



Proposal to Review the Administration of the Adjudication Process for the Faculty Grievance Policy

PRESENTED BY Will Reed, Chair

REVIEW DATES SEC – February 23, 2021 | SENATE – March 3, 2021

VOTING METHOD In a single vote

RELEVANT POLICY/DOCUMENT [II-4.00\(A\) – University of Maryland Policies and Procedures Governing Faculty Grievances](#)

NECESSARY APPROVALS Senate, President

ISSUE

In August 2020, a proposal was submitted seeking to alter the administration of the adjudication phase of the [University of Maryland Policies and Procedures Governing Faculty Grievances \(II-4.00\[A\]\)](#). The proposal asks that the University Senate (“Senate”) consider placing responsibility for the adjudication phase at the level of the University rather than with the Executive Secretary & Director of the Senate (“Senate Director”). The proposal noted that the details of logistics and management of the grievance process do not require the expertise of the Senate Director, and stated that the strict timeline for the adjudication process established in the policy significantly diminishes the Senate Director’s ability to carry out duties of the Senate. On August 19, 2020, the Senate Executive Committee (SEC) voted to charge the Faculty Affairs Committee with review of the proposal.

RECOMMENDATION(S)

The Faculty Affairs Committee recommends that its proposed revisions to the University of Maryland Policies and Procedures Governing Faculty Grievances (II-4.00[A]) be revised as shown immediately following this report.

The Faculty Affairs Committee recommends that the Senate Director should develop a pool of individuals who may be designated to administer the adjudication process, with individuals who work outside of the President’s and Provost’s Offices. The Senate Director should establish procedures for assigning designees to specific grievance cases in order to ensure that there are no associated conflicts of interest.

The Faculty Affairs Committee recommends that the Senate Director should develop processes and materials to ensure that each potential designee is appropriately trained on the policy and procedures and on their responsibilities in coordinating and advising the Faculty Grievance Hearing Board.

COMMITTEE WORK

The Faculty Affairs Committee (FAC) began reviewing its charge at its meeting on September 18, 2020. The committee met with the proposer, Senate Director, Associate Vice President for Finance and Personnel; consulted with representatives from the Office of Faculty Affairs, the President's Office, University Human Resources, and the Faculty Ombuds Officer; reviewed current University policy and University System of Maryland (USM) policy; reviewed past Senate action on the policy; reviewed processes at Big 10 and other peer institutions; and reviewed how similar adjudication processes at the University of Maryland are administered.

The FAC found that there is value in having the Senate as an organization strongly involved in the grievance process, as it is an independent body that is perceived to be without bias. The committee also recognized that the adjudication process has tight timelines which must be attended to, and the time commitment and attention needed for the Senate Director to administer the grievance process can put the Senate's work at risk. The current policy leaves no flexibility to have an individual step in to administer the process if the Director is unavailable due to Senate obligations, illness, or leave.

After considering various options for which administrative unit is best suited to administer the adjudication process, including the Senate, Provost's Office, and President's Office, the FAC agreed to revise the policy to indicate that the Senate Director "or designee" is responsible for coordinating and advising the Faculty Grievance Hearing Board. In this approach, the Senate Director would maintain ultimate responsibility, but would be able to delegate the responsibility as needed to ensure that both the grievance process and the Senate's work are attended to. The committee developed administrative recommendations to encourage the development of procedures and processes that articulate the specifics of the new structure, including the new process to create a pool of individuals from which the designees may be drawn, in order to avoid any real or perceived conflicts of interest.

The FAC developed revisions to two timelines in the adjudication process in order to minimize administrative burdens while ensuring a fair process for all parties. The committee also developed revisions to establish a process for written responses and exceptions.

The FAC consulted with the Office of General Counsel on its proposed recommendations in February 2021. After due consideration, the FAC voted to approve its recommendations and revisions to the policy through an email vote concluding on February 19, 2021.

ALTERNATIVES

The Senate could choose not to accept the recommendations. However, the University would lose an opportunity to address the problems identified in the proposal and by the committee, including the risks to the Senate's work in having the Senate Director as the only individual able to administer the formal grievance adjudication process. The University would also lose the opportunity to establish additional procedural elements to ensure a fair process for all parties.

RISKS

There are no known risks to the University in adopting these recommendations.

FINANCIAL IMPLICATIONS

There are no known financial implications to adopting these recommendations.



Proposal to Review the Administration of the Adjudication Process for the Faculty Grievance Policy

2020-2021 Committee Members

Will Reed (Chair)	Beth St. Jean (Faculty)
John Bertot (Ex-Officio Provost’s Rep)	Wendy Stickle (Faculty)
Michele Eastman (Ex-Officio President’s Rep)	Donald Webster (Faculty)
Marc Pound (Ex-Officio CUSF Rep)	Mary Shelley (Staff)
Jackie Richmond (Ex-Officio Director of UHR Rep)	Naette Lee (Graduate Student)
Ellin Scholnick (Ex-Officio Ombuds Officer)	Autumn Perkey (Graduate Student)
Saverio Giovacchini (Faculty Senator)	Shawn Nijjar (Undergraduate Student)
Tracy Huard (Faculty Senator)	
Agisilaos Iliadis (Faculty Senator)	
Nicole LaRonde (Faculty Senator)	
Mark Fuge (Faculty)	
Jessica O’Hara (Faculty)	
Kevin Roy (Faculty)	

Date of Submission

February 2021

BACKGROUND

In August 2020, a proposal was submitted seeking to alter the administration of the adjudication phase of the [University of Maryland Policies and Procedures Governing Faculty Grievances \(II-4.00\[A\]\)](#). The proposal asks that the University Senate (“Senate”) consider placing responsibility for the adjudication phase at the level of the University rather than with the Executive Secretary & Director of the Senate (“Senate Director”). The proposal noted that the details of logistics and management of the grievance process do not require the expertise of the Senate Director, and stated that the strict timeline for the adjudication process established in the policy significantly diminishes the Senate Director’s ability to carry out duties of the Senate. On August 19, 2020, the Senate Executive Committee (SEC) voted to charge the Faculty Affairs Committee with review of the proposal (Appendix 1).

CURRENT PRACTICE

The University of Maryland Policies and Procedures Governing Faculty Grievances (II-4.00[A]) (“the Policy”) establishes informal and formal processes for considering grievances between the University and faculty members. Grievances may be submitted by faculty on the grounds that an action or inaction was unfair, discriminatory, or improperly reached.

The informal processes detailed in the Policy are administered by the Faculty Ombuds Officer, who serves as a neutral party to provide confidential and informal assistance to faculty as they seek to resolve concerns related to their work. The Faculty Ombuds Officer is charged to be impartial and cannot advocate for any party.

In cases where informal resolution fails, the grievant may submit the grievance for adjudication. The adjudication process involves a review by a Faculty Grievance Hearing Board (“the Board”), which is composed of Faculty Senators and formed by the Senate Chair-Elect. The process is

administered by the Senate Director; the Policy indicates that the “Executive Secretary and Director of the Senate shall serve as the coordinator of and advisor to the Faculty Hearing Board” and that the Director’s office is assigned responsibilities related to record-keeping, notification of the parties, and monitoring compliance with the procedures.

Administration of the grievance process requires managing logistics; coordinating between parties, administrators, offices, and the Board; and advising on policy and process. There are many logistical tasks given to the Senate Director by the Policy, including scheduling meetings, hearings, and witnesses and organizing and disseminating materials to all of the parties and the Board. Serving as the coordinator of the Board, the Senate Director develops, disseminates, and maintains records for the Board; coordinates with the Office of General Counsel (OGC) to ensure the Board has access to legal advice and can find answers to questions from a legal perspective; and communicates with the parties on behalf of the Board and its Chair, after consulting with the OGC. The Senate Director also plays a critical role in advising the Board and its Chair on the scope and limitations of the Policy, and works to ensure their consideration of the case is in alignment with the Policy. In addition, the Senate Director collaborates with the Board Chair and the Board members in the process of drafting, reviewing, and revising the final report of the Board.

