Chapter 2: Faculty Grievances

A faculty member who believes that the University, acting through any representative, has breached an obligation owed to them/her/him may file a Grievance. 1 All references to days in Chapter 2 refer to calendar days.

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

A grievance alleging that the University breached an obligation owed to the faculty member, in situations other than those arising out of a decision on reappointment, tenure or promotion, shall be filed with the Senate’s Grievances Committee utilizing procedures set forth in Section B below.

Faculty members may file a grievance under Section A or Section B, but not both. Where the claims arising under Section A and Section B involve a common or overlapping set of factual circumstances, a grievant shall set forth all such claims and proceed under Section A. A faculty member should review the sections below to understand the deadlines applicable to the faculty member’s grievance, as the deadlines differ. To the extent that allegations include sexual harassment as defined under Section 106.30 of the USDOE regulations implementing Title IX, resolution will proceed under the procedural requirements set out in the Formal Grievance Protocol (as required by the U.S. Department of Education Title IX Regulations).

A potential grievant is encouraged to contact the chair of the Faculty Senate to determine whether the grievance would fall under Section A or Section B. If the chair of the Faculty Senate position is vacant then the Senate Executive Committee shall appoint another current member of the Senate Executive Committee to fulfill all duties ascribed to the chair of the Faculty Senate in Part IV, Chapter 2 of the Faculty Manual related to new or pending grievances. The individual appointed will retain their current Executive Committee title. This appointment shall remain in force only until such time as a new chair of the Faculty Senate is duly elected by a quorum of the Voting Members of the Senate.

Such election shall be held as soon as possible, but not more than ninety (90) calendar days after the appointment is made. After the Chair is elected, all new and pending grievances will be handled by the newly elected Chair of the Faculty Senate.

In addition to, and not exclusive of, the grievance procedures noted above and detailed below, faculty members may direct complaints of discrimination, harassment, or retaliation in violation of Vanderbilt’s nondiscrimination or Sexual Misconduct policies (including those that are subject to the Formal Grievance Protocol) to the Title IX Office, the Vanderbilt Equal Opportunity and Access Office (VU) or VUMC Employee & Labor Relations (VUMC), as appropriate. Use of the grievance procedures is not mutually exclusive with the filing of a civil action, although faculty members are encouraged to attempt to resolve grievances internally whenever possible.

A: Grievances Arising from Reappointment, Tenure, and Promotion Decisions

The Reappointment, Tenure, and Promotion Grievance Process is available to a faculty member who believes that a decision on their/her/his reappointment, tenure or promotion raises (a) issues of professional ethics and academic freedom; (b) allegations of a failure by the University or those acting for it to follow stated or reasonable procedures; (c) complaints of discrimination, harassment, or retaliation in violation of the University’s nondiscrimination and Sexual Misconduct policies (other than

1
those that are subject to the Formal Grievance Protocol; or (d) allegations of the University's failure to adhere to express or implied terms of the faculty member's contract, including relevant portions of the Faculty Manual.

The Chair of the Faculty Senate is the initial point of contact for the grievant. The Reappointment, Tenure, and Promotion Grievance Process utilizes ad hoc committees appointed to handle individual grievances. The Reappointment, Tenure, and Promotion Grievance Process is headed by the Process Chair who serves a two-year term and is appointed by the chair of the Faculty Senate in consultation with, and with the concurrence of, the Provost. The Process Chair, who must be tenured and hold the rank of Professor, is the reference point for the filing of Type A grievances and serves as a voting member of all ad hoc faculty grievance committees. If the Process Chair believes that a potential conflict of interest exists with respect to a particular grievance, a substitute Process Chair will be appointed through the same process.

Prior to Filing a Grievance

Prior to filing a grievance, a potential grievant may consult informally with the Process Chair concerning the Reappointment, Tenure, and Promotion Grievance Process and possible alternative approaches to the resolution of the matter giving rise to the grievance. Some disputes may be resolved satisfactorily at this informal consultation stage. The informal consultation process, however, does not relieve a potential grievant from the time requirements set forth below for filing a grievance.

Filing a Grievance

A grievance arising from a decision on reappointment, tenure, or promotion cannot be considered unless a written notice of intention to file a grievance is submitted within sixty (60) days after a faculty member is notified in writing of the completion of the full review process for reappointment, tenure, or promotion. Such notices are filed with the Process Chair, must identify the person(s), the title of the person(s), the position held by the person(s), or the committee(s) against whom the grievance will be directed (the “Respondents”), and must include a summary of the basis of the grievance. The complete grievance must be filed in writing with the Process Chair within ninety (90) days of the written notification of the faculty member that the full review process for reappointment, tenure, or promotion has been completed. The Process Chair will transmit copies of the notice and of the full grievance to the person(s) against whom the grievance is directed.

