

## **SCHOOL OF MEDICINE FACULTY GRIEVANCE POLICY AND PROCEDURE**

Recommended by the School of Medicine Faculty Assembly on December 9, 2003, and approved by the School of Medicine Executive Committee on December 3, 2003, approved by the School of Medicine Council on December 17, 2003, by the Dean of the School of Medicine on December 18, 2003, and by the President of UMB on December 22, 2003.

### **A. Preamble**

In working together to fulfill the Mission of the School of Medicine (School) and the University of Maryland Baltimore (UMB), legitimate problems, differences of opinion, complaints, or grievances might arise in the relationship between the School or UMB and the School's faculty. Many such complaints are resolved informally through discussions or formally through policies governing specific matters, such as School, UMB or University System of Maryland (USM) policies on appointment, rank, and tenure. On occasion, however, complaints will arise that cannot be resolved under existing policies and procedures.

The UMB Faculty Senate and the President of UMB have adopted a Faculty Grievance Policy ("Campus Policy") intended to satisfy the Board of Regents Policy II-4 - "Policy on Faculty Grievances", which requires all USM institutions to have a formal faculty grievance policy culminating in decision on grievances by the President. The Campus Policy is intended to assist the President in deciding grievances after a timely, consistent, collegial and simple process. The Campus Policy recognizes that a faculty grievance should be considered at the school level, and advanced to a campus level if it is not resolved at a school level. Implementation of the Campus Policy therefore requires a school grievance policy ("School Policy"). This Grievance Policy and Procedure is the School Policy for the School.

It is the intention and expectation of the faculty and administration of the School that the majority of faculty grievances in the School can be resolved by informal process and, failing that, by a collegial committee process as described in this Policy. However, the Campus Policy is available to School faculty not satisfied with grievance resolution at the School level, and is available for grievances relating to actions of the Dean as to whether or not the School Policy has been followed.

### **B. Persons Covered By This School Policy**

This School Policy applies to grievances asserted by faculty holding paid faculty appointments in the School, including all ranks of tenured faculty, tenure-track faculty, and non-tenure-track faculty. If a School faculty member has a joint faculty appointment, and is not a primary appointee of the School, that faculty member may file a grievance under this School Policy only if the facts giving rise to the grievance involve the faculty member's relationship to the School.

This School Policy does not apply to grievances asserted by School faculty appointed as academic administrators.

### **C. Matters Constituting a Grievance Under This School Policy**

A faculty grievance normally involves action by one or more academic administrators of the School or UMB, acting in their administrative role, which a faculty member believes has violated his or her rights.

School faculty members may file a grievance petition under this School Policy for any action or inaction by an academic administrator that they believe is unfair, discriminatory, or improperly reached. Grievance issues include those that are defined as grievable under the Campus Policy.

Matters relating to faculty practice plans, and matters that are insufficiently related to the concerns of the academic community, will not be addressed under this School Policy.

Grievances cannot be filed against written UMB and USM policies per se. Thus, in accordance with USM Policy 11-4.00 and the Campus Policy, no grievance shall be reviewed under this School Policy if:

- i. The grievance complaint pertains to a subject reviewable under, or specifically excluded from review by, any other System or UMB institutional policy or a School policy. For this purpose, "a School policy" includes any policy of the School which has been adopted with approval of its faculty body, and an institutional policy has the meaning stated in the Campus Policy.
- ii. The grievance pertains to an official policy, regulation, or procedure of the USM or UMB; a decision or action by the Board of Regents, the Chancellor, or the President; or any matter the remedy for which would contravene or interfere with any such official policy, regulation, procedure, decision, or action.
- iii. The grievance pertains to broad areas of fiscal management, staffing or structure of USM, UMB or one or more of its Schools or units, or any other institution of USM.
- iv. The resolution of the grievance is not under the control of UMB and/or USM.

#### **D. Definitions**

*Associate Dean:* Academic administrator designated to coordinate action to address faculty grievances in the School (normally the Senior Associate Dean for Academic Affairs).

*Days:* Calendar days excluding Saturday, Sunday, and days UMB observes as holidays.

*Dean:* Dean of the School of Medicine.

*Department Type:* Basic Science, Clinical Science or Allied Health

*Discriminatory:* Disparate treatment on the basis of race, color, ancestry, national origin, age, religion, gender, marital status, veterans status, disability or sexual orientation.



*Faculty President: President of the School of Medicine Faculty Assembly*

*Grievant:* The faculty member initiating a grievance.

*Improperly Reached:* The decision was reached without the consultations required by department or School regulations prior to the making of such decisions or without approval of higher-level administrators where such approval is required.

