

Faculty Handbook - 9. Faculty Grievance Procedures

- 9.1. [Who May File Appeals](#)
- 9.2. [Appeal through Administrative Channels](#)
- 9.3. [Appeal through Faculty Senate Committee on Appeals](#)
 - 9.3.1. [Faculty Senate Committee on Appeals](#)
 - 9.3.2. [Procedures in a Faculty Appeal](#)
 - 9.3.2.1. [Contacting the Committee](#)
 - 9.3.2.2. [Initiating an Appeal](#)
 - 9.3.2.3. [Timing of Initiation of an Appeal](#)
 - 9.3.3. [Appointment of an Ad Hoc Investigative Committee](#)
 - 9.3.3.1. [Ad Hoc Investigative Committee Procedures](#)
 - 9.3.3.2. [The Ad Hoc Investigative Committee Report](#)
 - 9.3.3.3. [Response to the Ad Hoc Investigative Committee Report](#)
 - 9.3.3.4. [Terminating an Appeal](#)
 - 9.3.4. [FSCA Hearing of Case](#)
 - 9.3.4.1. [FSCA Reporting Procedures](#)
 - 9.3.5. [Limitation](#)
 - 9.3.6. [Responsibilities of Provost and President](#)
 - 9.3.6.1. [Appeal of an Action by the Provost](#)
 - 9.3.6.2. [Appeal of an Action of the President](#)
 - 9.3.6.3. [Appeal to Board of Regents](#)
 - 9.3.7. [Keeping Records](#)
 - 9.3.7.1. [Confidentiality](#)
 - 9.3.7.2. [Archives](#)
 - 9.3.7.3. [Annual FSCA Report](#)
- 9.4. [Amendments](#)

9.1. Who May File Appeals

Faculty members who believe they have been treated unfairly with respect to salary, promotion, tenure, academic concerns, reduction in force, or other matters related to employment may have their cases reviewed formally through the procedures which have been developed by the Faculty Senate and approved by the administration. For purposes of definition, such a call for a review shall hereafter be called an appeal. It is brought by an appellant and is directed at the appellee. Appeals of administrative actions or actions to deny reappointment, promotion or tenure, should be based on grounds that improper procedures were followed, academic freedoms or constitutional rights were violated, policy was interpreted improperly, or arbitrary and capricious criteria were employed in recommending the action being appealed. Section 5.2.4.3.5 determines when an appeal of a promotion or tenure decision may occur, and the information to be considered in such an appeal.

All faculty are eligible to appeal. See section 3.3, Types of Appointments, for further information on types of faculty appointments. Appeals must be initiated no more than 45 B-base faculty working days following the occurrence of the last event or events that are being appealed. The filing of an appeal should not alter any schedule, time limitation, or deadline to which the parties to the appeal would otherwise have been subject in the absence of the filing (e.g., date of termination or date for which tenure is obtained). However, changes in schedules or deadlines may be among the remedies sought by the appellant.

There are two independent channels for the consideration of appeals:

- administrative
- Faculty Senate Committee on Appeals

Faculty members may use either channel or both consecutively, but not simultaneously.

9.2. Appeal through Administrative Channels

An appeal through administrative channels is initiated when a written appeal, stating the case, naming the appellee(s), and requesting specific remedies is presented to the administrator or administrative body whose

sphere of responsibility includes the events grieved: e.g., a departmental chair, a dean, the provost, the president, or the Board of Regents. Appeals may be initiated at any calendar time within 30 working days (days the university is officially open) of the action/decision being contested. Appeals presented initially to the provost or president may be referred to the Faculty Senate Committee on Appeals, where they will be treated as described below. Regarding appeals to the Board of Regents, see section 9.3.6.3.

The administrator or administrative body that receives the appeal shall investigate it and present the appellant(s) and the appellee(s) with a written response within 25 working days from the date the appeal was received. The written response shall describe the evidence considered, state the decisions made, and review the reasoning that led to the decisions. If the appeal is denied, the appellant has 15 working days to appeal the decision to the next administrative level or the FSCA as described in Section 9.3.