COMMITTEE WORK

The Faculty Affairs Committee (FAC) began reviewing its charge at its meeting on September 18, 2020. It reviewed the proposal, the current University policy, and the University System of Maryland (USM) Policy on Faculty Grievances (II-4.00). It also reviewed how similar processes at Big 10 and other peer institutions are administered, as well as how the University of Maryland (UMD) manages and administers other existing adjudication processes such as termination, suspension, and scholarly misconduct processes. During its review, it met with the proposer, a Past Senate Chair, as well as with the Senate Director, and the Associate Vice President for Finance & Personnel in the Provost’s Office, who is the Senate Director’s immediate supervisor. It also consulted with its ex-officio representatives from the Office of Faculty Affairs, the President’s Office, University Human Resources, and the Faculty Ombuds Officer throughout its review. In addition, the FAC consulted with the Office of General Counsel (OGC) on its proposed recommendations in February 2021.

In the course of its review, the FAC learned that placing responsibility for the administration of the adjudication process with the Senate Director diminishes their ability to carry out the core functions of the Senate. The adjudication process places a significant administrative burden on the Senate Director, through timelines that must be attended to and considerable responsibilities related to coordinating with the Board, its Chair, the OGC, and the parties. The Senate Director’s core obligation is to the Senate and its work, but the time commitment and attention needed to administer the grievance process can put the Senate’s work at risk. In addition, the size of the Senate Office Staff and the skillsets required for the Senate Director’s work with the Senate, the Senate Leadership, and the University administration make it difficult to redistribute their responsibilities to accommodate the intense needs of the grievance adjudication process, especially when cases arise during peak times for the Senate, such as during the spring semester elections period.

The FAC also raised concerns about the fact that the Policy identifies only one individual who is able to administer the process. Since the Policy names a specific individual, there is no flexibility to have another individual step in to administer the process if the Senate Director were unavailable due to illness or on leave. Additionally, if multiple grievances were submitted at the same time or in

an overlapping fashion, it would be impossible for one individual to manage both or all grievances in accordance with the Policy while still attending to the business of the Senate.

The workload involved in administering the formal grievance adjudication process involves only one to two cases per year, but cases typically involve a significant number of work hours when they arise. The number of cases is entirely dependent on the nature of the cases themselves; the Faculty Ombuds Officer typically sees about 50 grievance complaints per year and the cases that escalate to the adjudication process are the most difficult and complex of those cases. Formal grievances may be submitted at any time during the academic year, and must be attended to immediately. The Policy states that the grievance procedure calendar excludes the time period from the end of the spring semester to the start of the following fall semester, which requires that all cases be heard during the academic year.

Peer institutions take different approaches to administration of faculty grievance processes (Appendix 2). Of the 14 institutions surveyed, three institutions assign administration responsibilities to the Senate Director or the Senate Office; seven institutions assign responsibilities to other University offices including those within Academic Affairs; and four institutions use a combination approach, where the administrator depends based on the type of grievance that is presented. At the seven institutions where offices outside of the Senate are relied upon to administer the process, the committee found that only two institutions have faced issues with potential conflicts of interest in the person administering the process, and in both cases were able to find ways to remove the specific individual from the process. The FAC noted that peer institution information is helpful in assessing options, but it is also limited by the fact that other institutions have different structures. UMD's policy is shaped around the existence of a Faculty Ombuds Officer and the primacy of informal methods of resolution, but many peers have different models of considering grievances, which limits their utility as a model for UMD's process.

The FAC explored past Senate action on the Policy, in the interest of determining whether the Senate Director was tasked with this responsibility for a specific reason (Appendix 3). Records indicate that the Senate Director was involved in grievance processes in some way in the 1970s and 1980s prior to the creation of the Policy, and was incorporated into the Policy when it was first developed. However, no documentation was found that indicates that the Senate Director was chosen to administer the process for a specific reason or due to specific expertise. The FAC also considered how similar adjudication processes are administered at UMD (Appendix 4). Examples in other processes are limited; the FAC found that policies on suspension and termination do not name an administrator and some processes may have dedicated officers within the policy and process, like in the case of scholarly misconduct.

In its charge, the FAC was asked to consider what administrative unit is best suited to administer the adjudication process defined in the faculty grievance Policy. It considered various options, from the University Senate to the Provost's Office to the President's Office. In considering placing the responsibility for administering the process at the level of the University, as suggested by the proposal, the FAC found that such a change could cause real or perceived conflicts of interest. The Board makes a recommendation to the President, so the committee felt strongly that the coordinator and advisor to the Board could not be a staff member from the President's Office. In most cases, the respondent(s) are academic administrators, and so the committee felt that a coordinator and advisor who worked in the Provost's Office could have a real or perceived conflict of interest, in that they may work closely with or have a particular perception of the respondent(s) in a specific case. The FAC did recognize that multiple peer institutions administer the process through the Provost's Office and have reported no significant issues related to conflicts of interest; however, the

committee felt that in this instance, peer institutions may not be instructive since they may be operating in different contexts.

The FAC found that there is value in having the Senate as an organization strongly involved in the grievance process, as it is an independent body that is perceived to be without bias. The FAC felt the Senate brings value and legitimacy to the process as a neutral body, just as the Faculty Ombuds Officer brings value and legitimacy to the informal grievance processes through their impartial and independent nature. However, the FAC took seriously the problems it identified regarding the detrimental effect this process can have on the Senate's work by taking the Senate Director away from their core responsibilities, and began to explore options for keeping the role within the Senate while lessening the impact on the Senate Director.

The FAC developed an alternate solution in response to the issue raised by the proposal. The FAC proposes that the Senate Director should retain responsibility for the administration of the grievance process, but should be able to designate another individual to assume their responsibilities if necessary to attend to both the grievance process and the Senate's work. The committee agreed to revise the policy to indicate that the Senate Director "or designee" is responsible for coordinating and advising the Faculty Grievance Hearing Board. Under this proposed remedy, the Senate Director would work with her immediate supervisor, the Associate Vice President for Finance & Personnel, to identify a small pool of individuals who would be appropriate administrators for specific cases under this process. The pool would be trained on the Policy and procedures, and given resource materials and best practices to guide them through the process. When a case is submitted, the Senate Director may select a specific designee from the pool and assign them to carry out the responsibilities specified in the Policy. In considering this approach, the committee considered as potential designees past Senate Chairs, past Senate Parliamentarians, emeriti faculty, or other engaged campus citizens who have the capacity to serve the University in this way.

This alternate solution would provide more flexibility so the process does not require the Senate Director for each case, especially if they are completely unavailable at the time, thus mitigating the cost to the Senate of the Senate Director being directly involved in the grievance process. The Senate Director would maintain ultimate responsibility, but would be able to delegate the responsibility, as needed. This approach would also address situations where multiple grievances are submitted concurrently. Given the committee's concerns regarding conflict of interest, the designee would need to be an individual outside of the President's or Provost's Office, but this would allow some level of flexibility to select a designee on a case by case basis. The committee developed administrative recommendations to encourage procedures and processes articulating the specifics of this new structure.

In order to minimize administrative burdens while ensuring a fair process for all parties, the FAC agreed to revise two timelines in the adjudication process. After the submission of the formal grievance, the current Policy gives the Senate Director five days to notify the respondent, the Associate Provost for Faculty Affairs, and the Faculty Ombuds Officer. At this point, the Senate Director begins having discussions with the grievant to identify a respondent or otherwise ensure that the documentation surrounding the grievance is complete; with the OGC to plan and to develop communications to those involved; and with the Faculty Ombuds Officer to inform next steps, all of which can take time. The FAC determined that ten days would be a more realistic timeline for this stage in the process. At the conclusion of the process, the current Policy directs the Board to prepare a written report and submit it within ten days. Developing the report can be time-consuming, as it involves a great deal of discussion and drafting with the Board Chair, Board members, and the OGC. The FAC found that it would be reasonable to expand this timeline in order to ensure that the

report can be thorough, clear, and complete. The committee agreed to revise the timeline to twenty days.