*Respondent:* The administrator responsible for the action or inaction addressed in the complaint. When a grievance involves a decision made by a group of persons, the Respondent shall be the person that has the authority to make the decision about which the Grievant is petitioning under this School Policy.

*Unfair:* An action or inaction that is arbitrary, capricious, vindictive, lacking in justifiable cause or basis in official policy, discriminatory with respect to treatment accorded to equals, or extreme in relation to what would be a reasonable and available alternative course of action.

### **E. Procedure for Handling a Grievance**

#### **1. The Three-Stage Process**

As stated in the Policy, the attempt to resolve a grievance should normally follow a three-stage process:

- a. Informal Process – The Grievant shall promptly attempt to resolve the matter informally with the official having immediate authority over the matter.
- b. School Policy – The School Policy must be invoked if the informal process fails to resolve the matter. There is one exception. If the grievance concerns an action by the Dean, the School Policy involving consideration of the grievance need not be followed, and the grievant may file a grievance under the Campus Policy if informal process does not result in a satisfactory resolution.
- c. Campus Policy - If no resolution is reached through the informal and formal School mechanisms, the faculty member may file a grievance to be reviewed under the Campus Policy.

#### **2. Presentation of Grievance Petition**

A grievance petition under this School Policy must be filed within 90 days of the occurrence, or, if later, within 90 days of the faculty member having knowledge. The grievance petition should follow a prescribed form:

- a. The petition shall be submitted in writing and must be delivered in person, by certified mail or other method providing a written receipt of delivery, to the Faculty President, with a copy to the Dean.

- b. The petition shall contain at a minimum a concise statement of the action or inaction giving rise to the grievance, including the time-frame of the action or inaction and the name of the Respondent.
- c. The petition shall specify the adverse effect that the action or inaction has had or may have on the Grievant, and the remedy sought. Requested remedies must be limited to those that the School or UMB has the authority to provide.
- d. The petition should indicate earlier efforts made to resolve the matter (informal process) and the results.
- e. The petition should be filed with copies of available evidence or documentation necessary to establish the merits of the Grievant's argument in support of the grievance.
- f. If the Grievant wants the petition to be handled under a confidential review process at the School level, the petition should state this request.
- g. The petition must be signed and dated by the Grievant.

### 3. Confidential Review

If the Grievant has requested that the petition be handled under a confidential review process, the Dean will forward the petition to the Associate Dean who will investigate the petition, consult with the Faculty President, and make a recommended resolution to the Grievant, Respondent and the Dean. The Grievant may choose this path for any reason such as cases in which the grievance involves the disclosure of confidential, sensitive or personal information that the Grievant would not want divulged in a hearing process.

The confidential review process will be completed and a written recommendation from the Dean to the Grievant and Respondent will be made within 60 days of the petition being received. The Dean's recommendation will be implemented as the final action on the grievance if it is accepted by the Grievant. The Grievant shall have 15 days after receiving the Dean's recommendation to determine whether it is accepted. If it is not accepted, the Grievant may proceed under the Campus Policy.

### 4. Regular Review

- a. If confidential review has not been elected, the Dean will forward the petition to the Associate Dean.
- b. The Faculty President, in consultation with the Associate Dean, will determine if the petition falls within the purview of this School Policy. If the Faculty President and the Associate Dean disagree as to the applicability of the Policy, the grievance will be considered under the Policy if the Faculty President finds the School Policy applicable. If the Policy is determined not to be applicable, the Faculty President will return the petition to the Grievant within 10 days of receipt with the reason for the return stated in writing.