Ad Hoc Grievance Committee Composition

Upon receiving such a notice, the Process Chair will inform the Chair of the Faculty Senate, who will then initiate the process for forming an Ad Hoc Grievance Committee appropriate to the grievance. The Chair of the Faculty Senate in consultation with, and with the concurrence of, the Provost or, in the case of faculty in the School of Medicine-Clinical Departments, the Dean of the School of Medicine, depending on the school of the grievant, will name four members of the faculty to serve as an Ad Hoc Grievance Committee for that grievance, in addition to the Process Chair. One of these four members will be selected through the same process to serve as Chair of the Ad Hoc Grievance Committee. The Process Chair serves as a voting member of the Ad Hoc Grievance Committee and the Ad Hoc Grievance Committee Chair, who must be tenured and hold the rank of Professor, is the point of contact for the grievance until its conclusion. Faculty members appointed to the Ad Hoc Grievance Committee must:

a) be tenured and hold a higher rank than that of the grievant (or the same rank, if the grievant has the rank of Professor), and
b) have been tenured faculty members for at least four years, at least two of which were at
Vanderbilt.

Individuals who have had prior involvement in the case (for example, as a member of the grievant's department or as a member of a school promotion review committee) or who otherwise have a conflict of interest will not be appointed. At least two, but not more than three, which may include the Process Chair, shall be drawn from a pool consisting of faculty members who have previously served on the Promotion and Tenure Review Committee. For a grievance against the Provost or the Dean of the School of Medicine, the Chancellor in consultation with the Chair of the Faculty Senate will designate an appropriate substitute to serve in this selection process.

Members selected for this Ad Hoc Grievance Committee should sign a statement indicating that they can serve impartially and are aware of no conflict of interest with respect to that grievance. The signed statements are submitted to the Chair of the Faculty Senate and, together with all other collected documentation, shall be kept on file in the Faculty Senate office. After the committee has been selected, the Chair of the Faculty Senate will notify the grievant and those charged (the "parties") of its membership. If any of the parties is concerned about the impartiality or conflict of interest of one or more members, this concern may be brought to the attention of the Chair of the Faculty Senate in writing. The Chair of the Faculty Senate in consultation with and with the concurrence of, the Provost or, in the case of faculty in the School of Medicine Clinical Departments, the Dean of the School of Medicine, determine whether any member should be replaced.

Ad Hoc Grievance Committee Deliberations

The Ad Hoc Grievance Committee will initially review a grievance to determine whether it was filed in a timely manner and whether it states one or more of the enumerated grounds that may be considered through the Reappointment, Tenure, and Promotion Grievance Process. A grievance failing to meet either of these tests will be dismissed. If the grievance is not dismissed, the Ad Hoc Grievance Committee will then determine whether the allegations, under the assumption that they are true, support a claim within one or more of the grounds that may be considered through the Reappointment, Tenure, and Promotion Grievance Process. If they do not, the grievance will be dismissed. Upon dismissing a grievance, the Ad Hoc Grievance Committee Chair will inform the parties in writing of the grounds for dismissal.

If the grievance is accepted for consideration, the Ad Hoc Grievance Committee will inform the person or persons against whom the grievance is filed (the "respondent(s)" that a response is to be submitted to the Ad Hoc Grievance Committee Chair. The response should be submitted as soon as reasonably practical, but not later than sixty (60) days after the response has been requested. The Ad Hoc Grievance Committee Chair shall provide a copy of the response(s) to the grievant. If a response includes confidential information, the Ad Hoc Grievance Committee will provide the grievant with a summary of that information.

The Ad Hoc Grievance Committee will invite the parties to meet separately with it for the purpose of clarifying or adding to the written statements or to respond to questions. Attorneys may not appear with or on behalf of the grievant, witnesses, or the University in proceedings before the committee. It is assumed that either party may rely on legal counsel in the preparation of any documents or the collection of any evidence to be presented to the committee.