In its review, the FAC learned that the Policy does not articulate a process for the parties to submit written statements, but in practice written responses are often included in the process. The Policy does not specify that the parties should have an opportunity to respond in writing to either the formal grievance or the motion to dismiss, and does not clarify whether the other party then has an opportunity to respond in writing to the response. In the lack of clear guidance from the Policy, the practice has been to allow written responses when they are requested. This adds administrative burdens in determining whether a party is going to submit a response and when they expect to do so before a meeting of the Board or a hearing can be scheduled. The FAC agreed that the Policy should provide clarity on this issue, and it considered how to develop a reasonable process for allowing written responses. The committee felt that allowing the formal grievance or the motion to dismiss and a written response from the other party would give both sides an equal opportunity to articulate their argument. The FAC determined that setting a clear limitation in the Policy would be fair, as long as it gives both sides an opportunity to provide written information and provides exceptions in exceptional circumstances, as determined by the Chair of the Faculty Grievance Hearing Board. The FAC developed revisions to the Policy to establish a process for written responses and exceptions.

In developing its draft recommendations, the FAC consulted with the Senate Director to ensure its recommendations were feasible. The FAC also consulted with the OGC on the draft policy language. After due consideration, the FAC voted to approve its recommendations and revisions to the policy through an email vote concluding on February 19, 2021.

RECOMMENDATIONS

The Faculty Affairs Committee recommends that its proposed revisions to the University of Maryland Policies and Procedures Governing Faculty Grievances (II-4.00[A]) be revised as shown immediately following this report.

The Faculty Affairs Committee recommends that the Senate Director should develop a pool of individuals who may be designated to administer the adjudication process, with individuals who work outside of the President's and Provost's Offices. The Senate Director should establish procedures for assigning designees to specific grievance cases in order to ensure that there are no associated conflicts of interest.

The Faculty Affairs Committee recommends that the Senate Director should develop processes and materials to ensure that each potential designee is appropriately trained on the policy and procedures and on their responsibilities in coordinating and advising the Faculty Grievance Hearing Board.

APPENDICES

- Appendix 1 — Charge from the Senate Executive Committee
- Appendix 2 — Peer Institution Information
- Appendix 3 — Past Senate Action
- Appendix 4 — Administration of Other UMD Processes



II-4.00(A) UNIVERSITY OF MARYLAND POLICIES AND PROCEDURES GOVERNING FACULTY GRIEVANCES

(Passed by the Campus Senate, April 23, 1990 and approved by the President, December 13, 1990; Amended March 4, 2002; Amended April 5, 2018; Amended February 7, 2020. This procedure replaces all faculty grievance procedures previously in effect at all administrative levels of the University of Maryland College Park.)

I. INTRODUCTION

A. Purpose

Legitimate problems, differences of opinion, conflicts, or complaints sometimes arise in the relationship between the University, as an employer, and its faculty. Both the faculty member with a grievance and the University benefit when the University responds to grievances promptly and fairly. This grievance procedure attempts to handle grievances as informally as possible and at a level in the University structure that is accessible to faculty members. The procedure also attempts to handle grievances in a timely, consistent, and simple manner.

B. Who May File a Grievance?

All persons with faculty status irrespective of their administrative duties or assignments at the time of the action or inaction prompting the grievance may use this grievance procedure. The faculty members covered by the Grievance Procedures are all those whose titles are in the University of Maryland Policy on Appointment, Promotion and Tenure Policy II-1.00(A) or in the University System Policy II-1.00, whether that person is full-time or part-time, as long as the faculty appointment is the person's primary position at the University of Maryland.

Grievances by more than one faculty member may be put together in a single grievance if each faculty member signs the grievance and the material actions or inactions and issues are substantially the same for each.

C. What is a Grievance?

Faculty members may file a grievance under this procedure for issues including but not limited to academic freedom, salary, assignments, and the nature and conditions of a faculty member's work. Specific limitations on grievance complaints can be found in section I.D of this Policy. Grievances cannot be filed against written campus and System

policies. Grounds for a grievance are limited to actions or inactions by an administrator or a faculty member that are believed to be:

1. Unfair, which shall mean arbitrary and capricious, lacking in justifiable cause or basis in official policy, inequitable with respect to treatment, or excessive in relation to what would be a reasonable and available alternative course of action;
2. Discriminatory, which shall mean that the action or inaction was made on the basis of a protected status (e.g., race, ethnicity, gender, age, religion, sexual orientation, etc.); or
3. Improperly reached, which shall mean the decision was reached either in violation of University policy or without the consultations or approvals required by departmental or college regulations prior to making such decisions.

D. Limitations

No complaint shall be reviewed under these faculty grievance procedures if:

1. The complaint pertains to a subject that is reviewable under, or is specifically excluded from review by any other System or institutional policy, or pertains to a finding or decision reached through a process established in a University policy that includes an appeal mechanism, such as policies on sexual misconduct, non-discrimination, promotion and tenure, and scholarly misconduct;
2. The complaint pertains to a disciplinary action, including termination or suspension, imposed following the outcome of an institutional investigatory or compliance process;
3. The complaint pertains to an official policy, regulation, or procedure of the System or the institution; 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 an official policy, regulation, procedure, decision, action, or institutional legal obligation;
4. The complaint pertains to a fiscal irregularity finding, broad fiscal management, organization, or structure of the University System of Maryland or constituent institutions; or
5. The complaint pertains to an issue or proposes a remedy that is not under the control of the institution and/or of the University System of Maryland.

A faculty member may not use any other University grievance procedure simultaneously or successively with respect to the same or substantially similar issue or complaint, or with issues or complaints arising out of or pertaining to the same set of facts. In addition, no other University grievance procedure may be used to challenge the actions,

determinations, or recommendations of any person(s) or board(s) acting pursuant to these procedures. A faculty member who elects to use this procedure for the resolution of a grievance agrees to abide by the final decision arrived thereunder, and shall not subject this decision to review under any other procedure within the University System of Maryland.

A grievant may choose to pursue resolution under this process and pursue resolution through civil or criminal means, at their own initiation and expense. Administrative processes are separate from and have different standards than legal processes. Legal processes and the University's internal administrative process will proceed separately and independently.

E. The Faculty Ombuds Officer

The University of Maryland shall have a Faculty Ombuds Officer, who serves as a neutral and impartial officer to provide confidential and informal assistance to faculty and administrators in resolving concerns related to their work. Operating outside ordinary administrative structure, the Faculty Ombuds Officer shall serve as a counselor, fact-finder, mediator, and negotiator, but not as an advocate for any party to a dispute.

The Faculty Ombuds Officer shall serve all faculty and academic administrators. They shall attempt to resolve disputes informally before they enter formal grievance channels, and shall advise those who seek information about what constitutes a grievance and what the grievance procedures are. The Officer shall have access to suitable legal counsel, and should prepare an annual report and offer recommendations for policy change to the University Senate and the President.

The Faculty Ombuds Officer shall to the extent possible respect the confidentiality and privacy of faculty pursuing resolution under this grievance procedure. However, the Faculty Ombuds Officer may communicate with others on a need to know basis, as is appropriate to facilitate the grievance process or to attempt to address a complaint.

The Faculty Ombuds Officer shall be appointed by the President following a search conducted by a committee jointly appointed by the Senate Executive Committee of the University Senate and the President. Removal shall be by mutual consent of the President and a majority of the elected faculty members of the Senate Executive Committee.

II. PROCEDURES

A. Definitions

A grievance allegation is a preliminary informal statement of a grievable issue presented to the Faculty Ombuds Officer. It is based on the same standards as a grievance complaint, but seeks a remedy through the process of private discussion and consultation rather than formal grievance.

A *grievance complaint* is a formal written statement of a grievable issue using a prescribed form available from the Faculty Ombuds Officer. The grievance complaint should clearly articulate the grounds and scope of the grievance as well as the desired remedy.

A *formal grievance* is the formal written statement that is submitted to begin the adjudication process, after the mediation phase has concluded.

