



Angelo State University
Operating Policy and Procedure

OP 06.11: Faculty Grievance Procedures

ORIGIN

DATE: Upon Approval

LAST

REVIEW: November 28, 2011

PURPOSE: The purpose of this Operating Policy/Procedure (OP) is to prescribe policies and procedures concerning the faculty grievance procedures.

REVIEW: This OP will be reviewed by February 1 of every odd-numbered year by the vice provost for academic affairs and Faculty Senate with recommended revisions forwarded through the provost and vice president for academic affairs to the president by March 1.

POLICY/PROCEDURE

1. Foreword

- a. The university operates under a philosophy that emphasizes the importance of ensuring the rights of its faculty. Both personnel and operating policies are formulated in order to assist administrators and faculty in working harmoniously toward the collective goals and objectives set forth by the Board of Regents. When a situation arises resulting in a grievance by an individual faculty member, efforts will be made to determine the facts surrounding that grievance and to respond appropriately and justly.
- b. The purpose of these procedures is to provide a mechanism to resolve grievances of faculty members related to the actions or decisions of an administrator, a staff member, a student, or another faculty member. Grievances of faculty relating to admission to tenure, promotion, grounds for termination, termination procedure, and notice of non-reappointment or termination must be addressed using OP 06.23: Tenure and Promotion Standards and Procedures, not by the procedures noted below.
- c. Whenever possible, problems should be solved at the point of origin. However, each member of the Angelo State University faculty shall have the right to a hearing and an appeal for redress of grievance through established channels. Access to these channels is restricted to university employees or those who were employees when the action or inaction leading to the grievance occurred.
- d. In conformance with V.T.C.A., Government Code §617.005, a faculty member has the right to present grievances individually or through a representative who does not claim the right to strike. A faculty member may present a grievance without retaliation. The

filing of a grievance, however, shall not affect the ability of Angelo State University to pursue disciplinary or separation actions.

- e. A faculty member holding an administrative position will have access to these procedures with regard to faculty duties, but will not have access to the procedures with regard to administrative duties.
- f. After the grievance is presented, the time periods for action prescribed in these procedures should be followed unless a reasonable extension is required by unusual circumstances or because a deadline occurs between semesters or in summer, when relevant persons are away for extended periods. In the absence of the foregoing conditions, times for action should be extended only for university holidays or by mutual agreement of the parties and, in an appeal, with concurrence of the Grievance Advisory Committee.

2. Grievance Initiation

- a. The grievant will present a written description of the grievance and proposed resolution to the administrator who made the challenged decision or has initial authority to resolve the grievance. In cases where the grievance is with the grievant's immediate supervisor, the grievant can take the grievance to the next level in the administrative structure.
- b. The grievance will be presented within 21 business days after the grievant becomes aware of the action constituting the grievance. The grievant and appropriate administrator will meet within 10 business days of receipt by the administrator, and the administrator's written decision on the grievance will be provided to the grievant within 7 business days after the meeting is concluded. If the decision is not acceptable, or if the administrator does not render a written decision within 7 business days, the grievant may request formal mediation following the procedures below.

3. Mediation

- a. The grievant should submit a written request for formal mediation of the grievance within 7 business days of receipt of an unacceptable response (or no response) from the administrator.
- b. The appropriate administrator will select a person acceptable to both parties to the grievance to mediate. If the parties are unable to agree upon a mediator within 7 business days of the agreement to mediate, the provost will select a mediator qualified under Section 154.052 of the Texas Civil Practice and Remedies Code. The grievance will be presented for mediation within 10 business days after the mediator's selection.
- c. The mediator will provide a written decision to the appropriate administrator and the parties to the grievance within 7 business days after the mediation is concluded. If the decision is not acceptable to the grievant, the grievant may appeal as set out below.

4. Grievance Appeal

- a. The grievant initiates the appeal procedure by providing a written request to the president, asking that the decision of the mediator be reviewed. The appeal will be filed

within 15 working days of the grievant's receipt, or lack thereof, of the mediator's written decision to which the grievant objects. The grievant will provide copies of the original grievance, any written decisions, and a proposed resolution to the chair of the Grievance Hearing Panel.