The response time for appeals filed near extended periods when classes are not in session or summer session may be modified accordingly to accommodate the availability of the principals and witnesses appropriate to the appeal. Other adjustments may be made in the appeal procedure's time schedule, provided the appellant(s), appellee(s), and the party investigating the appeal agree to them, or, failing that, the approval of the provost is obtained. An appeal through administrative channels may be withdrawn by the appellant(s) any time before the response is received.

9.3. Appeal through Faculty Senate Committee on Appeals

9.3.1. Faculty Senate Committee on Appeals

Established by the Faculty Senate to consider appeals by any faculty member, the Faculty Senate Committee on Appeals (FSCA) is composed of at least 16 faculty members, plus the chairperson who is elected annually by the Faculty Senate. No member may be a departmental, college, or university administrative officer. Details of the committee structure are described in the Faculty Senate Bylaws. The FSCA is a body that investigates and recommends a course of action; it is not an advocate group for faculty members who believe that they have been treated unfairly. When a case is brought to the committee, it is investigated with due consideration given to the appeal and to the counterarguments offered by the appellee(s). Following a confidential committee investigation and discussion of the allegations and pertinent evidence, a committee recommendation is made relative to the remedies sought. These recommendations are sent to the provost. If the provost's decision at this point is not acceptable to the appellant, it may be appealed to the president and, ultimately, to the Board of Regents. (See also section 9.3.6.3.).

No member of the FSCA shall vote on or participate in an investigation of an appeal of an action in which he/she is or has been directly involved. All appeals brought to the committee are handled in the strictest confidence. The committee may develop other rules of procedure subject to approval by a majority vote of the Faculty Senate.

9.3.2. Procedures in a Faculty Appeal

9.3.2.1. Contacting the Committee.

Potential appellants should contact the Faculty Senate Office to obtain the name of the chairperson of the FSCA. In a confidential preliminary conference, the chairperson of the FSCA will advise the potential appellant regarding the appropriate procedures in an appeal process. If the faculty member agrees, the chairperson of the FSCA may, at this point, act as an ombudsman to determine if the appeal can be settled by negotiation before proceeding through the steps described below.

9.3.2.2. Initiating an Appeal.

The faculty member must do the following:

- complete the Request for Study of an Appeal form
- sign a release form that includes suggested parties to be interviewed
- provide a written appeal that carefully states and documents the allegation(s) in the case, names of the appellee(s), and states the relief sought

If in the judgment of the chairperson the grounds for the appeal are questionable, the FSCA shall vote on whether or not it will consider the case.

9.3.2.3. Timing of Initiation of an Appeal.

Appeals may be initiated at any calendar time within 30 working days (days the university is officially open) of the action/decision being contested. Exceptions to this 30 day limit may be granted at the discretion of the FSCA. If the time available between the submission of the appeal and the beginning of an extended period without classes is insufficient for an investigation and preparation of a final report, the FSCA chairperson may postpone initiating an investigation of an appeal until the end of the first week following that period. The decision to postpone obligates the chairperson to send written notification to appellant(s) and appellee(s). When less than 30 working days are left in a spring semester, an appeal may be held over the summer. For appeals that do not involve employment issues, the 30 day time limit may be extended a maximum of 30 working days if evidence of actively working with the Ombuds Office is provided by the faculty member to the chair of FSCA prior to the deadline.

9.3.3. Appointment of an Ad Hoc Investigative Committee

Within five working days of the acceptance of an appeal by the committee, the FSCA chairperson shall appoint an Ad Hoc Investigative Committee (AHIC) of three. The appellant(s) and appellee(s) shall be informed of the AHIC membership. The appellee(s) will be given a copy of the materials submitted by the appellant and a copy of the FSCA Rules of Procedure. The appellant(s) and appellee(s) may each request removal of one member from the AHIC. This request needs to be made within five working days of notification of the committee membership. The FSCA chairperson chooses replacement member(s). The appellee(s) has ten working days to submit to the FSCA a written response to the appellant's request for a Study of an Appeal. A copy of this written response shall be given to the appellant(s).