A *grievant* is the faculty member or members initiating a grievance allegation or grievance complaint.

The *respondent* is the person or persons whose actions or inactions are the focus of the grievance allegation or grievance complaint.

A *mediation agreement* is a formal written statement agreed upon by both the grievant and respondent that serves to resolve a grievance complaint.

Bad faith means an allegation that is knowingly false and/or is made or done with a knowing or reckless disregard for information that would negate the allegation.

Retaliation means an adverse action taken against an individual who has submitted a grievance and/or participated in the grievance process in good faith, where there is a clear causal link between the grievance and an adverse action. In determining whether retaliation has occurred, the individual needs to provide documentation supporting a claim of retaliation; the other party needs to articulate a legitimate reason for the adverse action.

Days in the calendar of complaint procedures shall mean business days. The grievance procedure calendar excludes Saturdays, Sundays, days on which the University is officially closed, and the time period from the end of the spring semester to the start of the following fall semester.

B. Information about Procedures

The Faculty Ombuds Officer is responsible for providing information regarding the preliminary consultation, mediation, and adjudication procedures and their relation to other policies and procedures of the University. This officer shall explain, in response to inquiries by faculty members, the conditions for using the various steps of the grievance procedure.

The grievance process consists of three phases. The Preliminary Consultation phase will normally proceed over a period of fifty (50) days. Once it has been determined that the consultation cannot achieve a satisfactory result through informal discussion, the grievant will have fifteen (15) days to file a grievance complaint to enter mediation. The Mediation phase will normally last up to twenty-five (25) days, though it can be extended

with the consent of both parties. The Adjudication phase may proceed after mediation concludes, and will move forward as expeditiously as possible.

Faculty are expected to begin the grievance process within seventy-five (75) days of a grievable action or inaction, or within seventy-five (75) days of first learning of the action or inaction, whichever is later. Such action or inaction may be the latest in a long standing pattern or practice, in which case the pattern may be considered as part the grievance, if the grievance is submitted within seventy-five (75) days from the most recent example of a pattern of action or inaction.

Grievants will not be reprimanded or discriminated against in any way for initiating a legitimate allegation or complaint. University administrators and faculty shall not engage in or threaten retaliation. Complaints of retaliation should be referred to the appropriate administrator, who would normally be the supervisor of the individual alleged to be engaging in retaliation, for review and any appropriate disciplinary action. Grievants who bring forward allegations that are found to be in bad faith may be subject to appropriate disciplinary actions.

The process for addressing a grievance set forth in these procedures is confidential. The parties, witnesses, members of committees involved in the process, advocates, and administrators who are informed of the grievance on a need to know basis, are expected to preserve confidentiality at all stages of the process, including preliminary consultation, mediation, and adjudication.

1. Preliminary Consultation. The preliminary consultation stage should normally proceed over a period not to exceed fifty (50) days), and is initiated by a grievance allegation brought to the Faculty Ombuds Officer. During this stage, the Faculty Ombuds Officer reviews the allegation with the grievant and the respondent, provides information and resources to the grievant, clarifies with the grievant the nature of the complaint, and counsels the grievant on their options for resolving the grievance as well as the process for engaging in mediation and adjudication should their allegation rise to the level of a formal complaint. In some cases, the grievant may have attempted to resolve the dispute privately prior to consulting with the Faculty Ombuds Officer, but such private attempts are not required in order to engage the assistance of the Faculty Ombuds Officer.

If through preliminary consultation with the parties, the allegation is settled to the satisfaction of all parties, no formal record need be filed with the Faculty Ombuds Officer, but a written record of such agreement may be filed at the request of the grievant. If the grievance allegation is not settled through preliminary consultation and the grievant wishes to proceed to mediation, the grievant must file a grievance complaint with the Faculty Ombuds Officer before the timeframe for preliminary consultation ends in order to proceed to mediation.

It is the responsibility of the Faculty Ombuds Officer to determine the essential nature of the dispute so that it can be resolved; the essential nature of the dispute may in fact

differ from that described in the allegation. Following counsel with the Faculty Ombuds Officer, the grievant's allegation should be revised as appropriate during the development of the grievance complaint.

- 2. Mediation.** Mediation begins when the grievant files the written grievance complaint with the Faculty Ombuds Officer. The complaint shall contain a clear and concise statement of the action(s) or inaction(s) giving rise to the grievance, including the date of the action(s) or inaction(s) and the name(s) of the respondent(s) responsible. Also, the complaint should specify the adverse effect that the action(s) or inaction(s) has had or may have on the faculty member, and the remedy sought. The complaint should include the grievant's contact information.

From the time that the grievance complaint is filed, the Faculty Ombuds Officer shall have twenty-five (25) days in which to conduct mediation. If needed and by mutual consent of the parties, the Faculty Ombuds Officer may take additional time for mediation. The Faculty Ombuds Officer shall mediate the dispute by working with the parties to seek a solution satisfactory to both. All parties are expected to make good faith efforts at mediation. If mediation fails to produce a satisfactory solution, mediation may end unless both parties agree to continue.

If mediation results in a resolution of the conflict, a confidential written report and mediation agreement shall be forwarded to all parties to the dispute. The original copy of the report shall be retained by the Faculty Ombuds Officer.

The grievant may withdraw from the grievance process at any point by giving the Faculty Ombuds Officer written notice. If the grievant withdraws from the grievance process prior to the end of mediation, the grievant may not proceed to adjudication.

If, at any time during the mediation period, the Faculty Ombuds Officer believes the parties cannot reach agreement, or if the mediation fails to produce a satisfactory solution after the initial mediation period of twenty-five (25) days and any additional time agreed to by both parties, the mediation effort shall cease and the grievant may submit the dispute to adjudication.

- 3. Adjudication.** Upon receipt of notice to the grievant by the Faculty Ombuds Officer of failure of the mediation process, the grievant shall have fifteen (15) days to revise the grievance complaint and submit the formal grievance to the Executive Secretary and Director of the University Senate for adjudication. Within ~~ten five~~ days (~~105~~) of the receipt of the formal grievance, the Executive Secretary and Director **or designee** shall inform the respondent(s), the Associate Provost for Faculty Affairs, and the Faculty Ombuds Officer of the grievant's action and request that the Faculty Ombuds Officer provide a summary statement of the mediation effort and an assessment of whether the allegations within the grievance are within the jurisdiction of the grievance policy. The Faculty Ombuds Officer shall submit the assessment within ten (10) days of the Executive Secretary and Director **or designee's** request. **The Executive Secretary and Director or designee shall also inform the respondent(s)**

of their right to respond in writing to the formal grievance, and shall request that any written responses be submitted within twenty-five (25) days. The formal grievance and any written response by the respondent(s) will be the only written responses that will be considered by the Hearing Board at this phase of the process, unless further responses are authorized by the Chair of the Faculty Grievance Hearing Board.

a. Administration:

The **University Senate** Office ~~of the Executive Secretary and Director of the Senate~~ shall be assigned responsibility for keeping a record of the grievance, initial notification of persons involved, and monitoring compliance with procedures. The Executive Secretary and Director of the Senate shall serve as the coordinator of and advisor to the Faculty Hearing Board, **and may designate another impartial individual to carry out these responsibilities on their behalf.**

A confidential complete record shall be kept by the **University Senate Office** ~~Executive Secretary and Director~~ of all hearings and documents referenced during the adjudication process for **five three (53)** years following the end of the grievance process.

b. Forming the Faculty Grievance Hearing Board

All elected Faculty Senators are eligible to serve on the Faculty Grievance Hearing Board. Hearing Boards should include a diverse group of tenured and tenure-track (T/TT) and professional track (PTK) faculty, whenever possible and as appropriate to the case. The Senate Chair-Elect is responsible for ~~facilitating~~ the formation of the Hearing Board.

