

1 Part IV
2 DISCIPLINARY ACTIONS AND
3 GRIEVANCES
4 Chapter 1. Disciplinary Actions 126
5 Chapter 2. Faculty Grievances 132

[revised 12/08/03]

6
7 *Chapter 2*
8 Faculty Grievances

9 A faculty member who believes that the University, acting through any
10 representative, has breached an obligation owed to him or her may file a grievance.

11 A grievance alleging that the University breached an obligation owed to the
12 faculty member in regard to a decision on his or her reappointment, tenure, or
13 promotion shall be filed using the process set forth in Section A, below.

14 A grievance alleging that the University breached an obligation owed to the
15 faculty member, in situations other than those arising out of a decision on reappointment,
16 tenure or promotion, shall be filed with the Senate Committee on Professional Ethics and
17 Academic Freedom (hereafter referred to as "PEAF") utilizing procedures set forth in
18 Section B below. In the School of Medicine, in situations other than those arising out of a
19 decision on reappointment, tenure or promotion, a faculty member may, as an alternative,
20 file a grievance with the Faculty Advisory Council.

21 In addition to, and not exclusive of, the grievance procedures below, faculty
22 members may direct complaints of unlawful discrimination to the Vanderbilt
23 Opportunity Development Center. Use of the grievance procedures is not
24 mutually exclusive with the filing of a civil action, although faculty members
25 are encouraged to attempt to resolve grievances internally whenever possible.

26
27 *Section A*
28 GRIEVANCES ARISING FROM REAPPOINTMENT,
29 TENURE, AND PROMOTION DECISIONS

30 The Reappointment, Tenure, and Promotion Grievance Process is available
31 to a faculty member who believes that a decision on his or her reappointment,
32 tenure or promotion raises (a) issues of professional ethics and academic freedom;
33 (b) allegations of a failure by the University or those acting for it to follow
34 stated or reasonable procedures; (c) complaints of a civil rights nature,
35 including those of race or sex discrimination; or (d) allegations of the University's
36 failure to adhere to express or implied terms of the faculty member's
37 contract, including relevant portions of the *Faculty Manual*. All such grievances must be
38 filed in writing with the Chair of PEAFF within 60 days of the written notification of the
39 faculty member that the full review process for reappointment, tenure or promotion has
40 been completed. The grievance must identify the person or persons against whom the
41 grievance will be directed and must include a summary of the basis of the grievance.

42 The Reappointment, Tenure, and Promotion Grievance Process utilizes *ad*
43 *hoc* committees appointed to handle individual grievances.

44 The Chair of PEAFF acts as the initial contact in a reappointment, tenure or
45 promotion grievance. Prior to filing a grievance, a potential grievant shall consult
46 informally with the Chair of PEAFF concerning the Reappointment, Tenure, and

47 Promotion Grievance Process and possible alternative approaches to the resolution of the
48 matter giving rise to the grievance. Some disputes may be resolved satisfactorily at this
49 informal consultation stage. The informal consultation process, however, does not relieve
50 a potential grievant from the time requirements for filing a grievance set forth above.

51
52 If the dispute cannot be resolved in this informal way, the grievant will file a grievance
53 with the Chair of PEAFF, and PEAFF will initially review the grievance to determine
54 whether it was filed in a timely manner and, when viewed in a favorable light, whether it
55 states one or more of the enumerated grounds as listed above that may be considered
56 through the Reappointment, Tenure, and Promotion Grievance Process. A grievance
57 failing to meet either of these tests will be dismissed. If PEAFF dismisses a grievance on
58 procedural grounds, the Chair of PEAFF will inform the parties in writing of the grounds
59 for dismissal. If PEAFF accepts that the grievance meets the criteria, the Chair of PEAFF
60 will communicate that determination to the Chair of the Faculty Senate as expeditiously
61 as possible, normally within 30 days.