- b. The president will solicit a recommendation that will resolve the grievance from a Grievance Panel composed of five tenured faculty members identified from the Grievance Pool by the Grievance Advisory Committee. The recommendation is due to the president no later than 20 business days from the receipt of the appeal by the president.

(1) The Grievance Pool:

The Grievance Panel that will hear the grievance will be chosen at random from the Grievance Pool, as detailed below. All full-time, tenured, teaching faculty members, except those who have reduced teaching loads for administrative duties, will comprise the pool. Each grievance case will require a new panel to be selected, but pool members may be selected to serve on different grievance panels.

(2) The Grievance Advisory Committee:

The Grievance Advisory Committee is a standing committee appointed by the Faculty Senate composed of 3 tenured, full-time teaching faculty members. Committee members serve three-year terms. The committee considers only procedural matters related to the grievance hearing. Once the Grievance Advisory Committee is selected, it elects a chair to carry out the proceedings.

(3) The Grievance Hearing Panel:

The Grievance Advisory Committee will, by lot, order the names of the members of the grievance pool, assigning each a number beginning with one. The Grievance Advisory Committee will contact pool members, beginning with number one and proceeding in order, informing them of the parties to the grievance. Pool members deeming themselves biased or otherwise unable to serve must withdraw from consideration for the Grievance Hearing Panel. Once eleven potential panel members are identified, the ordered list will be presented to the parties to the grievance. Either party to the grievance may strike no more than three names from those remaining on the list. The Grievance Advisory Committee designates the five pool members from those names remaining on the list with the lowest numbers remaining on the list to constitute the Grievance Hearing Panel. The panel will select a chair from its membership.

5. Hearing

- a. Within 10 business days of the formation of the Grievance Hearing Panel, the chair of the panel will initiate the grievance hearing. The chairperson's notice scheduling a mutually agreeable time and place for the hearing must be delivered to the parties involved seven business days prior to the hearing. These time limits are a guide and may be changed for university holidays and by mutual written agreement of the Grievance Hearing Panel and the parties to the grievance.

- b. The chair of the Grievance Hearing Panel will give the committee its charge, assist the committee in identifying the parties to be involved in the process, provide it with guidelines to afford the parties due process, and deliver to each panel member a copy of the grievance and all supporting documentation. The Grievance Panel may, if it chooses, request appropriate legal counsel to be furnished by the university but not from the Office of General Counsel. The legal counsel will advise the Grievance Hearing Panel but does not vote. The panel may also consult with the general counsel of the university on technical and/or procedural questions not directly bearing on the merits of the case if the panel considers such consultation appropriate and helpful.
- c. The formal hearing will be conducted in accordance with procedures established by the Grievance Hearing Panel. The grievant or the grievant's representative(s) or counsel will present the grievant's case. The grievant has the right to present information, written or oral, considered relevant or material to the grievance, including the calling of witnesses.

After the presentation by the grievant, the case of the other party to the grievance will be presented under the same rules as those that were applied for the grievant. The other party may be represented by counsel in the process as well. The Grievance Hearing Panel may call witnesses, as it considers appropriate. The grievant and the other party to the grievance may question all witnesses.

Neither the Texas Rules of Civil Procedure nor the Texas Rules of Evidence will apply to the hearing.

- d. Evidence considered in the hearing must relate to the grievance. After all evidence is received, the Grievance Hearing Panel will meet and consider the case. The opinion held by the majority of the members will constitute the panel's recommendations. The panel must provide its recommendations in writing to the president of the university, with copies to the parties to the grievance, within 5 business days after the hearing is concluded. Minority opinions of the panel may also be submitted to the president and parties to the grievance. Recommendations to the president are advisory in nature.
- e. The President's Decision:

The president will send a written decision, which is the final university decision on the grievance, to both parties to the grievance within 15 business days of receipt of the Grievance Hearing Panel's recommendations. If the president's decision differs from that recommended by the panel, the written reasons for such difference will be provided to all parties. The grievant has the right to pursue the matter in a court of law.

- f. The parties may agree to a resolution of the grievance at any time from initiation of the grievance procedures until the president's final decision.