Within fifteen (15) days of submission of the formal grievance, the Executive Secretary and Director **or designee** shall send the list of elected Faculty Senators to the parties for review. The parties will have five (5) days to notify the Executive Secretary and Director **or designee** of any elected Faculty Senators who may have a conflict of interest and should be ineligible to serve on the Hearing Board, **and the parties must provide an explanation for the conflict.** The Executive Secretary and Director **or designee** will promptly communicate any conflicts to the Chair-Elect.

The Chair-Elect shall then appoint three voting members of the Hearing Board and two alternate members from the unchallenged potential members.

The five members of the Faculty Grievance Hearing Board (three voting and two alternates) shall elect, by majority vote, one voting member to chair the Hearing Board. If a voting member cannot serve to completion of the grievance hearing, an alternate shall then be appointed as a voting member by the Chair of the

Hearing Board. If an alternate member cannot serve to completion of the grievance hearing, the Hearing Board may proceed with one alternate.

b. Faculty Grievance Hearing Board Procedures

The Faculty Grievance Hearing Board shall hear all arguments on substantive and procedural matters and shall make necessary written findings.

The grievant shall be responsible for demonstrating the merits of the grievance. They must demonstrate that the action or inaction occurred and that the action or inaction adversely affects them. The grievant shall have the right to review and use any legally available part of their personnel files.

The Executive Secretary and Director **or designee** shall establish a schedule of hearings for the Hearing Board that will allow the body to complete its work as expeditiously as possible. The Hearing Board should first convene its members to review the formal grievance as well as **any responses to the grievance**, the summary statement of mediation efforts, and **the** assessment of grievance grounds. **After the initial assessment of all materials**, ~~the~~ the Hearing Board may decide to dismiss the case if all three voting members agree that the dispute is frivolous, without merit, submitted in bad faith, or insufficiently related to the concerns of the academic community. If the case is dismissed, the Executive Secretary and Director **or designee** will notify the parties, the Faculty Ombuds Officer, and the Associate Provost for Faculty Affairs. If the case is not dismissed, the grievance will proceed.

Both parties may choose to be assisted during the adjudication process by an advocate of their choice, who may be peer counsel or an attorney, at their own initiation and expense. The advocate may provide advice and consultation to the party. If necessary, a party may request a recess during hearings in order to speak privately with an advocate. The advocate may not be an active participant; the advocate may not speak for the parties in person or in writing, serve as a witness, provide information or documentation in the case, cause delay, communicate with the Chair or Executive Secretary and Director **or designee** on behalf of the party, or otherwise interfere with the process.

At any step of the grievance procedure, the Hearing Board may request advice of the Office of General Counsel on procedural concerns or significant legal issues raised in the grievance. A legal officer who has provided legal advice or service to the respondent may not provide legal advice or service to the Hearing Board.

At any point, the respondent may request **in writing** that the Hearing Board dismiss the case based on issues related to the grievability of the action or inaction involved. **The grievant shall be given an opportunity to respond in writing to the motion to dismiss the case. No further written responses or replies will be considered prior to the Hearing Board's decision, unless authorized by the**

Chair of the Faculty Grievance Hearing Board. The Hearing Board will review the ~~request~~ **motion to dismiss and any response from the grievant**, and can **decide to** dismiss the case if all three voting members agree. If the case is dismissed, the Executive Secretary and Director **or designee** will notify the parties, the Faculty Ombuds Officer, and the Associate Provost for Faculty Affairs. If the case is not dismissed, the grievance will proceed.

The Chair of the Faculty Grievance Hearing Board shall be responsible for overseeing and facilitating the hearings and may order the proceedings in such manner as they deem appropriate. Hearings shall be closed. The Chair shall make determinations on all questions concerning the course of the proceedings. **The Chair may also consider requests for additional written responses beyond the number specified in this policy.** The Chair has the discretion to set time limits for statements, testimony, or other aspects of the hearings and exclude redundant or irrelevant evidence including witness testimony.

During the hearings, each party will have an opportunity to make an opening and closing statement. The grievant shall first make a brief opening statement outlining the grounds for the grievance as indicated in the formal grievance; the respondent will then make a brief opening statement in response. Each party will be given an opportunity to share information or documentation to support their case, and all documentation shall be shared with the other party.

Both parties have the right to call witnesses in pursuance of their cases. If the parties intend to call witnesses, they are expected to submit their names and relevance to the case **to the Executive Secretary and Director or designee** in advance of the hearing. The Faculty Ombuds Officer cannot be called as a witness. The Hearing Board can neither compel witnesses to participate nor assure the presence of witnesses requested by either party.

Members of the Hearing Board may ask questions of the grievant, respondent, and their witnesses. The Board may call witnesses when relevant to the issues in the case.

c. Findings of the Grievance Hearing Board

Only information discussed during the hearings that is determined by the Board to be relevant to the case shall be considered in the determination of the case. After review of the relevant information, the Hearing Board shall make a determination on its findings by a majority vote. The Hearing Board's findings should include an assessment of whether the grievance has merit and whether the action or inaction that formed the basis of the grievance was justifiable.

The Board shall prepare a written report of its findings, including the reasons for the findings and any dissent. The report shall be forwarded to the President within **twenty** ~~ten~~ **(20+0)** days after the conclusion of the hearing. Confidential

copies of the report shall be sent to the grievant and to the respondent, as well as to the Associate Provost for Faculty Affairs and the Faculty Ombuds Officer. Adjudication of a faculty grievance is a confidential process. All parties are expected to maintain the confidentiality of the process, proceedings, and documentation except as otherwise compelled by law.

d. Resolution

Within thirty (30) days, the President shall make a final determination in writing on the decision in the matter, and what remedy, if any, will be implemented. The President will normally consult with academic administrators in determining appropriate remedies. It is expected that the President will give great weight to the findings of the Hearing Board. However, if the findings of the Hearing Board are not accepted, in whole or in part, an explanation of this decision should be provided. Notification will be sent to both parties to the grievance, to the Chair of the Hearing Board, and to the Hearing Board, as well as to the Executive Secretary and Director **and designee, if appropriate**, the Associate Provost for Faculty Affairs and the Faculty Ombuds Officer.

The decision of the President shall be final.

Should the President decide that the grievance is justified and a remedy should be implemented, the grievant shall, before receiving any such remedy, enter into a written agreement recognizing the remedy to be satisfactory and waiving any claims to causes of action arising out of the grievance.



**Proposal to Review the Administration of the Adjudication Process for the Faculty Grievance Policy (Senate Document #20-21-06)
Faculty Affairs Committee | Chair: William Reed**

The Senate Executive Committee (SEC) and Senate Chair Dugan request that the Faculty Affairs Committee review the adjudication section of the University of Maryland Policies and Procedures Governing Faculty Grievances ([II-4.00\[A\]](#)).

The Faculty Affairs Committee should:

1. Review the University System of Maryland (USM) Policy on Faculty Grievances ([II-4.00](#)).
2. Review the Proposal to Review the Administration of the Adjudication Process for the Faculty Grievance Policy ([Senate Document #20-21-06](#)).
3. Review the report from the Review of the University of Maryland College Park Policies and Procedures Governing Faculty Grievances ([Senate Document #17-18-13](#)).
4. Review similar adjudication processes in other university policies (i.e. research misconduct and Title IX).
5. Review the adjudication process within faculty grievance policies and procedures at Big Ten and other peer institutions.
6. Consult with the proposer.
7. Consult with the Executive Secretary & Director of the University Senate.
8. Consult with a representative of the Office of Faculty Affairs.
9. Consult with a representative of the Office of the President.
10. Consult with the Faculty Ombudsperson.
11. Consult with the Associate Vice President for Finance and Personnel.
12. Consult with University Human Resources.
13. Consider what administrative unit is best suited to administer the adjudication process defined in the faculty grievance policy.
14. Consider whether the responsibility for administering the adjudication process defined in the faculty grievance policy should remain with the Executive Secretary & Director's role or moved under another administrative role.

15. Consult with a representative of the Office of General Counsel on any proposed revisions to the policy.
16. If appropriate, recommend whether the policy should be revised and submit recommended revisions by **February 5, 2021** for Senate consideration.