The Ad Hoc Grievance Committee shall have full access to the grievant's reappointment, tenure, or promotion file. It may, in confidence, seek information from other persons or request other documents. It will not routinely be provided with access to the personnel files of other faculty members. If the Ad Hoc Grievance Committee believes that access to such files would be likely to aid materially in the resolution of the grievance, it may request access to specific files from the Provost or, in the case of faculty in the School of Medicine-Clinical Departments, the Dean of the School of Medicine. The designated files will
be provided unless the Provost or the Dean of the School of Medicine determines that the information in the files is not relevant because it would not materially aid in the resolution of the grievance. If the decision is made not to provide the requested files, the decision and the reasons for the decision will be communicated in writing to the Ad Hoc Grievance Committee Chair. If the Provost or the Dean of the School of Medicine is charged in the grievance, the Chancellor will designate a substitute to make this determination.

**Ad Hoc Grievance Committee Decision and Report**

The Ad Hoc Grievance Committee will maintain a record of its proceedings, including written summaries of relevant information and testimony. Prior to writing its report, the Ad Hoc Grievance Committee will submit to the parties a list of all individuals who provided testimony or other information to the Committee. These parties may submit written comments on this list within seven days. The Ad Hoc Grievance Committee will then write preliminary findings of fact and submit them to the parties, who will be given fourteen (14) days in which to submit written responses. After considering the responses, the Ad Hoc Grievance Committee may continue its review or render a final report. The final report to be submitted to the Chancellor will include (1) a statement of the findings of fact, (2) conclusions as to how those findings of fact relate to one or more of the four grievance criteria, and (3) recommendations. (See Part IV, Chapter 2, Section C on procedures following submission of a Grievance Committee's final report to the Chancellor.) A record of all proceedings shall be kept on file in the Faculty Senate office.

**B: Grievances Other Than Those Arising From Reappointment, Tenure, and Promotion Decisions**

The grievance process through the Faculty Senate Committee on Grievances ("Grievances Committee") is available to a faculty member who believes that the University has breached an obligation owed to the faculty member, including but not limited to an obligation to adhere to: (a) express or implied terms of a faculty member's contract, including relevant portions of the Faculty Manual; (b) commonly accepted norms of professional responsibility and academic freedom; (c) stated or commonly understood standards of fair and reasonable procedures; and (d) the University’s nondiscrimination and Sexual Misconduct policies (other than those that are subject to the Formal Grievance Protocol).

A faculty member may not be finally dismissed for cause prior to the disposition of any grievance arising from the dismissal. Potential grievants are encouraged to consult informally with the chair of the Grievances Committee concerning common understandings about the University's obligations, standards of review applied by the Grievances Committee in prior grievance cases, and possible alternative approaches to the resolution of the dispute. Some disputes may be resolved satisfactorily at this stage outside the formal grievance process by informal mediation.

**Filing Process**

If a faculty member chooses to file a formal grievance, the grievance must be transmitted in writing to the chair of the Grievances Committee within sixty (60) days after the grievant becomes aware of the action forming the basis of the grievance. At the time a grievance is filed, the grievant must transmit a copy of the grievance and all supporting documents to the Chair of the Grievances Committee, who will notify the appropriate University representative(s) whose actions form the basis of the grievance (the “Respondents”), and transmit a copy of the grievance documents to the Respondents. Copies of any supplemental statements later filed by the grievant further to explain the complaint also must be transmitted by the grievant, at the time of filing, to the University representative(s) whose actions form the basis of the complaint.

**Membership of the Grievances Committee**
The grievant and respondent(s) will be informed in writing of the membership of the Grievances Committee with specific identification of the Committee Chair. If a grievant or respondent believes that any member of the Grievances Committee will not view the grievance with sufficient impartiality, they may file with the Committee a written request that said member recuse themselves/herself/himself from the hearing and disposition of the grievance. If either the member or the Chair of the Faculty Senate agrees that the member’s objectivity or impartiality is subject to question, then the member shall be removed from the hearing and disposition of that grievance. If two or more members of the Grievances Committee are recused with respect to a particular grievance, the Chair of the Faculty Senate shall appoint an equal number of Committee members to the number of those recused in their places with respect to that grievance.

Grievances Committee Deliberations

On receipt of a grievance, the Grievances Committee will convene to determine whether the grievance presents a good faith, nonspurious claim of breach of obligation by the University or its representatives. In reaching its determination, the Grievances Committee may rely on the written request of the faculty member and the supporting documents, or may decide to hold a preliminary meeting to explore the matter further. The Grievances Committee, at this stage, will consider the statements or allegations of the faculty member in their most favorable light in order to determine whether the statements or allegations, if proven in a hearing, would establish a breach by the University of an obligation owed to the grievant.

