording or transcript shall be made available to any party or nonparty participant of right at University expense upon request.

C. Evidence

If the facts in the case or relief requested are in dispute, testimony of witnesses and other evidence relevant to the issues and to the relief requested shall be received if offered. The hearing officer may admit and consider evidence on which reasonably prudent people are accustomed to rely in the conduct of their affairs. The hearing officer shall give effect to the rules of privilege recognized by law, shall exclude evidence that is excludable on constitutional or statutory grounds and may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence, and evidence whose probative value is substantially outweighed by the danger of undue prejudice to any party or nonparty participant. The hearing officer and the hearing panel shall refer to the Washington Rules of Evidence as non-binding guidelines for evidentiary rulings. All testimony of parties and witnesses shall be given under oath or on affirmation. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference. Official notice may be taken of any judicially recognizable facts and codes or standards that have been adopted by an agency of the United States, this state or another state or by a nationally recognized organization or association. Parties and nonparty participants shall be notified either before or during the hearing of the material so noticed and the sources thereof and shall be afforded an opportunity to contest the facts and materials so noticed (except to the extent a nonparty participant's right to do so is limited by the hearing officer or hearing panel).

D. Hearing Officer's Role to Regulate the Hearing

The hearing officer shall regulate the course of the hearing in conformity with the Prehearing Order and shall not be required to follow formal court procedure. To the extent necessary for full disclosure of all relevant facts and issues, the hearing officer shall afford to all parties and nonparty participants the opportunity to respond, present evidence and argument, conduct cross-examination and submit rebuttal evidence, except as restricted by a limited grant of nonparty participation or by the Prehearing Order.

E. Panel Members Actions at Hearing

The panel in its discretion may:

1. Direct the parties to produce information on specific issues deemed significant by the panel.
2. Proceed on its own initiative to call witnesses to testify or admit evidence on its own motion.

F. Witnesses

The parties shall have the opportunity to confront all witnesses. In the event that witnesses are unavailable or at the consent of the parties, depositions from witnesses or answers to written interrogatories may be presented or telephone depositions may be made in lieu of personal appearance at the hearing. The panel, in its discretion, may make such information part of the record. The hearing panel may take whatever other steps it deems reasonable and fair to all persons involved to deal with the unavailability of a witness.

G. Adjournment

The panel, in its discretion, may adjourn the proceedings from time to time to allow the further development of the evidence.

S-A 73, May 24, 1985; S-A 101, July 7, 2000; S-A 135, January 7, 2016: all with Presidential approval.

Section 28-54 Comprehensive Adjudication—Decision

A. Decision by Vote

Within 30 days after the conclusion of the hearing, or after the due date of all post-hearing briefs requested, if later, the panel shall make known its decision in writing. The decision shall be made by majority vote of all panel members, excluding the hearing officer, provided that in any adjudication initiated under [Section 28-32, Subsection A](#), to remove or dismiss a faculty member pursuant to Chapter 25, Section [25-51](#) or [25-63](#) of the *Faculty Code*, the decision shall be made by a vote of five members of a seven-person panel or four members of a five-person panel or two members of a three-person panel. If at the conclusion of the hearing, there is an even number of panel members remaining due to loss of one or more panel members and the remaining panel members are evenly divided as to the decision on any issue or award of relief, the hearing officer shall cast a vote, but only to the extent necessary to break the deadlock.

B. Findings

In the written decision, the panel shall set forth its findings with respect to each of the material grounds or issues raised and to the relief requested by the parties and state its conclusions regarding those issues. It shall also state specifically any action necessitated by the decision and identify the specific relief to be provided, including but not limited to suspension or dismissal, reprimand or warning, restoration or award of privileges, benefits or status, a cease and desist order, an order that a certain party receive counseling or other medical treatment, and including direction to the Provost or other appropriate party to take such steps as may be necessary to carry out the decision. The panel shall have the authority to recommend the award of compensation for economic relief to a party or nonparty participant of right where such party or nonparty participant of right has made a timely request during pleadings for such relief and has proven the right to the relief during the course of the proceedings. In addition, the panel has authority to recommend an award of reasonable attorneys' fees to a prevailing faculty member if:

1. The administration was the unsuccessful party in the case and the panel determines that the position of the administration in the case was grossly unreasonable or maintained in bad faith, or
2. The prevailing faculty member was obliged to hire legal counsel to represent him or her in a comprehensive adjudication by virtue of the administration's failure to waive representation by legal counsel as provided in [Section 28-52, Subsection G](#).

C. Copies of Written Decision

Within 24 hours of the panel's written decision being put in final form, the panel shall deliver copies of the decision to the President, Provost, all parties, and all nonparty participants. Copies shall also be filed with the Chair of the Adjudication Panel and the Secretary of the Faculty.

S-A 73, May 24, 1985; S-A 91, July 11, 1994: both with Presidential approval; RC, March 3, 2013; S-A 135, January 7, 2016; S-A 164, May 9, 2023: all with Presidential approval.