Proposal to Review the Administration of the Adjudication Process for the Faculty Grievance Policy

Table with 4 rows: NAME/TITLE (Pamela Lanford, Past Chair, University Senate; Director of Animal Research Support, & IACUC Administrator), EMAIL (planford@umd.edu), PHONE (240-535-2709), UNIT (Division of Research), CONSTITUENCY (PTK VPR)

DESCRIPTION OF ISSUE

The University Of Maryland Policies And Procedures Governing Faculty Grievances (II-4.00[A]) describes the process by which faculty members may grieve actions or inactions that are "Unfair," "Discriminatory," or "Improperly Reached." This process is intended to provide a mechanism through which faculty may seek resolution of conflicts "between the University, as an employer, and its faculty." The policy stipulates that the grievance process be carried out via a Hearing Board comprised of Faculty Senators (T/TT and PTK) appointed by the Chair-Elect of the Senate, and that the Executive Secretary and Director of the Senate ("Director") serves as the Coordinator of the Hearing Board. Specifically, the Director is responsible for record-keeping, initial notifications, scheduling of Hearing Board sessions and witnesses, and final notifications upon decision by the board.

DESCRIPTION OF CHANGE YOU WOULD LIKE TO SEE

This proposal seeks to alter the administrative procedures of the Adjudication phase of the policy; specifically, it seeks to place responsibility for administering the Hearing Board process at the level of the University, rather than with the Director of the Senate and/or the Senate Office. This proposal does not seek to alter the composition of the Hearing Board (T/TT and PTK Faculty Senators) or the role of the Chair-Elect in appointing the Board. The reasons for this change include:

- 1. The details of logistics and management of the grievance process do not require knowledge or crafting of University policy, nor do they require the expertise and/or depth of institutional knowledge that the Director provides to other Senate functions. The strict timing of the Adjudication process (the Board must be formulated and submitted to the parties within 15 days of submission of the formal grievance and be carried out "as expeditiously as possible") and the time commitment required during peak Senate business requires a degree of administrative involvement that significantly diminishes the Director's ability to carry out other functions of the University Senate for which the Director's expertise and knowledge are required.
2. The involvement of the Director in the process has led to the false impression (by the grievant and other parties) that the Director is representing the University's interests and is directly responsible for any outcome or decision made by the Hearing Board instead of being a neutral facilitator of the process. By incorporating the Director into this process in the manner described, the current policy inadvertently places the Director at risk of potential legal actions that may arise from the outcome of the process. Since the grievance is, per the definition set in the policy, between the University and the grievant, positioning the Director as a potential target

for retaliatory legal action is inappropriate and establishes an undue personal burden on the Director.

A second component of this proposal is to include revisions to the policy that clarify the process of Hearing Board selection, including the process by which the Chair-Elect selects potential Board members and the vetting process associated with the final seating of the Board. The reason for this change is to ensure transparency and to align the policy with current practice.

Under this proposal, *no changes* are recommended regarding the provisions that stipulate the role of the Senate in the selection and appointment of the members of the Hearing Board, including:

1. the role of the Chair-Elect in the selection process
2. support for that process as provided by the Senate Office

SUGGESTION FOR HOW YOUR PROPOSAL WOULD BE PUT INTO PRACTICE

The University of Maryland Policies and Procedures Governing Faculty Grievances (II-4.00[A]) should be revised to remove the Executive Secretary & Director from the Adjudication process as described above. A review should be conducted, in consultation with the Faculty Ombuds Officer, the Office of Faculty Affairs, and the Director of the Senate, to determine the appropriate administrative unit to administer the Adjudication process defined in the policy. The section of the policy on Hearing Board selection should be revised to reflect the complete selection process and align the policy with current practice.

ADDITIONAL INFORMATION

NONE

Appendix 2 - Peer Institution Information

Proposal to Review the Administration of the Adjudication Process for the Faculty Grievance Policy
Peer Institution Research

Peer research for this report included the Senates of Big 10 institutions along with two additional public R1 institutions (UNC Chapel Hill and UC Berkeley). It is important to note that most Big 10 and peer institutions have a faculty Senate model, not a University Senate model that is inclusive of faculty, staff, and students like the University of Maryland. At UMD, the process is administered by the Executive Secretary and Director of the University Senate.

Question: Where do peer institutions place responsibility for administering the faculty grievance process?

1. There is no uniform way that faculty grievance procedures are handled at our peer institutions. Instead, there are multiple formats, and different offices that have the responsibility to administer the process.

This table shows the primary offices that administer the process at 14 peer institutions.

Main Administrating Office(s)	Universities	Total # of Universities
Senate Office	UNC Chapel Hill, Wisconsin, Penn State	3
Not Senate Office	Purdue, Northwestern, U Pitt, Iowa, U Michigan, Michigan State, Ohio State	7
Combination	UC Berkeley, Indiana Bloomington, Illinois, Minnesota	4

2. The below table indicates where the administration responsibilities lie for the 7 institutions where the Senate Office does not administer the process.

Institution	Primary Office Administering Faculty Grievance Procedures
Iowa	President's Office, Specialized investigator who is an attorney
Michigan State U	Faculty Grievance Office
Northwestern	Provost Office
Ohio State	Provost Office, Human Resources, Legal Affairs
Purdue	Provost Office
U Michigan	Academic Human Resources
U Pitt	Provost Office

3. All 14 peer institutions have procedures that include hearing processes where the grievant may be heard by peers. Our peer institutions, like us, have a committee consisting of peer faculty. Most often, the members of this committee come from the Senate member pool, even at institutions where the Senate office is otherwise not involved.
4. At the Universities where the Provost's Office or President's Office is the primary administrating unit, conflict of interest does not seem to be an issue and/or can be mitigated.
 - a. Ohio State responded that this has not yet been an issue, but if it were to arise, the individual who may have a conflict of interest would be recused from the process, and someone else deemed without bias would step in from the Office of Academic Affairs, which includes the Provost office and Academic Human Resources.
 - b. University of Pittsburgh has had the conflict of interest issue arise, and provided an explanation of how they handled the issue. There is an individual who has two roles as Dean of the medical school and the Senior Vice Chancellor for Health Sciences. As Dean, he has to help at the department level review, therefore he cannot also handle the appeal process with objectivity (he would be reviewing a decision he helped to make) so when grievances emerge from this department, he is replaced in the process by someone else chosen by the Office of the Provost.

Question: Do peers have a process that is generally the same (with Ombuds/informal processes), or is it a completely different model?

UMD's policy establishes informal methods as the first and second stages, which must be completed prior to the third phase of adjudication. Most institutions have a process that includes informal processes, though in many cases the informal processes are not strictly required as they are in our process. In most cases, Ombuds officers or similar individuals can assist in the informal processes, but again, it is often not required that their services be engaged.

Institution	Informal Process Prior to Formal?	Ombuds Role?
University of Illinois at Urbana-Champaign	<p>Informal processes encouraged but not required prior to formal process.</p> <p>Faculty are given resources/contacts (equivalents to UHR and FSAP) to help facilitate informal resolution at the lowest level possible, and can approach any member of the committee for informal advice, consultation, and/or mediation.</p>	No discussion of Ombuds officer taking on a role similar to that of UMD's process.

