

## **CHAPTER 9**

### **ACADEMIC STAFF APPEALS COMMITTEE**

#### **9.01 Purpose**

The Academic Staff Appeals Committee shall review or hear all appeals of nonrenewals (ASPP 3), nonretentions of probationary employees (ASPP 4), layoffs (ASPP 5), discipline and dismissals (ASPP 6), and grievances (ASPP 7) not resolved at a lower level and shall forward its findings of fact with a recommendation to the chancellor or designee.

#### **9.02 Composition and Procedures**

The Academic Staff Appeals Committee consists of twelve members of the academic staff. The Committee is appointed by the chancellor or designee upon the recommendations made by the Academic Staff Executive Committee. Members will serve three-year terms, with one-third of the Committee appointed annually; members may be reappointed. The Committee shall elect its chair annually from among its members.

Vacancies will be filled by appointment by the Academic Staff Executive Committee. The appointed committee member will serve the unexpired portion of that term.

The Committee's procedures for reviews and hearings are subject to the provisions of ASPP 3, 4, 5, 6, and 7. Modifications shall be subject to the approval of the Personnel Policies and Procedures Committee of the Academic Staff Assembly. Modifications shall be part of the annual report specified in 9.06.B.

#### **9.03 Conduct of Reviews**

The Academic Staff Appeals Committee shall conduct reviews for nonrenewals (ASPP 3), nonretentions of probationary employees (ASPP 4), and grievances other than those involving discipline resulting in a loss of pay (ASPP 7) not resolved at a lower level. The Committee shall apply the required burden as described in ASPP 3, 4, and 7 and provide the procedural guarantees described in ASPP 9.05. The reviews shall be fair, impartial, and timely. The Committee shall review the written record and afford both the employee and employer an opportunity to submit additional written materials and to make a presentation to the Committee. The Committee shall seek any additional information it needs to reach a decision.

#### **9.04 Conduct of Hearings**

The Academic Staff Appeals Committee shall conduct hearings for appeals of layoffs (ASPP 5), dismissals for cause (ASPP 6) and grievances involving discipline resulting in a loss of pay (ASPP 7). The hearings shall be fair, impartial, and timely. The Committee shall apply the required burden as described in ASPP 5, 6, and 7 and provide the procedural guarantees described in 9.05. The hearing body shall not be bound by common law or statutory rules of evidence and may admit evidence having reasonable probative value but shall exclude immaterial, irrelevant, or unduly repetitious testimony and shall give effect to recognized legal privileges. The Committee shall seek any additional information it needs to reach a decision.

As a preliminary step, the Committee shall review all documentation provided by the parties and determine its relevance to the appeal. If the Committee determines that everything the employee alleges, even if true, is irrelevant to the disciplinary action or termination, the Committee shall render a decision without considering the matter further.

#### **9.05 Procedural Guarantees**

- A. A fair and impartial review or hearing shall provide the appellant the following rights:
- the right to be heard;
  - the right to counsel or other representation at the employee's expense; and
  - the right to the Committee's written findings of fact and the recommendation based on the record.
- B. A fair and impartial hearing shall provide the appellant the following additional rights:
- within a reasonable time prior to the hearing, the right to the names of witnesses and access to any
  - documents that form the basis of an action to impose discipline (ASPP 6.02.1) or terminate employment;
  - the right to offer witnesses;
  - the right to confront and question adverse witnesses; and
  - the right to a verbatim record of the hearing, such as a sound recording, provided at no cost.
- C. Any member of the Academic Staff Appeals Committee who participated in the decision or action being appealed shall not sit as a member of the Committee for that case.

- D. The review or hearing shall be closed unless the academic staff member requests an open hearing.
- E. When a valid claim of material surprise is made, adjournments shall be granted to enable either party to investigate evidence.
- F. Upon request, the chancellor or designee shall provide legal counsel to the Academic Staff Appeals Committee. The legal counsel shall advise and consult with the Committee on legal matters.
- G. Upon request of the Committee, the chancellor or designee shall make available any other staff assistance necessary to conduct a fair and impartial hearing.

#### **9.06 Reports and Evaluations of Appeals**

- A. The chancellor or designee shall submit a quarterly report to the Personnel Policies and Procedures Committee (PPPC) of the Academic Staff Assembly within 20 working days of the end of each calendar quarter listing the status of all appeals under consideration or resolved during the quarter. The report shall provide sufficient information regarding the basis of each case that the PPPC may be informed about areas of concern to the academic staff as implied by the substance of these appeals and make appropriate policy recommendations where necessary. Specific details of cases discussed by the PPPC shall remain confidential.
- B. At the end of each fiscal year, the Academic Staff Appeals Committee shall submit an annual report to the PPPC evaluating the effects of the Academic Staff Policies and Procedures and, if deemed appropriate, recommend changes to ASPP.