Section 28-61 Review Procedures**A. Appeals**

The Chair of the Adjudication Panel shall have discretion to allow an appeal to the President of a decision dismissing one or more claims which do not dispose of the adjudication in its entirety. The Chair shall also have discretion to allow an appeal to the President of a decision on a motion to disqualify the appointment of a panel member and/or hearing officer. In the event that a motion to disqualify the Chair of the Adjudication Panel has been denied, a party shall have the right to have this decision reviewed immediately by the President. In the event that the President is a party to the adjudication, the foregoing appeals shall be heard by the Board of Regents.

B. Review Panel

A decision of a hearing officer in a brief adjudication shall be submitted to the Brief Adjudication Review Panel ("Review Panel"), which shall be a standing committee consisting of members of the Adjudication Panel, appointed by the Chair. If the Review Panel takes no action and no party to the adjudication has filed a petition for review of the hearing officer's decision within 21 days of issuance of the decision, then the decision shall become the final decision of the University. If a party files a petition for review or the Review Panel elects to review the decision, all parties shall receive notice of such review. The Review Panel shall exercise all the decision making power that it would have had to decide and enter the decision had the Review Panel presided over the hearing, except to the extent that the issues subject to review are limited by a provision of law or by the Review Panel upon notice to all the parties. In reviewing findings of fact by the hearing officer, the Review Panel shall give due regard to the hearing officer's opportunity to observe the witnesses. The Review Panel shall afford each party an opportunity to present written argument and may afford each party an opportunity to present oral argument. The Review Panel shall complete its review within 20 days of the decision to review and shall enter a final order or remand the matter for further proceedings, with instructions to the hearing officer who entered the initial decision. The order shall include a description of any judicial or other review that may be available. Upon remanding a matter, the Review Panel shall order such temporary relief as is authorized and appropriate.

If no party to the adjudication has filed a petition for review of the Review Panel's final order within 21 days of the mailing of the order to the parties, the order shall become the final decision of the University. Only a final order of the Review Panel that reverses or amends the decision of the hearing officer may be appealed. Any such appeal shall proceed under the procedures of [Subsection C](#) of this section below.

C. Presidential Review

Subject to the provisions of [Subsection A](#) of this section above any dismissal for untimeliness or failure to state a proper basis for an adjudication or order of a hearing panel in a comprehensive adjudication, other than cases where the President is a party in the case, shall become a final decision of the University unless either party files an appeal to the President within 21 days of the date of mailing of the decision to the parties, or unless the President elects to review the decision by giving written notice of intent to review to the parties within 21 days of the date of delivery of the decision to the President. The presidential review shall include consideration of the written record. The President may request the parties to submit additional written arguments on particular issues and may request oral argument from the parties. To the extent that parties are asked to provide written documents, nonparty participants of right shall also have the opportunity to provide written documents and, at the discretion of the President, nonparty participants of right may be allowed to give oral arguments. No new evidence shall be considered by the President.

Within 60 days of commencement of the review, unless in the President's discretion more time is necessary to consider additional arguments, the President shall make one of the following determinations:

1. Affirm the panel's decision; or
2. Remand for further proceedings.

Any decision of the President to remand must be based on findings of the President that the decision of the panel was arbitrary or capricious; the procedures followed by the Adjudication Panel Chair or the hearing panel or any other person involved with the adjudication procedures in reaching the decisions were materially and prejudicially unfair or not in accordance with the law or University rules or regulations; and/or the Presidential review has revealed the importance of evidence which the panel did not adequately consider.

The panel then has 30 days to reconsider its decision and the reasons given by the President for remand, and to report back to the President its

decision on remand. The President shall then affirm, reverse, or amend the panel's decision on remand. Any decision of the President to reverse or amend must be based on findings that the panel's decision was:

1. Not supported by a preponderance of the evidence in the record, or
2. Was arbitrary or capricious, or
3. The procedures followed were materially and prejudicially unfair or in violation of law or University rules.

A decision by the President to affirm, reverse, or amend the decision of the panel is a final decision of the University.

D. Board of Regents' Review

Any order of a hearing panel in a case where the President is a party in the case shall become a final decision of the University unless either party files an appeal to the Board of Regents within 21 days of the date of mailing of the decision to the parties or unless the Board of Regents elects to review the decision by giving written notice of intent to review to the parties within 21 days of the date of delivery of the decision to the Board of Regents. The Board of Regents review shall include consideration of the written record. The Board of Regents may request the parties to submit additional written arguments on particular issues and may request oral argument from the parties. To the extent that parties are asked to provide written documents, nonparty participants of right shall also have the opportunity to provide written documents and, at the discretion of the President, nonparty participants of right may be allowed to present oral arguments. No new evidence shall be considered by the Board of Regents.

Within 60 days of commencement of the review, unless in the Board's discretion more time is necessary to consider additional arguments, the Board shall make one of the following determinations:

1. Affirm the panel's decision;
2. Reverse or amend the panel's decision; or
3. Remand for further proceedings.

Any decision of the Board of Regents to reverse, amend, or remand must be based on findings of the Board that the decision of the panel was arbitrary or capricious; the procedures followed by the panel in reaching its decision were materially and prejudicially unfair or not in accordance with the law of University rules or regulations; and/or the Board of Regents' review has revealed the importance of evidence which the panel did not adequately consider. Any decision to reverse or amend without remand for further proceedings must include a finding that, and explanation as to why, further proceedings are not advisable. A decision by the Board to affirm, reverse or amend the decision of the panel, is a final decision of the University.