Indiana University--Bloomington	Informal processes exist through a Faculty Mediation Committee, but are encouraged and not required. Faculty may choose to bypass informal routes, but the Faculty Board of Review may also choose to defer action until after informal processes like mediation have taken place.	An Ombudsman can confidentially advise on specific situations.
University of Iowa	Informal processes are expected to be pursued prior to formal processes, and the Ombudsman is a resource for those informal processes. Two stages (informal discussion, exchange of letters) occur prior to a formal review.	A University Ombudsperson can assist with mediation efforts.
University of Michigan	Informal processes are strongly encouraged but not required prior to a formal process, though the Grievance Hearing Board has the authority to remand the case to informal resolution if it deems appropriate.	There is a University Ombuds Officer and an Ombuds Officer in each College (individual Colleges maintain their own grievance procedures).
Michigan State University	Informal processes take place prior to formal resolutions.	The Faculty Grievance Official serves in a role similar to that of an Ombuds officer, and is involved in the formal process as well.
University of Minnesota--Twin Cities	Informal processes take place prior to formal resolutions.	The Office of Conflict Resolution serves in a role similar to that of an Ombuds officer.
University of Pittsburgh	Informal processes take place prior to formal resolutions and include informal efforts at the unit level and then campus level, before moving to informal mediation by a Senate committee. Formal processes involve a written complaint with the Provost.	No discussion of Ombuds officer taking on a role similar to that of UMD's process.
Northwestern University	Informal steps should precede formal processes.	There is currently no Ombuds officer, but there is an intention of creating an Ombuds role.
Ohio State University	Informal processes take place prior to formal processes.	A Faculty Ombudsperson can assist with mediation efforts.

Pennsylvania State University	Informal resolution should be pursued prior to formal procedures. Policy indicates that only when those efforts have failed should the formal procedures be used, and the Committee may choose not to hear a case if it feels informal methods should be attempted first.	An Ombudsperson in each College, School, or unit serves to help mediate disputes.
Purdue University	Informal processes must take place prior to formal processes.	The Faculty Ombudsperson is available to assist with mediation prior to entering the grievance process. In the informal phase of the grievance procedures, a member of the Faculty Mediation Committee will be appointed as Mediator.
University of Wisconsin - Madison	Informal resolution at the unit level and the College level should be pursued first. If that fails, then formal processes can be utilized.	The Ombuds Office has multiple officers who can help mediate disputes.

Question: For institutions where the Senate is not involved in administration, what is the model for resolving grievances? Who manages those processes? Are there links to relevant information that can be shared?

Institution	Primary Office Administering Faculty Grievance Procedures	Grievance Model
Iowa	President's Office, Specialized investigator who is an attorney	Informal processes are expected to be pursued prior to formal processes. The Ombudsman is a resource for those informal processes.
Michigan State U	Faculty Grievance Office: https://fgo.msu.edu/	Informal processes take place prior to formal resolutions. The Faculty Grievance Officer serves in a role similar to that of an Ombuds officer.
Northwestern	Provost's Office See Faculty Handbook, starting on page 22: https://www.northwestern.edu/provost/docs/faculty	Informal steps should come before formal processes. Ombuds process: https://www.northwestern.edu/faculty-senate/documents/2010-

	handbook_2016.pdf	2011/GFC_Ombudsman_Guidelines.pdf (This still doesn't seem to have been implemented. The below announcement from 2019 shares more on the upcoming commitment and plans - https://www.northwestern.edu/leadership-notes/2019/creating-an-ombuds-office.html)
Ohio State	Provost's Office, Human Resources, Legal Affairs	Informal processes should come before formal processes. Faculty Ombuds Officer can assist with mediation efforts.
Purdue: Primary source was the faculty handbook: https://www.purdue.edu/faculty_staff_handbook/employment/grievance.php	Provost's Office Policy: https://www.purdue.edu/policies/academic-research-affairs/ib1.html	Informal processes must come before formal resolution processes. The Faculty Ombuds Officer can assist prior to the grievance procedures being invoked. The informal grievance procedure includes an appointed Mediator.
U Michigan	Academic Human Resources	Informal processes are strongly encouraged but not required prior to a formal process, though the Grievance Hearing Board has the authority to remand the case to informal resolution if it deems appropriate. Ombuds officers at University and unit levels can assist.
U Pitt	Provost's Office Policy: https://www.policy.pitt.edu/policies-and-procedures/administrative-and-governance/university-policy-faculty-grievances	Informal processes take place prior to formal resolutions and include informal efforts at the unit level and then campus level, before moving to informal mediation by a Senate committee. Formal processes involve a written complaint with the Provost.

Proposal to Review the Administration of the Adjudication Process for the Faculty Grievance Policy

Past Senate Action / History of the Faculty Grievance Policy

Question: Why was the administration of the adjudication phase of the Faculty Grievance Policy given to the Executive Secretary & Director of the Senate? Was a conscious decision made to do so, and was there a rationale associated with that decision?

Based on the review of historical documents available, there is no documentation that indicates that the Executive Secretary & Director was chosen for a specific reason or to uphold a specific principle.

- The Executive Secretary was involved in the grievance process in some way since its initial form in the 1970s and 1980s.
- In the 1980s, the Procedures provided for initial review at the divisional level, and a possibility of a review at the University level if the complaint was not resolved. The University-level review process included a Faculty Grievance Panel, supported by the Executive Secretary of the Senate. However, no information can be found about why that process or individual was selected.
- The Executive Secretary of the Senate (as the role was then called) was included in the 1990 policy. However, the documentation the Senate has does not suggest that there was any specific reason for this, other than as a continuation of the prior procedures.
 - “The Office of the Executive Secretary of the Senate shall be assigned responsibility for keeping a record of grievance actions, initial notification of persons involved, and monitoring compliance with procedures. The Executive Secretary of the Senate shall serve as secretary of the Faculty Grievance Panel.”
- The review in 2018 did change language related to the Director’s role, in order to clarify her role in the policy language. However, the committee did not make any changes to the Director’s role in practice, and did not discuss whether the Director should administer the process.

Question: What is the history of the faculty grievance process and Policy?

Initial Development of University-wide Grievance Process: 1970s-1990s

1972-1983: Faculty Grievance Procedures initially developed

- In 1972, the Senate convened an Ad Hoc Committee to Study Grievance Procedures.
- The committee found that no general faculty grievance procedure existed; instead, faculty were able to grieve specific actions related to contract terms, like termination for misconduct in office.
- A Faculty Grievance Procedure was developed and approved by the Senate in 1979. It was not implemented by the Chancellor’s office, which was concerned that the procedure lacked legal sufficiency.

- According to Minutes of the Faculty Affairs Committee from February 8, 1983 and subsequent memo from FAC Chair to Chancellor Slaughter on February 9, 1983.
- The Faculty Affairs Committee asked the Chancellor's Office to make suggestions on how to revise the Procedure to make it legally sufficient.
- Subsequent documentation indicates that concerns focused on what types of issues are grievable, rather than the process for conducting grievances.

1983: Faculty Handbook Procedures

- On December 7, 1983, procedures for Faculty Grievances were approved by President Toll and added to the Faculty Handbook.
- The procedures included flexibility for individual review processes within specific academic divisions, and escalation up to the University level if the matter is not resolved at the lower level.
 - The procedures called for each of the five academic divisions to develop written procedures for the consideration of grievances from faculty within those divisions.
 - If the faculty member goes through the divisional review process and is not satisfied, the procedures provided an opportunity for them to appeal the decision to the Vice Chancellor for Academic Affairs.
 - The Vice Chancellor could: grant the requested relief, deny the grievance, or “refer the matter to the Executive Secretary of the Senate for hearing by a Faculty Grievance Hearing Board...”
 - The Procedures indicated “The office of the Executive Secretary of the Senate shall be assigned responsibility for record keeping of grievance actions, notification of persons involved, and monitoring compliance with procedures. The Executive Secretary of the Senate shall serve as Executive Secretary of the Faculty Grievance Panel.”
 - The Procedures detail the hearing process, and indicate that the Faculty Grievance Hearing Board will make a decision on the grievance, which is then forwarded to the Chancellor.
- In 1986, there was an academic reorganization of the University, which led to (interim) revisions to the Handbook procedures related to at which level a grievance should be heard.

1987: Senate Report on Revising Grievance Procedures for Faculty at the University of Maryland (Senate Document #86-87-13)

- On December 5, 1986, the Senate Faculty Affairs Committee was charged with a proposal to amend the procedures to make them more consistent with the recent academic reorganization.
- The committee found that the grievance procedures “are not working in the way they were originally intended, and that they need extensive revision in order to accomplish their basic objective...”
 - The report from the committee outlines extensive concerns with the process, scope, adversarial nature, legal assistance, and other issues.