62
63 When a grievance is transmitted from PEAFF to the Chair of the Faculty Senate, the Chair,
64 in consultation with (and with the concurrence of) the Provost or the Vice Chancellor for
65 Health Affairs (depending on the school of the grievant) will name five members of the
66 faculty to serve as an ad hoc Grievance Committee for that grievance. One of the five
67 members will be selected through the same process to serve as chair of the Grievance
68 Committee. The ad hoc chair, who must be tenured and hold the rank of Professor, is the
69 point of contact for the grievance until its conclusion. Faculty members appointed to the
70 ad hoc committee must be tenured and hold a higher rank than that of the grievant (or the
71 same rank, if the grievant has the rank of Professor). All committee members must have
72 been tenured faculty members for at least four years, at least two of which were at
73 Vanderbilt. Individuals who have had prior involvement in the case (for example, as a
74 member of the candidate's department or as a member of a school promotion review
75 committee) or who otherwise have a conflict of interest will not be appointed. Members
76 selected for the ad hoc committee should sign a statement indicating that they can serve
77 impartially and are aware of no conflict of interest with respect to that grievance. The
78 signed statements are submitted to the Chair of the Faculty Senate and, together with all
79 other collected documentation, shall be kept on file in the Faculty Senate office.

80
81 The Chair of the Faculty Senate forwards the grievance to the newly appointed ad hoc
82 chair. The ad hoc chair will transmit copies of the grievance to the person or persons
83 against whom the grievance is directed.

84
85 133

86
87 Upon receiving the transmitted grievance, the Chair of the Faculty Senate will initiate the
88 process outlined above for forming an ad hoc Grievance Committee appropriate to the
89 grievance. In addition, the Chair of the Faculty Senate will inform the person or persons
90 against whom the grievance is filed that a response is to be submitted to the ad hoc
91 grievance committee chair as soon as is reasonably practical, but not later than 90 days
92 after the response is requested. After the committee has been selected, the chair of the ad

93 hoc Reappointment, Tenure, and Promotion Grievance Process will notify the grievant
94 and those charged (the “parties”) of its membership. If any of the parties is concerned
95 about the impartiality or conflict of interest of one or more members, this concern may be
96 brought to the attention of the Chair of the Faculty Senate in writing. The Chair of the
97 Faculty Senate, in consultation with, and with the concurrence of, the Provost or the Vice
98 Chancellor for Health Affairs, will determine whether any member should be replaced.
99

100 The ad hoc committee will invite the parties to meet separately with it for the purpose of
101 clarifying or adding to the written statements or to respond to questions. Attorneys may
102 not appear with or on behalf of the grievant, witnesses, or the University in proceedings
103 before the ad hoc committee. It is assumed that either party may rely on legal counsel in
104 the preparation of any documents or the collection of any evidence to be presented to the
105 committee. The committee shall have full access to the grievant's reappointment, tenure,
106 or promotion file. It may, in confidence, seek information from other persons or request
107 other documents. It will not routinely be provided with access to the personnel files of
108 other faculty members. If the committee believes that access to such files would be likely
109 to aid materially in the resolution of the grievance, it may request access to specific files
110 from the Provost or the Vice Chancellor for Health Affairs. The designated files will be
111 provided unless the Provost or the Vice Chancellor for Health Affairs determines that the
112 information in the files is too sensitive. In this circumstance, the ad hoc chair will
113 ordinarily be given the requested files in order to prepare a confidential summary of any
114 relevant material for the ad hoc committee.

115 134

116 135

117 If the Provost or Vice Chancellor for Health Affairs decides not to provide the requested
118 files to the ad hoc chair, the reasons for the decision must be communicated in writing to
119 the ad hoc chair and to the Chair of the Faculty Senate. If the Provost or the Vice
120 Chancellor for Health Affairs is charged in the grievance, the Chancellor shall designate a
121 substitute to determine whether to make the files available.
122

