

INDIANA UNIVERSITY BLOOMINGTON

Grievance, Mediation, and Review Procedures

(By Action of the Bloomington Faculty Council: December 2, 1975; last amended, April 18, 2000)

Faculty review functions on the Bloomington campus are handled by two committees: The Bloomington Faculty Mediation Committee and the Bloomington Faculty Board of Review. The two committees consider complaints concerning academic freedom, dismissal, reappointment, tenure, promotion, salary adjustment, and the nature and conditions of work. Any member of the faculty, associate faculty, and librarians desiring a review of administrative action in these stated areas normally should request a hearing, first with the Faculty Mediation Committee and then with the Board of Review. (Associate instructors with complaints should see section D-XVII in the Bloomington Academic Guide for information on procedures affecting them.)

The composition, roles and procedures of the two committees are described below.

Authority for these procedures derives from the Constitution of the Indiana University Faculty (Article V) and from the Constitution of the Bloomington Faculty (Article VII).

I. The Bloomington Faculty Mediation Committee

A. Purpose of the Faculty Mediation Committee

The Bloomington Faculty Mediation Committee (hereafter called "the Committee") serves the faculty, associate faculty, librarians, and administration of the Bloomington Campus by investigating grievances and attempting to resolve them through mediation and consultation. Any member of the faculty or associate faculty or any librarian whose appointment includes responsibilities on the Bloomington campus may bring a case before the Committee. Members of the faculty, associate faculty, and librarians may bring to the Committee grievances concerning actions of dismissal, academic freedom, reappointment, tenure, promotion, salary, and the nature or conditions of work. However, the petitioner has the option of bypassing the Committee and proceeding directly to the Board for a hearing.

Members of the Committee shall address each grievance with impartiality, investigate it thoroughly, and base their report on a sound knowledge of University policies and procedures. The Committee should strive to resolve grievances by keeping its procedures flexible and encouraging discussions between the parties to the grievance. If the grievance is not mediated satisfactorily, the Committee shall report its findings in writing to the petitioner. On request from the petitioner, the Committee informally may give its opinion of the merit of the grievance and whether it should be taken to the Bloomington Faculty Board of Review (hereafter called "the Board"). This opinion shall not constitute evidence before the Board.

On request, the Committee may assist in drafting a statement of the grievance, may direct the petitioner to appropriate sources for assistance in preparing a case for presentation to the Board, and may assist the petitioner in other ways. However, the Committee may not

represent the petitioner before the Board. The petitioner may choose to prepare the case without the assistance of the Committee.

B. Organization of the Faculty Mediation Committee

The Committee shall consist of seven members of the faculty selected by the elected faculty members of the Bloomington Faculty Council. Committee members shall hold office from the first day of May for staggered terms of two years. At least two committee members must be available during the summer. Two alternates to the Committee shall be elected at the same time as members of the Committee are elected; the terms of alternates shall be for one year. Retired faculty may be elected as regular or alternate members of the Committee in the same manner as other faculty. Members and alternates shall complete the investigation and mediation of any case they have begun to consider, even if their terms have expired. The members of the Committee shall select their own chairperson. In offering nominations for election to the Committee, the Bloomington Faculty Council's Nomination Committee should give consideration to representation across academic ranks, among divisions of the University, and between tenured and non-tenured faculty. The Nomination Committee also shall ensure that among those elected to the Committee are some faculty members who have served on school or campus promotion or tenure committees. No faculty member serving on the Faculty Board of Review can serve concurrently on the Committee.

C. Procedures of the Faculty Mediation Committee

A case history record, including the calendar and decisions, shall be compiled by the Committee. However, the meetings of the committee shall be informal with no stenographic record kept. The Committee shall accept and act upon all cases presented to it. In cases dealing with dismissal or academic freedom, the Committee will meet as a full body; in cases dealing with salary adjustment, the nature or conditions of work, reappointment, promotion, or tenure the Committee may meet in subcommittees or panels of no fewer than two members. A letter addressed to the Committee shall specify the nature of the grievance and the remedy requested. The Committee shall provide to the petitioner a written summary of the information which it deems relevant to the case, a complete list of items made available to it in the process of its investigation, and the case history record. The University's administrative officers and the petitioner shall cooperate with the Committee in its requests for information. In the event that information the Committee thinks relevant is not provided, this fact shall be made part of the written report. In cases involving salary adjustment, the Committee may request--and when it does so shall receive--from the Bloomington Campus administration such information as is provided to the Campus Affirmative Action Officer when making equity reviews on behalf of faculty members. All confidential material relevant to the case under consideration shall be made available to the Committee. Confidential material shall be treated in consonance with the policies and principles set forth in the Bloomington Faculty Council document, "Access to Employee Records," which is attached hereto. All investigation and mediation undertaken by the Committee shall be completed and its final report and advice submitted within 45 business days of the time that the initial letter of complaint is received by the chairperson of the Committee.