- The report does not mention anything related to the involvement of the Executive Secretary, though one of its recommendations for restructuring the process details a three-level process (like UMD's current process in 2020) that involves adjudication as a third stage of review.
 - It recommends that in the adjudication phase, "the existing" Senate Grievance Hearing Board should be involved and should make a recommendation to the Chancellor.
 - The Grievance Hearing Board would also be involved in an appeal from the grievant based on the Chancellor's action to the President of the University.
- The Faculty Affairs Committee recommended a campus-level should be established by the Chancellor and the Senate to revise the existing grievance procedures to address the problems raised by the report and to consider the recommended restructuring of the process.
- The report was sent to the SEC on September 2, 1987 for consideration for the Senate Agenda.
 - From subsequent documentation, it looks as if the recommendations were approved by the Senate on October 12, 1987.

1989: USM Policy on Faculty Grievances adopted (Senate Document #89-90-92)

- On November 30, 1989, the USM adopted a Policy on Faculty Grievances.
- At the December 7, 1989 Senate meeting, the Senate approved a resolution to formally approve the Faculty Grievance Procedures in the Faculty Handbook, which were previously approved by the Senate and President in 1983, as an interim Policy, in order to be in compliance with the USM Policy while allowing time for a broader revision to the grievance procedures.

1990: Senate Recommendations on a new Faculty Grievance Procedures (Senate Document # 89-90-114A)

- The Senate approved a new Faculty Grievance Procedure at its meeting on April 23, 1990.
- President Brit Kirwan reviewed the proposed new Procedure and had a number of suggestions for modifications.
 - Kirwan sent his suggestions to the Senate Chair on October 1, 1990 and welcomed comment from the Senate.
 - The Ad Hoc Committee on Faculty Grievance Procedures reconvened to consider the suggestions, and was in agreement with all but one suggestion where it recommended a slight modification (via memo to Campus Senate Chair on October 31, 1990).
- After some back and forth, the President approved the final version of the new Faculty Grievance Procedure as the University's policy on December 13, 1990.
 - This is largely the same in scope and process as it is now in 2020.

Subsequent Revisions to the Policy: 2002, 2018, 2020

2002 Revision: Senate Document #00-01-55

- Minor revision focused on:
 - Replacing the list of titles eligible for use of the grievance process with a reference to the APT policy as the source of titles for faculty who are eligible, and a notation that part-time faculty are eligible to use the grievance process.
 - Replacing “Ombuds Officer” with “Faculty Ombuds Officer” in every instance after the creation of that role was finalized.
- Approved by the Senate on March 4, 2002. President Mote approved it on March 8, 2002.

2018 Revision: Senate Document #[17-18-13](#)

- This was a comprehensive review of the policy and procedures.
- Summary of changes:
 - Changes to language related to finality, to ensure that the decision reached at the end of the process is final and the grievant cannot pursue further action through a different University policy/process.
 - Clarifications to grounds for a grievance.
 - Clarifications to the two initial phases of informal consideration of the grievance through negotiation and mediation, changes more accurately reflecting the purpose of the first stage.
 - Additional information on the role of legal counsel, change to ensure that attorneys serve in an advisory capacity to the party only, and cannot speak on behalf of the party, present evidence, or challenge actions of the Board.
 - Change in determination of remedies, to give responsibility for determining an appropriate remedy to the President rather than having the Hearing Board recommend a remedy.
 - Changes to allow the Faculty Ombuds Officer to communicate with other administrators about the case on a “need to know” basis, in order to fully understand the issue and be better able to facilitate mediation or negotiation. Related changes to allow the Ombuds Officer to notify the Senate Director and/or the Associate Provost for Faculty Affairs that a grievance is being reviewed and may move to formal processes.
 - Changes in development of the Grievance Hearing Board
 - Streamlining the process
 - In prior policy, all Faculty Senators constituted a Faculty Grievance Panel, from which a Chair is chosen. The Chair was responsible for selecting a Faculty Grievance Hearing Board from the Panel membership. This process was found to be too complex for cases that arise infrequently.
 - Change was made to have the Senate Chair-Elect form the Board from the pool of Faculty Senators, while allowing the parties to identify conflicts.
 - Note: The FAC considered broadening eligibility beyond Senators. However, the FAC could not determine a solution that would allow

broader participation while limiting the administrative burden in creating the Board. The list of Senators is diverse, and the FAC considered that it was efficient to have a pre-defined and deep pool of potential candidates.

- Amended and approved by the Senate on April 4, 2018. Approved by President Loh on April 5, 2018.
 - The Senate amendment focused on clarifying that grievances related to patterns of behavior can be initiated up to seventy-five days after the latest instance in the pattern.

2020 Revision: Senate Document #[19-20-28](#)

- Minor revision focused on:
 - Clarifying the limitations of the policy, to indicate that the grievance process should not be used to reconsider issues that have been investigated and adjudicated through another process on campus (like scholarly misconduct, sexual misconduct, non-discrimination, promotion and tenure, etc).
 - Language was changed in II.D to exclude complaints related to findings or decisions reached in other processes; disciplinary action (including termination or suspension) imposed following another institutional process; institutional legal obligations; or fiscal irregularity findings.
- Approved by the Senate on February 5, 2020. Approved by President Loh on February 7, 2020.

Appendix 4 - Administration of Other UMD Processes

	Who administers, according to the Policy?	What is the role, in practice?	How is the reviewing body chosen?	Conflict of Interest
University of Maryland Policies and Procedures Governing Faculty Grievances (II-4.00[A])	The Executive Secretary & Director of the Senate	Serves as coordinator of and advisor to the Faculty Hearing Board; facilitates work by the Senate Chair-Elect in forming the Hearing Board.	Faculty Senators are eligible to serve. The Executive Secretary & Director sends the list of Faculty Senators to the parties for identification of any conflicts of interest. The Senate Chair-Elect then appoints 5 members to a Faculty Grievance Hearing Board with 3 voting and 2 alternate members; the Board elects its own chair.	The policy discusses the process for the parties to identify potential conflicts of interest among those who are eligible to be selected for the Hearing Board. The policy does not discuss a conflict of interest by those administering the process.
University of Maryland Policies and Procedures Concerning Scholarly Misconduct (III-1.10[A])	The Research Integrity Officer (RIO)	Coordinates implementation of the policy, serves as an advisor to the Inquiry Committees and Investigation Committees. May provide logistical support, recruit expert witnesses, and arrange for legal advise to the committees.	The RIO appoints a committee of at least 3 members; committees normally are composed of University faculty, but may include others with experience or expertise useful to the issue at hand. The committees elect their own chairs. The policy also includes a process for each party to challenge the appointment of committee members based on conflict of interest.	The policy discusses conflicts of interest for other parties/those with other roles, but does not discuss a process when the RIO is perceived to have a conflict of interest.
University of Maryland Policy on Suspension of Faculty (II-9.00[A])	No specific administrator is named.	No specific roles are indicated. It is unclear whether the Board of Review is coordinated or facilitated by anyone other than the Board members themselves.	The Chair of the Senate in consultation with the SEC will form a three-member Faculty Board of Review. All tenured faculty with no close personal or professional relationships to those involved in the case are eligible. The Senate Chair will develop a list of seven potential board members to the faculty member and the unit head to allow them to exclude up to two potential board members. The Senate Chair appoints the board from among the remaining potential members. The Faculty Board of Review elects its own chair.	
Termination Procedures within the UMD APT Policy (II-1.00[A])	No specific administrator is named.	No specific roles are indicated. It is unclear whether the faculty board of review is coordinated or facilitated by anyone other than the board members themselves.	In cases of termination for cause where the faculty member requests review by a hearing officer, the President appoints the hearing officer from a College or School other than that of the faculty member, with the advice and consent of the faculty members of the SEC. If the faculty member requests a hearing by a faculty board of review, the members are appointed by the faculty members of the SEC. Eligible faculty are tenured Professors who do not have administrative duties.	No discussion of conflict of interest, though the policy does specify that the hearing officer cannot be from the same College or School.