

## Faculty Senate Bylaws Appendix 3 – revised December 2007

### Procedures for Reviewing Faculty Grievances

#### I. Authority

These procedures are enacted pursuant to the NSHE Code, Chapter 5, Subsection 5.7.1.

#### II. Scope of Grievance Procedures

A grievance hereunder must allege an act or omission by the administration of UNLV resulting in an adverse impact on the employment conditions of the faculty member filing the grievance relating to promotion, appointment with tenure or other aspects of contractual status, and/or must allege violation(s) of the NSHE Board of Regents Handbook, UNLV Bylaws, or any institutional bylaw, regulation or policy adopted thereunder.

Acts or omissions which involve the nonreappointment to or termination of employment of faculty as provided in Subsections 5.4.2, 5.8.2, and 5.9.1-4 of the NSHE Code, or the furlough or lay off of faculty for financial exigency or curricular reasons, or sexual harassment or unlawful discrimination shall not be subject to review by grievance.

No grievance shall be reviewed until all administrative remedies and appeals to the supervising UNLV Athletic Director, Vice President, Senior Vice President, or Executive Vice President regarding the matter have been exhausted.

#### III. Scope of Committee Responsibilities

The Grievance Committee shall review any grievance, as defined herein, timely and completely submitted in writing to the office of the Faculty Senate by any academic or administrative faculty member employed by UNLV at the time of such submission. Matters submitted by students shall not be reviewed. Review by the Committee shall be informal in nature and its findings and decisions shall be advisory to the President of UNLV. The committee's objective in this regard shall be to investigate and then determine whether the substance of, as well as the procedures followed regarding, the act or omission grieved were fair, appropriate and equitable.

The Grievance Committee shall also periodically review policy regarding academic and administrative faculty grievances and recommend revisions in policy where desirable.

#### IV. Committee Review of Grievances

a) A grievance must be filed within fifteen calendar days (not including any days the University was not in session between spring and fall semesters) from the date the faculty member becomes aware of the grievable act, omission or violation and has exhausted all administrative remedies. For example, when the processing or outcome of a petition for reconsideration, as described in NSHE Code Subsection 5.2.4, is the subject matter of a

grievance, such grievance may be filed only after formal notification of the decision to the faculty member by the President. In such case, the grievance shall be filed no more than fifteen calendar days after of receipt of such decision.

b) The person filing the grievance shall be known as the grievant, and the person who made the alleged decision or omission shall be known as the respondent. In the case of grievances related to tenure, promotion, merit, or other salary increase or contractual status, the respondent shall be the department chair, supervisor or dean or their designee, who rendered the initial, aggrieved decision or omission.

c) The burden rests with the grievant to prove that all allegations of fact are more likely than not true by submission of credible evidence.

d) The completed grievance petition and any response thereto, must be filed with all evidence in support thereof and in accordance with filing instructions issued from time to time by the Faculty Senate.

e) No grievance shall be considered properly filed unless it contains the following items, or a separate statement as to each explaining why such item has not been filed, on a fully completed grievance form, as shall be available from the Senate Office: (1) a statement of the decision or omission being grieved; (2) the identity, by name and university title, of the respondent; (3) the name and university title of the UNLV faculty member who will serve as the advocate for the grievant (hereinafter "advocate"), if the grievant so elects; and (5) all evidence, including any documents and sworn or unsworn witness statements, supporting the grievance.

f) Upon proper filing of a grievance, the Faculty Senate Office shall notify the respondent of the grievance by delivering a copy of the grievance form and all evidence submitted in person and/or by U.S. First Class Mail. The respondent shall have fifteen calendar days from hand delivery or eighteen calendar days from the date of mailing (not including any days the University was not in session between spring and fall semesters) to file a response with the Faculty Senate Office. Failure to timely respond shall be deemed consent by the respondent to the grievance, and the Hearing Committee shall recommend in favor of the grievant, noting that the recommendation was based on failure of the respondent to contest the grievance, and making no other findings or conclusions.

g) No amendments to the grievance or any response thereto, nor additional evidence by grievant or respondent, may be submitted without the written approval of Grievance Hearing Committee upon written notice of the proposed amendment or supplement to the file to the opposite party.

