**Faculty Grievance Policy AA/PPS No. 04.02.32**

 **Issue No. 5**

 **Effective Date: 02/28/2024
 Next Review Date: 04/01/2029 (E5Y)**

 **Sr. Reviewer: Senior Vice Provost**

**POLICY STATEMENT**

*Texas State University is committed to providing a fair process through which faculty may raise work-related concerns.*

**01. SCOPE**

01.01 [Section 2.14 of Chapter V of the Texas State University System (TSUS) Rules and Regulations](https://www.tsus.edu/about-tsus/policies.html) entitles every TSUS employee to present a grievance to a hearing officer designated by the university president on an issue related to their wages, hours of work, or conditions of work. Texas State University recognizes a faculty member’s academic freedom as a condition of work and its violation as a grievable matter.

01.02 [Section 4.4 of Chapter V of The TSUS Rules and Regulations](https://www.tsus.edu/about-tsus/policies.html) permits a faculty member to file a grievance with the president on an issue related to the non-renewal or termination of the faculty member’s contract at the end of the employment period. A grievance under this section is not a due process hearing that would require the formalities specified in [Chapter V, Section 4.5 of The TSUS Rules and Regulations](https://www.tsus.edu/about-tsus/policies.html).

01.03 This policy sets forth procedures for faculty grievances, except for the following:

a. Discrimination Grievances – [UPPS No. 04.04.46](https://policies.txstate.edu/university-policies/04-04-46.html), Prohibition of Discrimination, contains procedures for complaints of racial harassment and illegal discrimination on the basis of race, color, national origin, age, sex, religion, disability, genetic information, military service, veteran status, sexual orientation, gender identity, and gender expression.

b. Procedures Involving Due Process – Procedures for due process in terminating:

1. tenured faculty members; and

2) faculty, under special circumstances, including cases of termination of tenured faculty prior to the end of the contract period, are contained in The [TSUS Rules and Regulations, Sections 4.5 (Termination and Due Process Procedures)](https://www.tsus.edu/about-tsus/policies.html) and [Section 4.6 (Termination of Faculty Employment Under Special Circumstances) of Chapter V of the TSUS Rules and Regulations](https://www.tsus.edu/about-tsus/policies.html). In all such termination cases where the facts are in dispute, the president will appoint a special hearing tribunal composed of faculty whose rank is equal to, or higher than, that of the accused faculty member.

c. Sexual Misconduct – All faculty disputes of findings or sanctions related to sexual misconduct will be handled pursuant to The TSUS Sexual Misconduct Policy and Procedures, Section 13, which may be found in [Appendix A-6 of The TSUS Rules and Regulations](https://www.tsus.edu/about-tsus/policies.html).

**02. DEFINITIONS**

02.01 Administrator – a member of Texas State's administration. The term includes vice presidents, deans, department chairs, school directors, and other administrators, as determined by the president.

02.02 Faculty Member – a person employed full-time or part-time by Texas State, including professional librarians, whose duties include teaching, research, administration, or the performance of professional services. It does not include department chairs or school directors, or a person who holds faculty rank but spends the majority of their time engaged in managerial or supervisory services including deans, associate deans, or assistant deans.

02.03 [Faculty Ombudsperson](https://www.provost.txst.edu/resources-faculty/faculty-ombudsperson.html) – a person designated by the president to facilitate discussions and strategies for faculty members to resolve work-related issues. The ombudsperson is neutral and is not an advocate for either employee or management. The president will appoint the ombudsperson from a list of candidates recommended by a committee composed of three faculty members (appointed by the chair of the Faculty Senate) and three chairs, directors, or deans (appointed by the provost and executive vice president for Academic Affairs (EVPAA)). The ombudsperson will receive assigned time and serve a three-year term. The ombudsperson will develop procedures to facilitate the timely and equitable adjudication of faculty grievances and, via the Faculty Senate, recommend changes in the policy itself.

**03. PROCEDURE FOR AN INFORMAL RESOLUTION**

03.01 Prior to filing a formal grievance, faculty members should make good-faith informal efforts to resolve issues collegially by discussing their concerns with the faculty ombudsperson or with their chair, director, dean, and/or other party connected to the work concern (e.g., colleague). These efforts should take place within the 30 business days allowed before a formal grievance must be filed. Faculty members access to meet and consult with the faculty ombudsman on a specific issue ends with the filing of a formal grievance.