123 The ad hoc Grievance Committee will maintain a record of its proceedings, including
124 written summaries of relevant information and testimony. Prior to writing its report, the
125 ad hoc Grievance Committee will submit to the parties a list of all individuals who
126 provided testimony or other information to the committee. The parties to the grievance
127 may submit written comments on this list within seven days. The committee will then
128 write preliminary findings of fact and submit them to the parties, who will be given
129 fourteen days in which to submit written responses. After considering the responses, the
130 committee may continue its review or render a final report. The final report to be
131 submitted to the Chancellor will include (1) a statement of the findings of fact, (2)
132 conclusions as to how those findings of fact relate to one or more of the grievance
133 criteria, and (3) recommendations. (See Section C on procedures following submission of
134 a grievance committee's final report to the Chancellor). A record of all proceedings shall
135 be kept on file in the Faculty Senate office.
136

137 *Section B*

138 GRIEVANCES OTHER THAN THOSE ARISING FROM

139 REAPPOINTMENT, TENURE, AND PROMOTION
140 DECISIONS

141 The grievance process through PEAFF is available to a faculty member who believes that
142 the University has breached an obligation owed to the faculty member, including
143 but not limited to an obligation to adhere to: (a) express or implied terms of a
144 faculty member's contract, including relevant portions of the *Faculty Manual*;
145 (b) commonly accepted norms of professional responsibility and academic
146 freedom; (c) stated or commonly understood standards of fair and reasonable
147 procedures; and (d) legal obligations with respect to nondiscriminatory treatment
148 on the basis of race, sex, or other prohibited factors. A faculty member may not be
149 finally dismissed for cause prior to the disposition of any grievance arising from the
150 dismissal. Potential grievants are encouraged to consult informally with the Chair of
151 PEAFF concerning common understandings about the University's obligations, standards
152 of review applied by the Committee in prior grievance cases, and possible alternative
153 approaches to the resolution of the dispute. Some disputes may be resolved satisfactorily
154 at this stage by informal mediation.

155
156 If a faculty member chooses to file a formal grievance, the grievance must be transmitted
157 in writing to the Chair of PEAFF within sixty days after the grievant becomes aware of the
158 action forming the basis of the grievance. At the time a grievance is filed, the grievant
159 must transmit a copy of the grievance and all supporting documents to the University
160 representative whose actions form the basis of the complaint. Copies of any supplemental
161 statements later filed by the grievant to further explain the complaint also must be
162 transmitted by the grievant, at the time of filing, to the University representative whose
163 actions form the basis of the complaint. On receipt of a grievance, PEAFF will convene to
164 determine whether the grievance presents a good faith, nonspurious claim of breach of
165 obligation by the University. In reaching its determination, PEAFF may rely on the written
166 request of the faculty member and the supporting documents, or may decide to hold a
167 preliminary hearing to explore the matter further.

168
169 PEAFF will apply the following standard in making an initial determination about whether
170 the grievant has presented a good faith, nonspurious claim. PEAFF must determine at the
171 threshold, first, whether allegations in the grievance taken in their most favorable light, if
172 true, would constitute a breach of an obligation owed to a faculty member as described on
173 pages 132 [lines 32-37] and 135 [lines 143-148] of the *Faculty Manual*. If the answer to
174 that question is yes, then the Committee must next determine, from the evidence
175 presented, whether the grievant has a reasonable prospect of being able to prove the
176 allegations made in the grievance. If the answer to both questions is yes, the Committee
177 will establish a process for a further investigation of the grievance. The faculty member
178 presenting a grievance shall have a written reply from PEAFF within a reasonably prompt
179 time, in which the plan of action of the Committee shall be outlined.

180
181 PEAFF shall review the case to assure that the University's actions were procedurally and
182 substantively sound. The University representative whose actions form the basis of the
183 complaint will be asked to respond to the grievance in writing, briefly explaining his or
184 her position on each major element of the complaint. In addition, the University

185 representative will be asked to supply in a timely manner any supporting documents not
186 previously filed by the grievant. Each party to the grievance will be asked to indicate
187 whether he or she wishes to appear before PEAFF to add to or explain the written
188 record in the case. If such an appearance is requested, it will be scheduled at an
189 appropriate point in the Committee's inquiry. In addition, PEAFF may on its own initiative
190 request that either party appear to answer questions and may request the presence of
191 witnesses. Attorneys may not appear with or on behalf of the grievant, witnesses, or the
192 University in proceedings PEAFF. It is assumed that either party may rely on

