Policy *353* Version 2 2/3/15

**Policy Change Cover Sheet**

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| **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).**
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| * 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
 |
| ***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):**
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| **Senate Coordinating Committee:** |  |
| **Faculty Senate:** |  |
| **Staff Senate:** |  |
| **Student Government:** |  |
| **President’s Council:** |  |

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!

**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 and this policy. 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

4 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”)

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,written positions of each party 30

5. 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.

6. The formal resolution process shall be handled as follows:

(a) Hearings 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.

(b) On the rare occasion when a party fails to respond to repeated attempts to schedule a hearing or unreasonably delays the scheduling of a hearing, the chair of the SRC will schedule the hearing for the first date available to the panel members and the other party.

(c) The SRC shall provide written notice of the time and place of the hearing, the names of counsel, the names of any witnesses, and copies of any documents submitted by the parties and deemed relevant by the SRC, to each party at least seven days before the hearing.

(d) The hearing shall be conducted in good faith and must be completed within 14 calendar days unless the SRC determines that an extension of time is necessary.

(e) All hearings shall be recorded. A party may request and obtain a copy of the recording from the SRC.

(f) Hearings shall be closed unless the parties agree otherwise.

(g) All parties may present their cases in person and may call witnesses on their behalf. The names of witnesses must be provided to the SRC at least seven days prior to the hearing date.

(h) The grievant is entitled to bring counsel to the hearing, but such counsel only maintains an advisory role and shall not participate in the hearing. The name of counsel must be provided to the SRC at least seven days prior to the hearing date. In the event that the counsel fails to comply with her/his limited advisory role, then the chair of the SRC may remove the counsel from the hearing after providing an initial warning.

(i) Any party shall be entitled to ask pertinent questions of any witness or the other party at appropriate points in hearings. Questioning shall be done in a professional and appropriate manner and shall be limited to matters that are pertinent to the hearing. The chair of the SRC shall determine what questions are pertinent. In the event that a party fails to be professional or appropriate in her/his questioning, then the chair of the SRC may terminate her/his questioning of the witness.

(j) The grievant bears the burden of proving that there has been a violation of policy or established practice.

(k) The SRC shall resolve any procedural issues raised by the parties, after providing each party the opportunity to be heard on such matters.

(l) 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. The SRC’s report is advisory to the President.

7. 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 – excluding University Studies), 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.

8. The President shall, within 30 days of receipt of the recommendation, provide written notice of her/his decision to the grievant, the respondent, the provost, and to the administrator who is the respondent's immediate supervisor. The President's decision shall be final.