9.3.3.1. Ad Hoc Investigative Committee Procedures.

The AHIC shall keep a written log when conducting an investigation. It shall, where possible, interview all witnesses specified by the appellant, by appellee(s), and by other principal parties to the appeal. Other persons may, at the discretion of the AHIC, be interviewed. Interviewees may be accompanied by a counselor(s) at their expense. Only the AHIC, its legal counsel, if any, and persons approved by the party being interviewed shall be present during these confidential interviews. The AHIC has 30 working days to complete its investigation and submit its report. Adjustments may be made in the time schedule, provided the appellant(s), appellee(s) and the AHIC agree, or, in the event of no such agreement, with the approval of the FSCA chairperson.

9.3.3.2. The Ad Hoc Investigative Committee Report.

After completing its investigation, the AHIC shall prepare a written report, which shall include a description of the appeal, the relief sought, the evidence appropriate to each allegation in the appeal, and the findings relative to each allegation. Copies of confidential letters of recommendation that were solicited during the process that led to the appeal will not be included in the AHIC's report. A tentative set of recommendations shall also be prepared. These will be considered separately from the report by the full FSCA. This report and tentative recommendations shall be submitted to the appellant(s), to the appellee(s), and to all FSCA members so that all parties concerned will have no less than ten working days to consider the report prior to a meeting of the FSCA called to act on said appeal.

9.3.3.3. Response to the Ad Hoc Investigative Committee Report.

Within this ten-day period the appellant(s) and appellee(s) may submit to the chairperson of the FSCA written explanatory statements, stating any disagreements on matters of fact and/or interpretation with the AHIC's findings. The chairperson shall arrange a reciprocal exchange of explanatory statements between the appellant and appellee as well as distribute such statements to the full committee. Failure by any of the parties to submit an explanatory statement shall be interpreted as acceptance of the factual and interpretive information of the AHIC's findings.

9.3.3.4. Terminating an Appeal.

At any stage prior to submission of the AHIC's report, the appellant may request in writing to the FSCA chairperson that consideration of the appeal be terminated. In such a case, the chairperson of the AHIC shall submit to the FSCA chair and to the appellee(s), a summary report on the general nature of the appeal and its resolution. This report shall be written so as to maintain confidentiality in the case. Once the AHIC report has been submitted, however, the appellant may not terminate an appeal.

9.3.4. FSCA Hearing of Case

After the ten-day period described above, a quorum of the FSCA shall meet in closed session within five working days to review the appeal, the AHIC findings, its recommendations and all written explanatory statements submitted by the appellant(s) and appellee(s). In this discussion, the full FSCA will formulate specific recommendations based on the AHIC's tentative recommendations regarding disposition of the appeal. Upon returning to open session, a quorum of the FSCA shall vote by secret ballot on the recommendations in the case. Any FSCA member, present for voting, may individually submit any written commentary, corrections, rebuttal, or opinions as to why the recommendations should be accepted or rejected.

9.3.4.1. FSCA Reporting Procedures.

The FSCA recommendations, including a tally of the vote, the investigative findings and attachments, the responses of the appellant(s) and appellee(s), and any concurring or dissenting opinions, shall be submitted by the FSCA chairperson to the provost within five working days from the date of the appeal hearing.

The FSCA chairperson shall also inform the appellant(s) and appellee(s) of the committee's recommendations within five working days of the committee's meeting.

9.3.5. Limitation

Once considered by the committee, an appeal may not be reopened unless there is significant new evidence in the judgment of the FSCA.