E. Remanding a Decision

If upon review a decision is remanded to the panel for further proceedings, the panel shall have 30 days within which to hold such further proceedings as are necessary to comply with the directions from the President (or the Board of Regents) and to respond to the President's (or Board of Regents') action with the results of its reconsideration of the case. Upon receipt of the panel's reconsidered decision, the President or Board of Regents shall have 30 days to make a final determination of the case. In the event that the President or Board of Regents decides to reverse or amend the reconsidered decision of the panel, the final decision shall state the basis of such decision, including specific findings as to why the decision of the panel was arbitrary or capricious, or why the procedures followed by the panel in reaching its decision were materially and prejudicially unfair or not in accordance with the law or University rules or regulations.

F. Copies

Copies of all decisions, opinions, conclusions, instructions, and other written communications issued in the review process shall be sent to the Provost, all parties, nonparty participants, the Secretary of the Faculty, and the Chair of the Adjudication Panel as soon as the decision becomes final.

G. Petition for Reconsideration or Clarification

Any party may file a petition for reconsideration or clarification within ten days after the mailing of the following: a final decision of the President under [Subsection C](#) of this section, or a final decision of the Board under [Subsection D](#) of this section. Such petition shall be filed with the person or persons issuing the order or decision and the Secretary of the Faculty and shall be served on all parties. The filing of such petition suspends the time limitations for filing for further administrative review or for judicial review, if available. Such petition shall set forth the grounds upon which relief is requested. The petition shall be disposed of by the same person or persons issuing the order or decision, if reasonably available. The disposition shall be in the form of a written order denying the petition, granting the petition and dissolving or modifying the order or decision, or granting the petition and setting the matter for further hearing. The petition is deemed denied if within 20 days from the date the petition is filed the person or persons issuing the order or decision have not disposed of the petition or served the parties with notice specifying a date of disposition of the petition, and the Secretary of the Faculty has confirmed that the person or persons issuing the order or decision do not intend to act on the petition.

S-A 73, May 24, 1985; S-A 101, July 7, 2000: both with Presidential approval; RC, March 3, 2013; S-A 135, January 7, 2016; S-A 164, May 9, 2023: all with Presidential approval.

Section 28-71 Time Deadlines

Unless otherwise specified in this chapter, requests for extensions of timelines shall be made to and decided by the Secretary of the Faculty. If a hearing officer, a hearing panel, the Chair of the Adjudication Panel, the Secretary of the Faculty or any reviewing body shall fail to meet any of the deadlines set in this chapter, such failure shall not affect the validity of the procedure, or any decision resulting from an adjudication held pursuant to this chapter, unless the delay was unreasonable and unduly prejudicial to the interests of any party or nonparty participant of right.

S-A 73, May 24, 1985; S-A 91, July 11, 1994; S-A 135, January 7, 2016: all with Presidential approval.

Section 28-81 Availability of the Record

At the conclusion of the proceedings, the record of the hearing shall be maintained by the Secretary of the Faculty in accordance with the UW's Records Retention Schedule and shall be available for review to persons or organizations not party to the proceedings but having an interest therein, not inconsistent with the tenets of academic freedom and privacy rights of the parties or persons involved, subject to the written approval of both the President and the faculty member or members involved in the proceeding. Copies of any portion of the record previously transcribed shall be made available at actual duplication cost in accordance with these same provisions.

S-A 73, May 24, 1985; S-A 135, January 7, 2016: both with Presidential approval.

Section 28-82 Confidentiality and Immunity**A. Confidentiality**

The deliberations of a hearing panel shall be confidential, as shall deliberations of members of a special committee appointed under [Section 28-35, Subsection D](#), those of members of a Brief Adjudication Panel, and those of members of a Brief Adjudication Review Panel.

B. Immunity

Neither the Chair or Vice Chair of the Adjudication Panel, hearing officers,

members of a hearing panel, and members of other panels described in the prior section, nor the Secretary of the Faculty, shall be subject to a petition alleging wrongdoing under this chapter based on actions or inactions carried out pursuant to the duties prescribed for any of the above roles by this chapter.

S-A 135, January 7, 2016; S-A 164, May 9, 2023: both with Presidential approval.

Section 28-91 Implementation

Upon completion of the adjudicative proceedings, the President shall instruct the parties to do whatever is necessary to implement the decision and shall take all action necessary to insure that relief awarded is realized in fact. Copies of these communications shall be sent to all parties, nonparty participants, the hearing officer and hearing panel, and the Secretary of the Faculty.

S-A 73, May 24, 1985 with Presidential approval.

Section 28-101 Report of the Adjudication Panel

The Chair of the Adjudication Panel shall annually report to the faculty in September the number of brief and comprehensive adjudicative proceedings commenced or concluded during the prior academic year and the action that ensued. Names of the grievant or accused shall not be published.

S-A 73, May 24, 1985; S-A 135, January 7, 2016: both with Presidential approval.