The Grievances Committee will apply the following standard in making an initial determination about whether the grievant has presented a good faith, nonspurious claim: "Under the procedures adopted by the Grievances Committee, in implementation of its duties under the Faculty Manual, the Committee must determine at the threshold, first, whether allegations in the grievance taken in their most favorable light, if proven, would constitute a breach of an obligation owed to a faculty member as described in the Faculty Manual. If the answer to that question is yes, then the Grievances Committee must next determine, from the evidence presented, whether the grievant has a reasonable prospect of being able to prove the allegations made in the grievance. If the answer to both questions is yes, the Grievances Committee will establish a process for a further investigation of the grievance."

The faculty member presenting a grievance and respondent(s) shall have a written reply by the chair of the Grievances Committee within a reasonably prompt time, which outlines the Committee's plan of action.

The Grievances Committee shall review the case to assure that the University's actions were procedurally and substantively sound. The University representative(s) whose actions form the basis of the complaint shall be asked to respond to the grievance in writing, briefly explaining their/her/his position on each major element of the complaint. In addition, the University representative shall be asked to supply in a timely manner any supporting documents not previously filed by the grievant. The Grievances Committee Chair shall provide a copy of the response(s) to the grievant. Each party to the grievance shall be asked to indicate whether they/she/he wishes to appear before the Grievances Committee to add to or explain the written record in the case. If such an appearance is requested, it will be scheduled at an appropriate point in the Grievances Committee's inquiry. In addition, the Grievances Committee may on its own initiative request that either party appear to answer questions and may request the testimony of witnesses.

Attorneys may not appear with or on behalf of the grievant, witnesses, or the University in proceedings before the Senate Committee on Grievances. It is assumed that either party may rely on legal counsel in the preparation of any documents or the collection of any evidence to be presented to
Record of Proceedings and Initial Report

The Grievances Committee will maintain a record of its proceedings, including written summaries of relevant information and testimony. Prior to writing its report, the Grievances Committee will submit to the parties a list of all individuals who provided testimony or other information to the Committee. These parties may submit written comments on this list within seven (7) days. The Grievances Committee will then write preliminary findings of fact and submit them to the parties, who will be given fourteen (14) days in which to submit written responses. After considering the responses, the Grievances Committee may continue its review or render a Final Report.

C: Final Reports

A Grievance Committee, whether the Faculty Senate Committee on Grievances (Grievances Committee) or one appointed through the Reappointment, Tenure, and Promotion Grievance Process (i.e., an Ad Hoc Committee), shall submit the final report of its decision to the Chancellor. As stated above, the final report will be in writing, and shall include findings of fact, conclusions, and recommendations. A copy of this report shall be made available to the grievant and to the respondent University representative(s) whose actions formed the basis of the complaint. If the Chancellor elects not to concur with the report, the Chancellor and the relevant Grievance Committee shall meet in an effort to reach agreement.

In any case concerning the dismissal of a faculty member for cause or raising significant issues of conscience or academic freedom in which the Chancellor does not concur with the decision or the recommendation of the Grievance Committee, the Chancellor shall submit a full written report to the next meeting of the Executive Committee of the Board of Trust specifying the reasons for the action. In any other case in which the Chancellor does not concur with the recommendation of the Grievance Committee, the Chancellor will ask the General Counsel to review the file and submit a written report to the next meeting of the Executive Committee of the Board of Trust stating the fact of that disagreement and the issue, or issues, on which the Chancellor disagreed. Copies of the Chancellor's report (or the General Counsel's report) shall also be transmitted to the chair of the Faculty Senate, to the chair of the Grievance Committee, and to the grievant and respondent(s).

A record of all proceedings under this Chapter shall be kept on file in the Faculty Senate office.

D: Confidentiality and Other Matters

Except as disclosures are reasonably necessary in the investigation, meetings, hearing(s), and final disposition of a grievance, the grievant, members of the Ad Hoc Grievance Committee or the Grievances Committee, and others having knowledge of a grievance are expected to preserve the confidentiality of the grievance, provided that any individuals accused in a grievance of misconduct shall be informed of the grievance and given the opportunity to respond to the charges.

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

A grievance may be withdrawn by the faculty member at any time prior to the issuance of the final report of the Ad Hoc Grievance Committee or the Grievances Committee. The withdrawal of a
grievance shall not preclude the Dean or the Chancellor from investigating the charges contained in the grievance or related matters.

It is understood that there are legal requirements relating to the time limitations when one may file a charge of discrimination with federal or state human rights agencies. Should the grievant elect to file a charge with a governmental agency, this will not prejudice the grievance process.