D. Restrictions

1. The Committee shall advise the petitioner about restrictions of the jurisdiction of the Board of Review. When appropriate, the Committee shall direct the petitioner to the *Procedures for Responding to Allegations of Research Misconduct or the Faculty Misconduct Policy*.

2. A faculty member of a multi-campus unit may bring his or her grievance to the Faculty Mediation Committee of any of the campuses on which the multi-campus unit operates. Once the choice is made by the faculty member only that Committee may consider the grievance. The Committee shall use its regular procedures.

3. In cases of non-reappointment, dismissal, salary adjustment, or any other action of which specific written notice is given, the faculty member shall bring his or her grievance to the Committee with reasonable promptness but not later than 30 business days after receipt of the notice. The Committee may, at its option, waive this time limit.

E. Disqualification

If a member of the Committee is involved in a case before the Committee or is a member of a department (or a school that is not departmentalized) from which a case arises, he or she shall be disqualified to hear or to investigate the case. A member of the Committee shall disqualify himself or herself from hearing or investigating a case whenever the member believes it difficult to render an impartial judgment.

F. Publicity

Members of the Committee and administrative officers shall not make public statements about grievances before the Committee. Nor shall the report of the Committee be made public by the petitioner or by any member of the Committee.

G. Report to the Bloomington Faculty Council

The Committee shall report annually to the Bloomington Faculty Council the number of cases brought before it in each of the following categories: dismissal, academic freedom, reappointment, tenure, promotion, salary adjustment, and the nature or conditions of work. The Committee shall also report in each category the number of cases successfully mediated and--if known--the number dropped by faculty members and the number taken to the Board.

H. Deadlines and Delays

The petitioner shall bring his or her grievance to the Committee within 30 business days after the event being grieved, or after written notice is received by the petitioner of non-reappointment, dismissal, salary adjustment, or any other action of which written notice is given. The Committee may, for good cause shown, waive this time limit.

Investigation and mediation undertaken by the Committee shall be completed and its final report and advice submitted to the petitioner within 45 business days after the initial letter addressed to the Committee is received by the Chair.

II. The Bloomington Faculty Board of Review

A. Purpose of the Faculty Board of Review

The Bloomington Faculty Board of Review (hereafter called "the Board") has the responsibility to hear and make recommendations regarding grievances of faculty, librarians, and associate faculty against administrative action.

Except in cases of serious personal misconduct, termination of a tenured faculty member's appointment prior to retirement or resignation or the termination of a non-tenured faculty member's appointment prior to the expiration of its term, and other sanctions against faculty members where the governing regulations so require, may occur only after the faculty member has had an opportunity to have the matter reviewed by a committee constituted through a procedure approved by the University Faculty Council or Bloomington Faculty Council to hear and make recommendations regarding complaints of misconduct asserted against a faculty member. Sanctions which may be imposed only after review by such a committee shall be based solely on information which has been presented to the committee and to which the faculty member has had the opportunity to respond. Other administrative actions affecting a faculty member may occur with or without the recommendation of such a committee.⁽¹⁾ Administrative actions affecting a faculty member, whether or not based on the recommendation of such a committee, may be brought to the Board as a grievance.

In interpreting and applying the procedures herein, the Board shall be guided by the Principles to Guide The Development of Procedures For Handling Complaints of Misconduct Against Faculty Members, Bloomington Campus, Indiana University (Bloomington Faculty Council: April 16, 1996).

