



# TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER EL PASO

## Operating Policy and Procedure

### HSCEP OP: 60.10, Faculty Grievance Procedure

**Purpose:** The purpose of this Texas Tech University Health Sciences Center El Paso Operating Policy and Procedure (HSCEP OP) is to establish a model procedure that will permit fair, consistent, and internal consideration of grievances from faculty, and provide a process for their resolution. Each School must adopt a faculty grievance policy that is an expansion to this policy and fully describes the policy and procedures for that school within the guidelines of this HSCEP policy. Faculty are directed to obtain a copy of their School policy from their Dean's office.

**Review:** This HSCEP OP will be reviewed by October 1 of every even-numbered year (ENY) by the Executive Director for Human Resources, Managing Attorney - Office of General Counsel, the Deans of the Schools, and the Vice President for Academic Affairs or designee, with recommendations for revision submitted to the President or designee by November 1.

### Policy/Procedure

#### 1. **Foreword**

- a. TTUHSCEP operates under rules and policies set forth by the Texas Tech University System Board of Regents that ensure the rights of its faculty. This policy does not apply to tenure decisions or issues related to non-reappointment or termination. For such grievances, the faculty member is referred to HSCEP OP 60.01, Tenure and Promotion Policy. If a faculty member believes an adverse employment action is based on unlawful discrimination or other violations of the law as set forth in HSCEP OP 51.02, Non-Discrimination and Anti-Harassment Policy and Complaint Procedure for Violations of Employment and Other Laws, the procedures therein must be followed. If a faculty member believes a violation of the law has occurred as set forth in HSCEP OP 51.03, Sexual Harassment, Sexual Assault, Sexual Misconduct, and Title IX Policy and Complaint Procedure, the procedures outlined therein must be followed.

It is the intent of this policy to create a model process whereby formal expressions of disagreement related to administrative decisions involving certain faculty employment actions may be resolved. Each School within TTUHSCEP shall develop and maintain an internal policy to address grievances of their respective faculty members, and a copy of the grievance policy shall be maintained in the Office of the President or administrative designee. At a minimum, each School's grievance policy shall include the basic elements of the model process described herein below.

It is expected that informal communication at the administrative level at which the problem arose will resolve most issues. However, when informal methods have failed, each member of the TTUHSCEP faculty has a right to a hearing and an appeal for redress of grievance through a procedure, including the steps described herein.

- b. A faculty member may present a grievance without fear of retaliation. However, the filing of a grievance will not affect the ability of TTUHSCEP to pursue disciplinary action where appropriate.
- c. A faculty member holding an administrative position will have access to these grievance procedures with regard only to one's faculty duties, and will not have access to these procedures

with regard to administrative duties.

- d. Every effort shall be made to follow the time periods suggested in the model procedures outlined below. However, each School policy will define School-specific time periods for each step of the grievance procedure, as well as those allowed to grant such extensions of time at each stage of the process, e.g., the Dean, Grievance Panel Chairperson, etc.

Reasonable extensions of response times may be granted for University holidays or unusual circumstances at the request of either of the applicable parties at each step of the grievance process.

- e. All individuals will be expected to meet all their responsibilities while pursuing a grievance.
- f. Resignation from or filing a lawsuit against the institution before initiation of a grievance or during the process shall preclude initiation or continuation of the grievance process.

## 2. **Procedures**

A grievance, defined as a formal expression of disagreement related to an employment action, should be filed only after an attempt has been made to resolve the disagreement through an informal meeting of the parties concerned. If the faculty member believes that his/her concerns have not been resolved as a result of this informal meeting with the person with whom the disagreement exists, he/she has the option to file a formal, written grievance which must be addressed in a manner that includes, at a minimum, the steps outlined below. An individual School policy may include other steps, such as attempts at mediation, if the School's faculty and administration deem appropriate, and have included such in their published policies and/or bylaws.

**Step One:** Within fifteen (15) business days of the initial informal meeting and communication, the faculty member (grievant) shall submit in writing the grievance, any supporting evidence, and a proposed resolution to his/her immediate superior (usually the Department Chair, but it may be the Division Chief in larger departments). Within five (5) business days of receiving the written grievance, the immediate supervisor (respondent) shall reply in writing to the faculty member. Once the grievance has been submitted in writing, it cannot be changed except with the written approval of all parties.

