

SPECIFIC PROCEDURES

Faculty Appeals and Grievances

Committee Charge and Authority

The Faculty Appeals and Grievances Committee (FAGC) is a standing committee of the University of Wisconsin-Milwaukee faculty whose principal function is to serve as an appeals committee for a faculty member who has substantial reason to believe that his/her employment status in the University or merit salary increase has been unfairly and adversely affected by a particular decision. The Committee must review a case not later than twenty (20) working days after receipt of the case from the University Committee, except that the time limit can be extended by mutual consent of the parties or by order of the FAGC if the Committee determines more time is necessary to obtain information for its review.

Membership Seven (7) tenured members of the faculty, not more than two (2) of whom shall be from a single faculty division. No more than three (3) members shall be from a single school, college or equivalent academic unit, and no more than one (1) member shall be from a single department in a departmentalized school or college. Members who have been elected to and have served a full three-year term are not eligible for reelection until two (2) years have elapsed. Members who are elected to a partial term are eligible for reelection.

Burden of Proof

The Committee seeks to provide a full and fair review for each appellant, to protect the rights of decision makers, to establish and maintain the standards of the University, and to minimize unnecessary or unproductive demands on the time of Committee members. In accordance with UWS 3.08, the decision of a departmental executive committee, divisional executive committee, or dean is presumed correct: the burden of proof is with the appellant to prove otherwise on the basis or grounds established in UWS 3.08 and *UWM Policies and Procedures* §5.18(1) with regard to one or more of the following factors, with material prejudice to the individual:

- (a) Conduct, expressions, or beliefs which are constitutionally protected, or protected by the principles of academic freedom, or
- (b) Factors proscribed by applicable state or federal laws regarding fair employment practices, or
- (c) Improper consideration of qualifications for reappointment or renewal. For purposes of this section, "improper consideration" shall be deemed to have been given to the qualifications of a faculty member in question if material prejudice resulted because of any of the following:
 1. The procedures required by rules of the faculty or board were not followed, or

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2. Available data bearing materially on the quality of performance were not considered, or
3. Unfounded, arbitrary, or irrelevant assumptions of fact were made about work or conduct.

Specific Appeal Procedures

I.

The first step in such a review is for the appellant to provide one hardcopy and one electronic copy of an initial submission of the case to the Office of the Secretary of the University. This initial submission must be in writing and must establish a prima facie case for recommendation by the Committee of a remedy, i.e., it must present arguments and alleged facts which, if not successfully challenged, would provide a basis for such a recommendation by the Committee. To this end, the initial submission must include the following:

- A. Background information:
 1. Identification of the individual or body whose decision is being appealed;
 2. A relevant chronology and history of the decision-making process;
 3. A copy of the material submitted to the decision maker in support of tenure, renewal, or any material relevant to the decision under appeal;
 4. A copy of the statement of reasons for the decision provided to the appellant by the decision maker.
- B. A Statement of the argument, including:
 1. An identification of the specific provisions from UWS or UWM *Policies and Procedures* under which redress is sought.
 2. A statement of each alleged improper action.
 - (a) What specifically was not done that should have been, or was done that should not have been done?
 - (b) How specifically did this result in material prejudice to the appellant?
 3. Documentation in support of these allegations.
 - (a) Relevant written documentation such as letter of appointment, statements of criteria, reports of evaluation committees, etc.
 - (b) Reports of relevant verbal communications, with an indication of how the contents of such communications will be established.

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4. Identification of additional information to be sought.
 - (a) Additional written documentation which is believed to exist.
 - (b) Testimony which will be sought.

In each case, the initial submission statement should be as specific as possible about the information involved and its relevance to the case.

- C. A statement of the remedy (or alternative remedies) desired.

A copy of the initial submission will be sent to the person or body whose decision is being appealed, but no response from the decision maker is required at this time.

II.

Materials pertaining to a grievance are typically submitted to the University Committee before they are assigned to the FAGC. To facilitate its deliberations, the FAGC requires that appeals and grievances be prepared in the specific format described above. Once the materials have been submitted to Committee, all communication between the Committee and the parties involved in the complaint will be in writing. Only procedural matters may be clarified by telephone or e-mail.

The Committee will notify the appellant of its receipt of the initial submission and will conduct a preliminary review. It may reject some (or all) of the arguments presented on the grounds that, even if established, they would not provide a basis for redress. Points on which the Committee will receive additional evidence and/or argument will be identified. If any of the points presented in the initial submission are rejected by the Committee, the appellant will be given an opportunity, within a time limit to be set by the Committee, to respond in writing. No new material may be introduced at this time without the permission of the Committee.

Should the Committee determine that a prima facie case has been established, the Committee will notify the appellant in writing of its intention to formally accept the appeal. Should the Committee find insufficient grounds for the appeal, it will be dismissed by the Committee.

III.

If the appeal is not dismissed, the Committee will write to the decision maker identifying the points in the initial statement of the appellant on which the Committee will receive further argument and evidence. The decision maker will be requested to respond in writing to these points, within a time limit to be established by the Committee. The FAGC may choose to dismiss the appeal at any point in its deliberations.

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IV.

If the Committee determines that more information is necessary, it will ask each party to respond in writing regarding information needed and/or questions the Committee believes to be still in dispute.

V.

When the Committee is satisfied that it has sufficient written information, it may hold a meeting (hearing) to which the appellant and spokesperson(s) for the decision maker are invited. Each party may submit a proposed set of written questions. The Committee may challenge the relevance of any question submitted and may eliminate it. The appellant and decision maker may be accompanied by advisors, but the meeting will be non-adversarial with the advisor(s) not being allowed any formal role in the proceedings. The atmosphere will be one of a collegial inquiry, not of a court of law. To that end, cross-examination, as the procedure is commonly understood in judicial proceedings, is not permitted.

VI.

When, in the opinion of the Committee, nothing is to be gained by further presentation of evidence, each party will have the opportunity to present a summary statement of its position in the dispute.

VII.

The Committee will report its findings to the persons filing the appeal, the University Committee, the body or official making the decision, the appropriate dean, and the Chancellor according to UWM *Policies and Procedures* §5.18(2). This report should be made within thirty working days of the last meeting on the case.

VIII.

The report may include remedies according to UWM *Policies and Procedures* §5.18(3) which may, without limitation because of enumeration, take the form of reconsideration of a recommendation or decision, reconsideration under instructions from the Committee, or a recommendation to the next higher level of authority. Cases shall be remanded unless the Committee specifically finds that such a remand would serve no useful purpose. The Committee shall retain jurisdiction during the pendency of any reconsideration.