- c. If the petition falls within the purview of this School Policy, the Faculty President shall establish a grievance committee to consider the petition. The grievance committee shall be named within 10 days after the Faculty President receives the grievance. The grievance committee will consist of three faculty members, whose academic rank is equal to or greater than that of the Grievant: At least two of the appointed faculty members must be tenured; at least two of the faculty members must be from the same Department Type as the grievant. Actions of the grievance committee require the agreement of at least two members of the committee
- d. The Faculty President shall notify the Associate Dean, Grievant, Respondent and faculty members of the membership of the grievance committee and send the Respondent and the faculty members of the grievance committee a copy of the grievance.
- e. The Office of the Associate Dean will provide reasonable administrative support to the grievance committee. At the committee's initiation, the Associate Dean for Academic Affairs or an appropriate School administrator will meet with the committee to provide further information or other details regarding administrative concerns.
- f. The Respondent may prepare a written response to the grievance and submit it to the Associate Dean and Faculty President, who will furnish it to the Grievant and the grievance committee. A written response is due within 10 days after the Respondent receives the Grievance. If the Respondent chooses to respond at a committee meeting, rather than file a written response, the Grievant shall have the opportunity to be present to hear the Respondent's position. A Respondent shall be asked to provide documentary evidence in support of the Respondent's position if the Respondent wishes to counter any of the written information or documents received from the Grievant.
- g. The Faculty President will appoint one of the appointed faculty members to chair the committee. At the initial meeting, grievance committee members shall discuss the grievance, and to establish a schedule for meetings to review the grievance and submitted materials.
- h. The Grievant has the right to an impartial review and evaluation of his or her grievance by the grievance committee. Potential grievance committee members are expected to request to be excused if they have a family relationship or conflicting personal or professional ties to the Grievant or the Respondent. Prior to the beginning of a committee's work, the Grievant or Respondent may request the removal of any committee member(s) he or she feels would be unable to evaluate the case impartially. If a member does not recuse himself or herself voluntarily upon request, the Faculty President may remove that member. When a faculty member appointed to the committee recuses himself or herself, or is removed for any reason, the Faculty President shall appoint a replacement.
- i. At any time, the grievance committee may determine that a grievance relates to a matter which does not constitute a grievance within the scope of the School Policy or to a complaint which is insufficiently related to the concerns of the academic community. In such cases, the grievance committee will dismiss the petition. The decision of the grievance committee to dismiss a grievance petition will be sent in writing to the Grievant, the Respondent, the Faculty President, and the Associate Dean. The decision to dismiss a grievance petition by the grievance committee is final and not subject to appeal or review under the School Policy or the Campus Policy.



- j. At the committee's discretion, the Grievant and Respondent shall be invited to meet with the committee, either together or separately, to explain their positions and attempt to resolve the grievance. The grievant and the respondent should be given ample opportunity to explain their positions to the grievance committee, and to present written and tangible information. The committee may limit presentations which they consider to be redundant or irrelevant.
- k. The meetings of the committee shall be conducted informally, with the objectives of facilitating communication and mutual understanding of the parties' positions and seeking, through a collegial process, workable solutions to problems that may be identified by grievances. Committee meetings will not be formally recorded.
- l. The Chair of the Committee will keep records of committee meetings and copies of all relevant materials submitted to the committee.
- m. Following meetings with the parties and consideration of relevant information, the grievance committee will make a recommendation in the matter and the chair of the committee will communicate this recommendation to the Grievant and the Respondent. If the Grievant and the Respondent accept the recommendation, they will advise the committee in writing. The Dean and the Faculty President will then be advised of the recommendation and the parties' agreement to it. If either the Grievant or the Respondent does not accept the recommendation, the Dean and the Faculty President will be advised of the recommendation and the parties' positions, if they have been communicated to the committee in writing. In either case, the Dean will determine the final action at the School level. He will advise the committee and the respective parties in writing, of his/her decision. The Dean will consult with the Faculty President before making a final decision that departs from a committee's recommendation.
- n. The grievance committee's review of a matter should be concluded within 60 days after appointment of the committee. The grievance committee's recommendation to the parties shall be made within 10 days after it receives the last requested information about the grievance, or has its last meeting with either party, whichever is later. The parties should respond to the recommendation in writing within 10 days of receiving it. A recommendation from the committee to the Dean shall be made within 10 days after receiving the parties' responses.

#### **F. Actions of the Dean**

1. After receiving a report and recommendation, the Dean will attempt to respond within 10 days. The Dean's response will be in writing and will be delivered to the Grievant with copies to the grievance committee members, the Faculty President, and the Respondent. It is expected that the Dean will give great weight to the recommendation of the Grievance Committee. However, the Dean is not bound to accept the recommendation. The decision of the Dean shall be the final decision at the School level.
2. If the Dean does not accept the Grievance Committee's recommendation, the Dean will state in writing what part of the finding and recommendation is not accepted, and the

reason for the Dean's action.

### **G. The Grievance File**

The Associate Dean shall establish a grievance file for any grievance evaluated under this School Policy. Any files and minutes of grievance committee meetings will be delivered to the Associate Dean for Academic Affairs and made a part of the grievance file. The Associate Dean shall maintain a grievance file for a period of at least five years from the date a grievance is filed.

### **H. Miscellaneous**

1. Deadlines specified in this Policy should be followed if practical. For good cause shown, deadlines may be extended by the Dean or Associate Dean.
2. The Grievant shall be responsible for all costs incurred by the Grievant in connection with the Grievant's preparation, presentation, investigation, hearing, appeal, and resolution of a grievance under this School Policy.