9.3.6. Responsibilities of Provost

After review of the FSCA report and holding any additional necessary interviews, the provost or a designee shall prepare a written report on the final disposition of the appeal and the university's action in the matter. The FSCA recommendations may be accepted as submitted. If the provost rejects or only partially accepts the recommendations, written reasons must be provided to the FSCA. The provost's signed report shall be addressed to the appellant(s), with copies sent to the appellee(s), and the chairperson of the FSCA within 15 working days from the date of submission of the FSCA recommendations. The chairperson shall inform the FSCA of the response by the provost. If the Provost denies the appeal, the appellant has 15 working days to appeal the Provost's decision to the President.

9.3.6.1. Appeal of an Action of the Provost

In cases where the faculty member is appealing an action of the Provost, the final disposition of the appeal, rests with the President. The FSCA report and recommendations to the President will be sent to the Provost for reconsideration of the initial decision. If the Provost's decision is unchanged, the Provost's report and recommendation will be forwarded to the President with the FSCA recommendation and all materials related to the appeal within 10 working days from receipt of the FSCA report. The President's report containing his/her decision shall be sent to the appellant, appellee(s), the Provost, and the chairperson of the FSCA within 15 working days from the receipt of the Provost recommendation. If the President rejects the appeal, written reasons must be included in the President's report. The FSCA chairperson shall inform the FSCA of the response by the President. If the President denies the appeal, the appellant has 20 calendar days to appeal the President's decision to the Board of Regents.

9.3.6.2. Appeal of an Action of the President

In cases where the faculty member is appealing an action of the President, the FSCA recommendation will be submitted to the President who will reconsider the initial action. If the President's initial decision is unchanged, the President will prepare a report containing written reasons for his/her decision. The FSCA report and the President's report will be forwarded to the Board of Regents within 15 working days of the

submission of the FSCA recommendations. The President's report shall be sent to the appellant and the chairperson of the FSCA.

9.3.6.3. Appeal to Board of Regents

A decision may be appealed to the Board of Regents only once. Therefore, if the administrative appeal channel is used and the president denies the relief sought, appellants must decide whether (a) to appeal directly to the Board of Regents or (b) to avail themselves of the opportunity to use the Faculty Senate Committee on Appeals (FSCA). Election of alternative (a) will preclude subsequent use of alternative (b). If the FSCA is used, its recommendation will go to the President as outlined in Section 9.3.6.2.

This section is not to be construed as implying that the administrative channel must be pursued to the presidential level before using the FSCA. Instead, faculty members may pursue the administrative appeal channel to any level up to and including the president before turning to the FSCA. But faculty members may decide to turn to the FSCA either as a first recourse or in response to denials of relief sought at lower administrative levels.

9.3.7. Keeping Records

9.3.7.1. Confidentiality.

The proceedings, findings, and recommendations in an appeal are to be held in strict confidence. Such information may be made public only at the request of or by action of the appellant(s). If the appellant(s) or appellee(s) make public material which the FSCA believes to be unfair to people involved in the case, the committee, after consultation with the parties directly involved, may make public such materials as it deems necessary to achieve a fair presentation of the facts.

9.3.7.2. Archives.

The FSCA chairperson shall deposit in the Faculty Senate Office all materials collected in a review of an appeal. After two years, all materials are to be destroyed unless any of the parties to the appeal request that the materials be retained for two additional years. Neither these documents nor any materials pertinent to the appeal shall be placed in the personnel file of the faculty member (s) held by any administrative unit of the university unless the faculty member so requests. The provost may retain all materials submitted in a case for up to five years in a separate appeals file.

9.3.7.3. Annual FSCA Report.

At the end of each academic year, the FSCA chairperson shall submit to the Faculty Senate a written summary report on the general nature of the appeal(s) taken to the provost, indicating whether the recommendations of the committee were accepted, modified, or rejected. This report shall be written so as to maintain the confidentiality of all cases.

9.4. Amendments

Amendments to this policy shall be governed by the same rules which apply to amendments of the Faculty Senate Rules and Bylaws. After amendments are approved by the Faculty Senate, the chairperson of the Faculty Senate Committee on Appeals is responsible for transmitting changes to the Office of the Provost for inclusion in the *Faculty Handbook*.