**Step Two:** If the grievance is not resolved to the grievant's satisfaction, this process shall be repeated at each appropriate supervisory level up to and including the Chair. In each case, within five (5) business days the faculty member shall submit the original written grievance, the written responses of respondents to whom it was previously submitted, and an explanation of the reason(s) the grievant finds the response(s) unsatisfactory. At each supervisory level, the respondent shall reply in writing within five (5) business days of receipt of the grievance.

**Step Three:** If the grievance is not resolved within the supervisory structure of the School, the grievant may submit a written appeal to the Dean of the School within five (5) business days of receiving the respondent's decision, e.g., the Department Chair. As in previous steps, the appeal must set forth in writing the reason(s) the decision(s) made thus far are unsatisfactory and specify the outcome being sought. The Dean shall convene a Grievance Hearing Panel which, at a minimum, should include members selected by the faculty member (grievant) and members selected by the person against whom the grievance was originally filed (respondent). The composition of the panel and the process for its selection must be defined in each respective School policy or procedure, including the process for appointment of the Chair of the Grievance Panel.

The grievant and respondent will have five (5) business days to submit to the Chair of the Grievance Panel copies of all supporting documents and a list of witnesses, if any, to be presented at the hearing. The documents and witness list from each party will be transmitted to the other party. If appropriate, the Grievance Panel may permit additional documents or witnesses for rebuttal purposes. The Chair of the Grievance Panel shall arrange for a hearing to be held within the next fifteen (15) business days. All submitted materials and testimony are to be treated as confidential. The purpose of the hearing shall be to investigate the grievance and provide a written recommendation to the Dean. The procedure for this hearing shall be established by the Grievance Panel but, at a minimum, the grievant and respondent shall be allowed to present their case and call witnesses, who may also be questioned by the Panel and opposing party. Attorneys may be present only in an advisory capacity. All meetings of the Panel, including the hearing, shall be memorialized as minutes of an official peer review meeting. The University shall record, either digitally, through audiotape, or otherwise as deemed appropriate, all Hearings until such time that the Grievance Panel begins discussion and deliberation and prepares its Findings and Recommendations. Deliberations shall not be recorded. Upon written request, either party may receive a recording of the hearing proceeding, excluding any deliberation or closed session. Neither party nor any witnesses are permitted to make any independent record of the proceedings. All proceedings will be conducted in closed session. Any request for an exception must be submitted in writing to the Chair of the Grievance Panel, who shall render a final written decision.

After the hearing proceedings are concluded, the Chair of the Grievance Panel shall have five (5) business days to transmit to the Dean a written majority recommendation. Any Panel member may transmit a minority opinion in writing to the Dean within the same time period. Any minority opinions that are submitted will become a part of the permanent record of the grievance proceedings. A copy of the Panel's written recommendation shall be provided to all parties to the grievance simultaneously with transmission of the Panel's recommendation to the Dean.

**Step Four:** Within ten (10) business days of receiving the Panel's recommendations, the Dean shall make a decision after reviewing the recommendations and documents presented. The Dean shall provide to the grievant, respondent, and Chair of the Grievance Panel his/her decision. The decision of the Dean is final.

**Step Five:** If either party alleges that a procedural violation has occurred, then he/she may appeal in writing to the President. The appeal must (1) be submitted within ten (10) business days of receiving the Dean's decision, (2) be in writing, and (3) clearly set forth the procedural violation that is alleged. The President only will consider whether a procedural violation has occurred that substantially affected the outcome of the case.

The President shall review this allegation and, within fifteen (15) business days, make a final decision that will be transmitted to the grievant, the respondent, the Chair of the Grievance Panel, and the Dean. The decision of the President is final.

The parties may agree to a resolution of the grievance at any time from initiation of the grievance proceedings until the final decision of the Dean, or President, if applicable. A complete record of the grievance shall be maintained in the Dean's office in accordance with the HSCEP Records Retention Policy, HSCEP OP 10.09.