193 136

194 137

195 legal counsel in the preparation of any documents or the collection of any evidence
196 to be presented to the Committee. If a grievant feels that any member of PEAFF will not
197 view the grievance with sufficient impartiality, the grievant may file with the Committee
198 a written request that said member recuse himself or herself from the hearing and
199 disposition of that grievance. In the event that a member of PEAFF feels that his or her
200 objectivity and impartiality with respect to a particular grievance is subject to question,
201 that member shall recuse himself or herself from the hearing and disposition of that
202 grievance. If two or more members of the Committee recuse themselves with respect to a
203 particular grievance, the Chair of the Faculty Senate shall appoint ad hoc members in
204 their places with respect to that grievance.

205 *Section C*

206 FINAL REPORTS

207 A grievance committee, whether the Senate Committee on Professional
208 Ethics and Academic Freedom or one appointed through the Reappointment,
209 Tenure, and Promotion Grievance Process, shall submit the final report of its
210 decision to the Chancellor. The report will be in writing, and shall include findings
211 of fact, conclusions, and recommendations. A copy of this report shall be
212 made available to the grievant and to the University representative(s) whose
213 actions formed the basis of the complaint. The Chancellor will communicate in writing
214 to the committee within the thirty days as to his/her concurrence with the report. If the
215 Chancellor elects not to concur in the report, the Chancellor and the grievance committee
216 shall meet in an effort to reach agreement. This meeting shall occur within 90 days of the
217 committee's submission of its final report and recommendations. If a resolution is not
218 reached during that meeting, the Chancellor shall explain in writing the reasons for
219 her/his non-concurrence and submit a response to the Chair of PEAFF (or, in the case of a
220 tenure and promotion dispute, to the ad hoc chair) and to the Chair of the Faculty Senate
221 within sixty days of the meeting with the committee.

222 In any case concerning the dismissal of a faculty member for cause or raising
223 significant issues of conscience or academic freedom in which the Chancellor
224 does not concur with the decision or the recommendation of the committee,
225 the Chancellor shall submit a full written report to the next meeting of the
226 Executive Committee of the Board of Trust specifying the reasons for the action.

227 In any other case in which the Chancellor does not concur with the recommendation
228 of the committee, the Chancellor will ask the General Counsel to review the file and
229 submit a written report to the next meeting of the Executive Committee of the Board of
230 Trust stating the fact of that disagreement and the issue, or issues, on which the

231 Chancellor disagreed. Copies of the Chancellor's report (or the General Counsel's report)
232 shall also be transmitted to the Chair of the Faculty Senate, to the chair of the grievance
233 committee, and to the grievant. A record of all proceedings shall be kept on file in the
234 Faculty Senate office.

235

236 *Section D*

237 **CONFIDENTIALITY AND OTHER MATTERS**

238 Except as disclosures are reasonably necessary in the investigation, hearing,
239 and final disposition of a grievance, the grievant, members of hearing
240 bodies, and others having knowledge of a grievance are expected to preserve
241 the confidentiality of the grievance, provided that any individuals accused in
242 a grievance of misconduct shall be informed of the grievance and given the
243 opportunity to respond to the charges.

244 The fact that a grievance is pending may not be used as grounds for delaying
245 consideration of promotion or tenure beyond the time that such consideration
246 is required by University rules.

247 A grievance may be withdrawn by the faculty member at any time prior to
248 a decision of a grievance committee. The withdrawal of a grievance shall not
249 preclude the Dean or the Chancellor from investigating the charges contained
250 in the grievance or related matters.

251 It is understood that there are legal requirements relating to the time limitations
252 when one may file a charge of discrimination with federal or state
253 human rights agencies. Should this deadline arrive prior to the completion of
254 the grievance process, and should the grievant elect to file a charge with a
255 governmental agency, this will not prejudice the grievance process.

256 138