

## **13. GRIEVANCES**

### **13.1 Purpose**

The purpose of a formal grievance procedure is to provide for full mediation in a fair and timely manner. When such a dispute arises, it is important that the parties work in good faith to resolve the situation informally, and as quickly as possible. The aggrieved faculty member attempts to meet with the person whose action is the focus of the dispute in order to discuss and resolve the situation. If resolution is not achieved, the faculty member attempts to meet with the dean and discuss paths to resolution. If, after making these attempts at informal resolution, the faculty member is not satisfied, the faculty member may proceed formally within the formal grievance procedure. If the dispute involves the dean, the faculty member meets with the Vice President for Academic Affairs to seek information and a resolution.

### **13.2 Grievance Petition**

A faculty member who believes that he/she is aggrieved in a matter (including but not restricted to promotion, tenure, non-reappointment, salary, and benefits) and who has exhausted other internal informal remedies, submits a written grievance petition to the dean within 30 working days following notice of the institutional action giving rise to the grievance. Such grievances are restricted to assertions that actions have not been executed in accordance with HCHC policy and procedures. The dean convenes the Faculty Grievance Committee within 15 working days after receipt of the grievance petition.

If the grievance is against the dean, the Vice President for Academic Affairs proceeds with the process. If the grievance is against the Vice President for Academic Affairs, the President proceeds with the process. If the grievance is against the President, the Vice Chair of the Board of Trustees proceeds with the process.

The faculty member is responsible for stating the exact grounds upon which the allegations are based, and the burden of proof rests with the faculty member. The grievance petition sets forth the precise grounds upon which the allegation is based, against whom the grievance is filed, and the remedy sought.

### **13.3 Timeliness**

It is important that grievances be processed as rapidly as possible. The number of working days indicated in the procedures are considered a maximum, and every effort is made to expedite the process. However, the time limits specified may be extended by mutual agreement for compelling reasons (e.g., involuntary delay such as illness or unavoidable life events) with written agreement of the faculty member and the Vice President for Academic Affairs.

### **13.4 Faculty Grievance Committee**

The Faculty Grievance Committee is a committee of three members selected in the following manner: one member is selected by the Board of Trustees from among its members and preferably a member with legal expertise (in cases of promotion and tenure, this board member must refrain from discussing and voting in the case if and when the case come for a vote before the Board of Trustees); and two members are academic scholars holding tenure at an institution other than HCHC and are selected by the President. The Faculty Grievance Committee chair is elected by and from among the committee members.

Members of the Faculty Grievance Committee are appointed for a two-year, non-renewable, term. All proceedings involving the Faculty Grievance Committee are kept confidential to the extent permitted by law. Proceedings are closed to the press and public. No outside counsel (for the faculty member or any other party to the grievance) may be present in any grievance meetings.

### **13.5 Investigation**

The Faculty Grievance Committee is neutral and impartial as it attempts to mediate the dispute. Initially, the Committee may suggest ways to resolve the dispute, but makes no formal findings with respect to the grievance other than to determine whether the grievance falls within the definition of a grievance and/or whether it is insubstantial or frivolous.

- 13.5.1 After an initial meeting with the faculty member, the Faculty Grievance Committee may at any point, by majority vote, determine whether the grievance meets the threshold for consideration: that it is neither insubstantial nor frivolous and falls within the definition of a grievance.
- 13.5.2 If the Faculty Grievance Committee rules that the entire grievance does not meet this threshold, it informs the faculty member, other relevant parties, and the dean that the grievance case is dismissed.
- 13.5.3 If the grievance is judged to fall under the definition of grievance, the Faculty Grievance Committee investigates the violation claims made by the faculty member and decides whether or not the allegations merit a detailed investigation.
- 13.5.4 Where appropriate, the Faculty Grievance Committee may conduct interviews to determine facts under such procedures as it may adopt.

- 13.5.5 Regardless of the recommendation regarding the grievance, if the Faculty Grievance Committee believes that the grievance has revealed needed improvements in policies, practices, or procedures, it recommends such changes to the Vice President for Academic Affairs.
- 13.5.6 The faculty member may withdraw the grievance at any time during the process and do so in writing to the Chair of the Faculty Grievance Committee.
- 13.5.7 If, during the grievance process, the faculty member's employment with HCHC terminates for any reason, the grievance is discontinued, except if the grievance involves a contract non-renewal. For grievances related to contract non-renewal grievances, the faculty may request, in writing to the Chair of the Faculty Grievance Committee, that the grievance be continued.

### **13.6 Determination**

The Faculty Grievance Committee determines whether the decision of the appropriate faculty body or administrative officer was the result of adequate consideration, in terms of relevant standards of the institution, with the understanding that the Committee may not substitute its judgment on the merits for that of the faculty body or administrative officer.

### **13.7 Resulting Actions**

- 13.7.1 After its deliberation, the Faculty Grievance Committee either: a) sends a written request for reconsideration by the faculty body or administrative officer when the Committee believes that adequate consideration was not given to the faculty member's qualifications or claims. In such instances, the Committee indicates the respects in which it believes the consideration may have been inadequate; or b) issues a written dismissal of the grievance case.
- 13.7.2 The Faculty Grievance Committee provides copies of its decision to the faculty member, the relevant faculty body or administrative officer, and the President. Committee reports are filed within 30 working days of the grievance's receipt. If requested, the relevant faculty body or administrative officer reconsiders the case expeditiously. Grievance initiation procedures or any decisions of the Committee do not, in themselves, modify the effective date of termination in promotion and non-reappointment cases.

- 13.7.3 If the faculty member is not satisfied with the disposition of the grievance, the faculty member may submit a written appeal, in writing, to the President. If the faculty member does not file a request for appeal within 30 working days after receipt of the Faculty Grievance Committee's decision, the grievance is closed. The President's decision for resolution of the grievance is final.

### **13.8 Promotion and Tenure Grievances**

For grievances involving cases of promotion and tenure, the following specific regulations apply.

- 13.8.1 After receiving a copy of the recommendations of the Promotion and Tenure Committee and of the dean regarding a promotion and/or tenure, a faculty member has seven working days in which to appeal the recommendations to the Faculty Grievance Committee or dean.
- 13.8.2 In cases of grievance regarding promotion and tenure, the Faculty Grievance Committee, to the extent it deems necessary, may interview persons who have participated in the promotion and tenure process.
- 13.8.3 If the Faculty Grievance Committee determines that the proper procedures for promotion and tenure were not followed, it requires the application to be reconsidered using the proper procedures. No other remedy may be granted.
- 13.8.4 Documents developed in promotion and tenure proceedings are confidential and are not to be made available to the faculty member.
- 13.8.5 The Faculty Grievance Committee issues a report within 30 working days of receipt of the grievance. Copies of this report are issued (by regular and certified mail, or delivered by hand) to the faculty member who initiated the grievance, the chair of the Promotion and Tenure Committee, dean, and Vice President for Academic Affairs.
- 13.8.6 Upon receipt of the Faculty Grievance Committee's report, the dean reviews and responds in writing. Within seven working days, the dean submits the following documentation to the Vice President for Academic Affairs and the President:
- A. Promotion and Tenure Committee's recommendation regarding the promotion/tenure case
  - B. Dean's recommendation

- C. Faculty member's letter of appeal/grievance
- D. Faculty Grievance Committee's report
- E. Dean's response to the Faculty Grievance Committee's report

13.8.7 The President, after reviewing these documents, makes a final decision regarding promotion. The President makes a recommendation regarding tenure to the Board of Trustees. The decision of the Board is final. A copy of the resolution is filed in the faculty member's personnel file.