## V. Membership and Role of the Grievance Committee and Grievance Hearing Committees

a) Members of the Grievance Committee shall be selected from academic and administrative faculty.

b) Two representatives of the University administration and two alternates shall serve on the Grievance Committee for terms of one academic year each. Such representatives shall be designated by the University President. Additional alternate administrative representatives may be so designated in the event an administrative representative is unable to serve, or has served on more than four grievances in an academic year. Administrative representative(s) may not serve on grievances originating in a college in which they hold tenure, or originating in a unit over which they have supervisory responsibilities.

c) Grievance Hearing Committee members for any grievance from academic faculty must be tenured and must hold the rank of associate professor or professor.

d) Grievance Hearing Committee members for grievances from administrative faculty shall be selected from a pool of eighteen individuals elected by the Administrative Faculty Unit. Only administrative faculty may serve on grievances filed by such administrative faculty.

e) Each properly filed grievance shall be heard by an *ad hoc* Grievance Hearing Committee. Each such committee shall consist of: (1) four members, including a Grievance Hearing Committee Chair, all selected from the Grievance Committee by the Faculty Senate Executive Committee, with the concurrence of the Executive Vice President and Provost; and (2) a representative of the University administration selected from the Grievance Committee by the Executive Vice President and Provost with the concurrence of the Faculty Senate Executive Committee. The presence of a representative of the University administration shall not be required to constitute a numerical quorum of any Grievance Hearing Committee on which such representative serves.

f) No member of the Grievance Hearing Committee shall be employed in the same college or unit as the grievant or respondent and no member of a Grievance Hearing Committee may serve by proxy.

g) In the case of conflict of interest, Grievance Hearing Committee members shall recuse themselves, or may be recused by either the Faculty Senate Executive Committee or the Executive Vice President and Provost, in either case with the concurrence of the other, and a replacement designated by the usual procedure from the members of the Grievance Committee.

h) No Grievance Committee member shall serve on a Grievance Hearing Committee involving a grievant or respondent previously involved in a grievance that such member has already reviewed as a member of a prior Grievance Hearing Committee.

i) Based on its review of the file, the Grievance Hearing Committee shall make an initial determination by majority vote of those present as to whether good cause appears for the grievance, and if so, whether a hearing is required for the Grievance Hearing Committee to make a recommendation regarding the merits of the grievance.

j) Should a grievant designate an advocate, only such advocate shall present evidence at hearing on a grievance. Questions from members of the Grievance Hearing Committee directed to the grievant shall be answered by the grievant, and not the advocate.

k) In the event of a hearing, both sides shall be given an equivalent opportunity to present evidence and be heard. No electronic recording of the hearing shall be permitted and no stenographic or other official transcript of the proceedings shall be produced.

## VI. Evidence

a) In addition to evidence submitted by the grievant or respondent, the grievance file shall contain, from official University sources, all documents relevant to the grieved decision or omission, specifically including all information available to any group who made recommendation(s) to the respondent and any relevant annual evaluations or other personnel documents, including applications for tenure, promotion or merit by the grievant or others and any other documentation bearing on criteria used to take the action or omission being grieved.

b) In its discretion, the Grievance Hearing Committee may or may not obtain live or written statements from such witnesses as may be suggested by the parties or from any other witnesses it determines may have relevant evidence to provide. A Grievance Hearing Committee may draw any factual inference it deems appropriate should the University fail to timely provide such materials pursuant to its reasonable request to do so.

## VII. Interlocutory Actions and Reports by Grievance Hearing Committees

a) Interlocutory actions and decisions of a Grievance Hearing Committee shall be taken by majority vote of its members present at its scheduled meetings.

b) A Final Report shall be made regarding each grievance by the Grievance Hearing Committee reviewing it. Such Final Reports shall consist of an introduction stating the jurisdictional and material facts of the matter, a recitation of the procedures followed, findings of fact, a statement of conclusions reached regarding the ultimate questions(s) reviewed, and recommendation(s). The Final Report shall be signed by all members of the Grievance Hearing Committee, but may contain a minority report as to any or all of the required elements of the Final Report.

c). Grievance Hearing Committees shall review and process grievances in a timely fashion, consistent with a thorough investigation and consideration of each matter. Grievance Hearing Committees shall submit their Final Reports to the Faculty Senate Office, which shall distribute copies to all parties and forward the report to the President, with a copy to the Executive Vice President and Provost or other officer of the University responsible for the unit from which the grievance originated.

d) Final decisions involving denial of appointment with tenure; salary increases; equity; merit; tenure; promotion; or reappointment, must be acted upon by the President

before the close of the period of contractual obligation in which the applications for such were made. In the sole discretion of the University President, a grievance may be granted or denied in whole, or in part, and/other remedial or related action may be taken.

#### VIII. Confidentiality

a) Consistent with the necessity of the committee to investigate the case fully, confidentiality of the contents of the grievance files shall be maintained to the extent required by law, including the NSHE Code, and by NSHE and UNLV policies, practices and procedures.

b) The grievance file, including all supporting evidence shall be secured in the Senate Office and no copies of file contents shall be made.

c) Access to the grievance file shall be limited to the Grievance Hearing Committee and counsel to the Faculty Senate, all in their official capacities, as well as the grievant and/or advocate and the respondent in each matter, solely for purposes relating to review of the grievance. Each person viewing a grievance file shall agree in writing to preserve the confidentiality of its contents.