**04. PROCEDURES FOR A FORMAL GRIEVANCE**

04.01 If an informal resolution is not reached, the faculty member or grievant may file a formal grievance. The faculty member shall use the [Faculty Grievance form](https://facultyresources.provost.txst.edu/forms.html), and deliver the grievance form and any additional documentation to the president’s office in person, via certified mail, or via email to president@txstate.edu, with the communication marked confidential. Supplementary documents or evidence may be presented to the hearing officer during the grievance review process.

04.02 The faculty member or grievant must file the grievance no later than 30 business days after the faculty member learns (or is reasonably expected to have learned) of the action or condition that gave rise to the grievance. Only those grievances that are filed in a timely manner will be considered.

04.03 If the grievance involves termination or non-renewal of a faculty member’s employment at the end of the contract period, or an issue related to wages, hours, or conditions of work, the president will appoint a tenured administrator from an academic unit outside the college in which the grievance was initiated (on an *ad hoc* basis) to serve as the hearing officer. Should more than one grievance be filed concurrently, additional hearing officers may be appointed, as needed.

04.04 The president will forward the grievance to the provost and EVPAA who will send copies to:

1. the hearing officer;
2. the responding parties;

c. the appropriate chair, director, and dean; and

d. the chair of the Faculty Senate.

04.05 After a formal grievance is filed, the grievant and the responding parties may communicate on the grievance issues only through the hearing officer until the matter is resolved.

04.06 For grievances involving wages, hours of work, or conditions of work, the hearing officer shall determine whether or not the grievance has been substantiated.

04.07 For grievances involving termination or the non-renewal of employment, the hearing officer may not recommend changing the administration’s action regarding non-renewal or termination of employment unless the grieving faculty member establishes a *prima facie* case that they have been denied a right guaranteed by the constitutions or laws of the United States or of the state of Texas. A *prima facie* is one presenting facts or documents that, so far as can be judged from first disclosure, would create a presumption of validity in the absence of response, contradiction, or rebuttal by Texas State. Unsubstantiated allegations shall not be sufficient to establish a *prima facie* case.

04.08 Parties to the grievance are expected to observe confidentiality at all stages of the grievance process.

**05. GRIEVANCE REVIEW PROCEDURES**

05.01 The hearing officer will meet with the grievant and will review any documents or other evidence that the grievant presents in support of their position. The grievant may request that a representative be present in a meeting with the hearing officer. The representative may not speak during the meeting, may not answer questions, and may not speak with the hearing officer. The hearing officer may seek additional information and meetings with other persons as deemed necessary.

05.02 The hearing officer will meet with the responding parties to the grievance and will review any documents or other evidence that the responding parties present in support of their position. The responding parties may request that a representative be present in a meeting with the hearing officer. The representative may not speak during the meeting, may not answer questions, and may not speak with the hearing officer. The hearing officer may seek additional information and meetings with other persons, as deemed necessary.

05.03 The hearing officer will make a recommendation. In cases involving wages, hours of work, or conditions of work, the hearing officer determines whether or not the grievance has been substantiated and so advises the president. In cases involving termination or non-renewal, the hearing officer first determines if the grievant has established a *prima facie* case. If the hearing officer finds that the grievant has established a *prima facie* case, the hearing officer shall provide the administration an opportunity to respond to the claims; determine whether the administration has stated a non-discriminatory reason for its decision; and advise the president of their findings.

05.04 The hearing officer may deliver the written determination and advisement to the president’s office in person, via certified mail, or via email to president@txstate.edu, with the communication marked confidential.

05.05 The president will inform the grievant, the responding parties, the provost and EVPAA, the hearing officer, the appropriate dean, department chair, school director, and the chair of the Faculty Senate of their action regarding the grievance, as well as distribute copies of the hearing officer’s final report.

05.06 To the extent that this policy conflicts with The [TSUS Rules and Regulations](https://www.tsus.edu/about-tsus/policies.html), the latter shall prevail.

05.07 Grievance records will be maintained by the Office of the Provost and EVPAA and will be handled in accordance with the official Texas State records retention policy, [UPPS No. 01.04.32,](https://policies.txstate.edu/university-policies/01-04-32.html) University Records Management.

**06. REVIEWERS OF THIS PPS**

06.01 Reviewer of this PPS includes the following:

Position Date

Senior Vice Provost April 1 E5Y

**07. CERTIFICATION STATEMENT**

This PPS has been approved by the following individuals in their official capacities and represents Texas State Academic Affairs policy and procedure from the date of this document until superseded.

Senior Vice Provost; senior reviewer of this PPS

Provost and Executive Vice President for Academic Affairs