

# North Dakota State University

## Policy Manual

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### SECTION 353 GRIEVANCES – FACULTY

SOURCE: SBHE Policy Manual, Section 612  
NDSU President

1. This Policy is intended to provide a fair, internal process for resolving certain employment-related disputes that arise between faculty and administrators.
2. "Grievance" means an allegation of a violation by an NDSU administrator of a specific Board or institutional policy, procedure or practice pertaining to the employment relationship. This includes the terms of the grievant's employment contract. Discretionary actions, such as salary increases and performance evaluations, may not be grieved, except to determine: (a) whether the discretionary action was made in accordance with relevant Board or institutional policies, practices, procedures or criteria; and (b) whether the action constitutes a clear abuse of discretion.

"Grievance" does not include any matters covered under NDSU policies 350.1-350.5 and 352 or equal opportunity grievances which are governed by NDSU Policy 156. Grievances cannot be filed against written SBHE or NDSU policies, per se.

3. This policy applies only to faculty as defined in NDSU Policy 350.1
  1. Grievant may only initiate the grievance process described in this policy after communicating with the administrator whose decision is the subject of the grievance (the "respondent") in a good-faith attempt to resolve the matter. In the event that such communication fails to achieve a satisfactory result, then the grievant must attempt to discuss the matter with the respondent's immediate supervisor. The grievant shall put the basis for the grievance in writing if requested by either the respondent or the respondent's supervisor. In the event that communication with the supervisor fails to achieve a satisfactory result, then the grievant may appeal to a Special Review Committee (the "SRC") by filing a written grievance with the presiding officer of the Faculty Senate no later than 120 calendar days from the date when the grievant is notified of the grievable issue. The grievant is permitted to file an appeal to the SRC prior to the outcome of the previous steps in order to retain the right of appeal. The SRC shall review the written grievance in order to determine if the grievance was timely filed and if the matter is properly grievable. The SRC shall dismiss the grievance if the matter was not timely grieved or properly grievable. Such decision to dismiss by the SRC shall be appealable by either party to the Standing Committee on Faculty Rights ("SCOFR") by filing a written request for an opinion within 10 calendar days of receiving the SRC's decision to dismiss the grievance. The SCOFR shall offer the non-appealing party an opportunity to respond to the appeal in writing and provide the non-appealing party a reasonable opportunity to provide such response. The SCOFR, after reviewing the written positions of each party shall issue its opinion within 30 calendar days of the time of the filing of the request for an opinion.

2. The SRC shall attempt to resolve the grievance on an informal basis. The SRC may, in its discretion, require the parties to participate in mediation (NDSU Policy 350.5) and/or use other dispute resolution options available through the University Ombudsperson. Should the grievance remain unresolved after mediation and/or informal dispute resolution, then the SRC shall proceed to the formal resolution process.
3. Hearings for the formal resolution process shall be scheduled as expeditiously as possible and with due regard for the schedule of both parties. Grievances involving faculty who hold academic year (AY) appointments will normally not be held during summer semester unless the faculty member has a summer appointment. The grievant bears the burden of proving that there has been a violation of policy or established practice. The SRC shall report its findings and recommendations in writing within 21 days of the completion of the hearing to the grievant, the respondent, the President, the Provost and to the administrator who is the respondent's immediate supervisor.
4. The SRC shall consist of the following members:
  - (a) Three members, none of whom can be from the same Department as the grievant, shall be chosen from a pool selected by the Faculty Senate Executive Committee on an annual basis. This pool shall be comprised of tenured faculty members (two from each of the colleges in the University), for one-year terms coinciding with the term of the President of the Faculty Senate. Any faculty member may serve up to four successive terms in such a position.
  - (b) The SRC Chair shall be selected by the President of the Faculty Senate.
  - (c) The grievant shall select one member from the pool and the person against whom the grievance is brought shall select the other member from the pool. The Committee shall judge any allegation of bias or conflict of interest. In the event that an individual member is judged by the Committee to be biased or to have a conflict of interest in a specific case, the Committee shall replace the member with a substitute member for that case.
  - (d) Emeritus professors are eligible for memberships on the SRC.
  - (e) Faculty holding administrative appointments are not eligible for membership on the SRC. "Administrative appointment" includes appointments as President, Vice President, Dean, Associate or Assistant Dean, Department Chair or Head, or Associate or Assistant Department Chair or Head of an Academic Unit.
5. The final decision will be made by the Provost so long as the grievance is not against the Provost or any individual who reports directly to the Provost. In those situations, the President shall make the final decision. The Provost (or when applicable, the President) shall, within 30 days of receipt of the recommendation, provide written notice of her/his decision to the grievant, the respondent, and to the administrator who is the respondent's immediate supervisor. That decision shall be final.

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HISTORY:

Amended	June 26, 1986
Amended	November 18, 1990
Amended	June 1995
Amended	June 1998

Amended	November 2000
Amended	March 2002
Amended	August 2003
Amended	March 2005
Housekeeping	June 2009
Housekeeping	February 14, 2011
Amended	June 1, 2011
Amended	April 10, 2017