Policy *353* Version 3 11/28/16

**Policy Change Cover Sheet**

|  |
| --- |
| **This form must be attached to each policy presented. All areas in red, including the header, must be completed; if not, it will be sent back to you for completion.** |
|  | *I****f the changes you are requesting include housekeeping, please submit those changes to*** ***ndsu.policy.manual@ndsu.edu*** ***first so that a clean policy can be presented to the committees.*** |
| **SECTION**:  | 353: GRIEVANCES-FACULTY |
| 1. **Effect of policy addition or change (explain the important changes in the policy or effect of this policy). Briefly describe the changes that are being made to the policy and the reasoning behind the requested change(s).**
 |
| * Is this a federal or state mandate? [ ]  Yes x No
* Describe change: This revision clarifies some of the grievance policy steps and includes timelines for courses of action.
 |
| 1. **This policy was originated by (individual, office or committee/organization):**
 |
| * Faculty Affairs Committee
* Tom DeSutter, thomas.desutter@ndsu.edu
* Dan Friesner, Daniel.Friesner@ndsu.edu
 |
| ***This portion will be completed by Kelly Hoyt.***Note: Items routed as information by SCC will have date that policy was routed listed below. |
| 1. **This policy has been reviewed/passed by the following (include dates of official action):**
 |
| **Senate Coordinating Committee:** | 12/5/16 |
| **Faculty Senate:** | 2/27/17 |
| **Staff Senate:** | 12/12/16 |
| **Student Government:** | 12/12/16 |
| **President’s Council:** | 12/12/16 |

The formatting of this policy will be updated on the website once the **content** has final approval. Please do not make formatting changes on this copy. If you have suggestions on formatting, please route them to ndsu.policy.manual@ndsu.edu. All suggestions will be considered, however due to policy format guidelines, they may not be possible. Thank you for your understanding!

**North Dakota State University
Policy Manual
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**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 (“SCOFR”) within 10 calendar days of receiving the SRC’s decision to dismiss the grievanceSCOFR 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,written positions of each party 30
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.

1. 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.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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