<http://www.indiana.edu/~bfc/docs/policies/miscondu.htm>

B. Procedures

1. Before bringing a grievance to the Board, a faculty member ordinarily will seek the assistance of the Committee or obtain other counseling and mediation assistance. A faculty member's written notice submitting a grievance to the Board shall state whether the matter has been considered by the Committee and, if not, what alternative counseling and mediation assistance has been obtained. The Board may, in its discretion, defer proceedings on the grievance pending counseling and mediation.
2. If grievances are first brought to the Committee and if the Committee fails to comply with the time limit set forth in Section I.C, then the grievant will have the right to take the matter directly to the Board.
3. In a school which has, or provides for, a salary review committee that complies with the standards in the next paragraph, a grievance regarding salary should be brought first to that committee. A decision unfavorable to the grievant then may be brought to the Board. In exceptional circumstances, the Board may permit a grievance regarding salary from a school with a salary review committee to be brought directly to the Board.

To qualify as a salary review committee for purposes of the above procedures, the committee should:

- a. Be elected by a vote of the faculty or named by an elected faculty policy committee and should be representative of the various components of the school.
- b. Inform the grievant of the facts considered and the standards applied in setting the salary.
- c. Provide the grievant with an opportunity to present evidence and arguments.
- d. Transmit its recommendation to the dean with copies to the grievant and, where appropriate, to his/her chairperson.
- e. Adhere to the time limits set forth for the Board. (See II.B.4 and II.B.9.)

4. The time limits set forth for the Board [II.B.4 and II.B.9] may be extended by mutual consent of the parties or by the Board for cause. If an administrator fails to comply with a request from the Board or the rules governing the Board's proceedings, including time limits for responses, the Board shall notify the Bloomington Faculty Council Agenda Committee which shall take appropriate steps to obtain compliance. Otherwise, if the Board does not hold a hearing within the time limits, the grievant is to notify the chair of the Faculty Affairs Committee. At this point the chair of the Faculty Affairs Committee is to call upon the parties involved to take appropriate action within 15 days and to notify the Bloomington Faculty Council at its next regular meeting that the appeal was made.

5. If a faculty member wishes to bring a grievance before the Board, he or she shall notify the chairperson in writing of that fact, specifying the nature of the grievance and the redress desired. A copy of the grievance shall be sent to the administrators grieved against, who shall submit a response to the Board within 30 days of the receipt of the grievance. No other communication may be given to the Board prior to a hearing, with the exception of written statements (including e-mail) which must be distributed to all parties involved in the grievance. If the Board decides to convene a hearing, it shall be scheduled within 30 days after the receipt of the administrators' response on a date agreed to by the grievant and the administrators grieved against.

6. In the hearing before the Board, the faculty member and the relevant administrative officer shall have the right of counsel or a representative of his or her choice, shall be permitted to present witnesses and other evidence relating to the case, and to hear and to question all witnesses. Before and during the hearing the Board may request and secure further information in writing from the grievant and the administrative officer grieved against which it thinks to be pertinent to the case. The Board may also request that persons not presented as witnesses by either party provide information pertinent to the case during the hearing or in statements prepared for the Board. These statements, if they are not presented during the hearing, shall be made available to the grievant and to the administrative officer or officers grieved against. The Board also may request information and material after the conclusion of the hearing. These requests must be made known to the grievant and to the administrators grieved against. Either party may request that the hearing be reconvened in order to add or to respond to such newly solicited material and information. The decision made by the Board and any subsequent

decision by University administrators shall be made only on the basis of evidence presented during the hearing or solicited by the Board before, during, or after the hearing.

7. The University shall make available to the Board all confidential material relevant to the administrative decision or action against which the faculty member brings a grievance, including all records of a case previously heard by the salary review committee of a school, and shall support the Board in obtaining witness testimony.

Confidential material shall be treated in consonance with the policies and principles set forth in the Bloomington Faculty Council document, "Access to Employee Records."

<http://www.indiana.edu/~bfc/docs/policies/emprecords.html>

8. The hearing shall be open to the public unless either party in the dispute objects; invited observers, agreed upon by both parties in the dispute, may attend the hearing even when it is not open to the general public. A tape recording of the hearing shall be made and kept on file in the Faculty Council Office. Upon request a copy of this recording will be provided to the grievant and to the University administrators who are to examine the case subsequently.

9. Upon completion of the hearing, the Board shall render a decision within 10 days. This decision, with supporting reasons for it, shall be communicated to the faculty member involved, to the appropriate administrative officer or officers (including the administrative officer or officers grieved against), and to the President Pro Tempore of the Bloomington Faculty Council. Any of the parties in the case may correct matters of fact referred to in the Board's decision and statement of reasons, and these corrections shall be provided to all parties in the case. Except for the receipt of these corrections, the administrative officer to whom the Board's decision is presented may consider only the Board's statement and appended documents as the ground of his or her decision. Either the decision of the Board shall be sustained by the administrative officer immediately superior to the respondent whose action is under review, or the proceeding shall be returned to the Board with specific objections within 30 days. The grievant shall be afforded an opportunity to see the objections and to prepare and to present a rejoinder. The Board then shall reconsider its decision, taking into account the stated objections and the rejoinder. If the Board and the administrative officer superior to the respondent remain in disagreement, the case shall be submitted within 10 days to the next higher administrative officer and this officer shall render the University's final decision within 30 days. This decision shall complete the University's internal grievance and review procedures. Copies of the decisions of the administrative officer immediately superior to the respondent and of the administrative officer rendering shall be sent to the parties directly involved in the case and to the President Pro Tempore of the Bloomington Faculty Council; a copy of the final decision shall be sent to the Board.

Administrative officers shall take no further action inconsistent with the Board's decision unless specifically authorized to do so by the administrative officer making the final decision in the case. In cases in which the Board and the administrative officer immediately superior to the respondent are in agreement or in which the Board has refused to hold a hearing, the faculty member retains the right to appeal to the Vice President, Bloomington, or--if the Vice President has already rendered a decision in the case--to the University President. The faculty member will not acquire any additional

right to tenure or to continued term of employment simply as a result of the delay involved in having taken the case before the Board. The University's Board of Trustees formally shall be notified of all cases that have been heard by the Board and of their final disposition.

C. Restrictions

1. According to University Faculty Council policy [Bloomington Academic Guide, Document E-X,4e], a faculty member or librarian denied reappointment "may petition the Faculty Board of Review...for a review of the procedures employed in the decision not to reappoint." In all other cases, including those of dismissal, the Board may review the decision or action grieved against as well as the procedures by which it was taken.

2. A faculty member or librarian of a multi-campus unit may bring his or her grievance to the Board of any of the campuses on which the multi-campus unit operates. Once the choice is made by the faculty member, only that Board may consider the case. The Board shall use its regular procedures and give its recommendations to the administrative officer with supervisory responsibility for the program in which the faculty member is employed.

3. In cases of non-reappointment, salary adjustment, or any other action of which specific written notice is given, the faculty member shall submit his or her grievance to the Board with reasonable promptness but not later than 120 days after the date of receipt of the notice, unless the grievant has taken his or her case to the Committee, in which case the grievance shall be submitted to the Board within 45 days of receipt of the Committee's report. The Board may, at its option, waive this time limit.

D. Disqualification

If a member of the Board is involved in a case before the Board or is a member of a department (or school which is not departmentalized) from which a case arises, he or she shall be disqualified to hear or to investigate the case. A member of the Board shall disqualify himself or herself from hearing or investigating a case whenever the member believes it difficult to render an impartial judgment.

E. Appointment of a Temporary Member

Whenever a member of the Board is disqualified or is no longer a member of the faculty, the elected representatives of the Bloomington Faculty Council shall appoint a member to fill the vacancy for the case.

F. Publicity

1. Public statements either by faculty members or by administrative officials about cases before the Board should be avoided. Any announcement of the final decision should include either the complete statement or a fair abridgment of the recommendation of the Board, if it has not been released previously.

2. No member of the Board except its chairperson shall talk or write about a case to any of the parties involved in it or their counsel. All requests by members of the Board for

information relevant to the case shall be made through the chairperson; all inquiries and statements concerning the case received by members of the Board shall be referred immediately to the chairperson.

G. Report to the Bloomington Faculty Council

The Board shall report annually to the Bloomington Faculty Council the number and types of cases presented to it and shall indicate the number of cases in which it was recommended that the faculty member be sustained.

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1. Discipline in cases of serious personal misconduct may be the subject of administrative action, with the right of the faculty member to petition the Faculty Board of Review for review of such action as a grievance.