

Committee on Oversight of Administrative Action (COAA) Minutes

March 19, 2021
11:00 to 1:00
Zoom

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Attending: John Pasquale (Chair), Ken Adams, Thomas Braun, Gabriela Hristova, Donald Likosky, Karen Staller, Carolyn Swenson, Chuanwu (Wu) Xi, Annalisa Manera (SACUA Liaison), Christina Young, and MaryJo Banasik

Absent: Hani Bawardi, Ella Kazerooni

Guests: Sascha Matish, Associate Vice Provost for Academic and Faculty Affairs and Senior Director, Academic Human Resources

Discussion with Sascha Matish

11:02 Chair Pasquale welcomed Sascha Matish. She gave an overview of the faculty grievance process. The current procedures came into being in 2010 ([see model procedure here](#)). A task force worked on it and made recommendations and thoughts were put together to write the current procedure.

A change was to create a partnership between the faculty grievance monitor and the AHR rep. This has gone well. The composition of the Grievance Hearing Board (GHB) includes faculty from outside the unit and from inside. Hearing board faculty are really thoughtful, and they are trying to follow procedures so people can be heard. The GHB chair runs the hearing, make sure things are going smoothly and that parties have ability to present evidence and testimony. Parties have opportunity to cross examine. The GHB can ask questions as well.

Matish gave an overview about when the grievance procedures apply. The procedures apply when a grievant believes there was a violation of policy or a result that is manifestly unfair. The procedures do not apply to tenure or to matters concerning professional performance. The procedures apply to procedural defects which can involve tenure cases in that instance. The procedures do not come into play for an underlying decision, such as through another unit such as UMOR for research misconduct, but the procedures may apply to corrective action that is taken as a result.

Matish gave an overview about timelines during the grievance process. A grievant has 90 days from when they know or should have known about the action that gave rise to the grievance. AHR gets the grievance or SACUA through the Faculty Senate Office. Then within 10 working days after notice of grievance the AHR rep and Faculty Grievance Monitor (FGM) choose two members for the panel, and the schools and colleges have a list to draw from and rank for the internal members of the panel.

Once the GHB is in place, parties can file a one-time clarifying statement describing their grievance or response in more detail. This can be helpful for the GHB. The GHB is supposed to meet within 15 days. The 15 days is usually not met because the clarifying statements take some time. After clarifying statements are received, the GHB meets to determine grievability. FGM and AHR rep talk through this. If the GHB finds it not grievable, this determination can be appealed to SACUA. If SACUA determines that the issue is grievable, it goes to a hearing. If the GHB has questions about procedure, then FGM, AHR Rep and the GHB chair meet to discuss.

GHB has 20 working days to deliver a provisional decision which goes to the parties, then parties have a time period to respond to the provisional decision. The GHB can make the decision based on the provisional responses, then they issue their final decision.

The parties can appeal the decision within 20 working days of the final decision. Dean or director or provost has to send a response within 30 working days.

Questions were brought forward by committee members:

Q: Who can a grievance be brought against?

A: Dean or director or chair

Q: How many cases are received per year?

A: Largest was 8 years ago – there were 6. Most of the time there is one or two.

Grievants can bring an advisor whether this be a lawyer or a colleague. They can't present the case. The grievant is responsible for arguing their own case. A lawyer can't advocate or speak on behalf of the grievant.

Q: Are the procedures different for the three campuses?

A: The procedures were described for AA campus only. Flint and Dearborn have their own procedures.

Q: It is not possible to file a grievance against the provost if the provost overturns a promotion recommendation?

A: No, the procedures are not available for grievances concerning provost decisions.

It was noted that enforcement or implementation has been an issue. It was suggested that the Ombuds could potentially provide insights about enforcement concerns.

The committee discussed exit interviews.

Member Braun mentioned ADVANCE (<https://advance.umich.edu>). Website manages faculty life.

Q: Where does work reside after the process?

A: Once a decision is made, it goes to the parties. Decisions are not published. The hearing process is private between the parties. The units take the decision and they take it from there. The Faculty Senate Office has access to a spreadsheet with some brief information.

Q: Is there a follow up to make sure things are happening in a positive manner after a grievance?

A: No there is not follow up.

It was noted that the resources of the grievant and respondent are uneven. A grievant who wishes to have an attorney must pay for their own attorney out of pocket, but respondents are provided with an attorney through OGC.

Matish indicated that usually the grievant and respondent do not come with an attorney. They usually come alone or with a non-attorney advisor. She confirmed that grievants pay for their own attorneys, and deans receive representation from OGC.

The committee discussed whether there could be bias on a GHB. Matish stated that each school/college has a model procedure. There is a list of a university-wide panel for two external spots which are chosen by FGM and AHR – this minimizes bias.

Member Braun asked whether GHB members are protected. Some faculty work across units. Matish stated that when the rankings are done to select members for the GHB, bias is considered. People who have any connection to the issue at hand should not be selected.

Member Staller indicated that selection does not take into account gender, race, etc. which can result in underlying bias. Matish stated that she welcomes feedback on how to recruit faculty to serve on FGBs.

Schools and colleges make decisions concerning how faculty will be selected to serve on the university-wide panel.

Q: Can associate chairs, associate deans have grievances filed against them?

A: Grievances can be filed against associate deans if that person made the decision. She referenced section 1.03 of the Model Procedure. You cannot file a grievance against a fellow faculty member.

Matish indicated that when a decision is rendered but is not followed through her office wants to know.

Q: Is participation on a GHB anonymous? How can names of participants be released?

A: AHR doesn't release the results. She suspects that a FOIA request for a grievance decision may produce some information, and names of GHB members may not be redacted.

Member Braun inquired about strengths and targeted areas to improve and strengthen the process.

Matish indicated that training for GHBs would be helpful. It is also difficult to get GHB members in place quickly because faculty are very busy. She noted that a strength is the partnership of the FGM and AHR rep who work together to answer procedural questions.

12:00 Matish left the meeting

Summary of this year's work and synopsis of current progress/recommendations for SACUA

The group discussed topics for the committee report.

Revising the faculty grievance procedure could be a recommendation.

Chair Pasquale suggested questions for SACUA:

1. The question of grieving a reversal of tenure at the provost level – it is not possible to file a grievance against the provost. What is the alternative mechanism if there is an issue?
2. Codifying exit interviews.
3. Follow up with units on grievance decisions that are made.
4. Concept of attorneys and equity – admins bring OGC and faculty member brings their own at their own cost.

There was discussion about checking with the faculty member who presented to the group who has left to see if he is willing to discuss this issue further.

Process in the room was effective from experience on FHB. Training is a good idea. Nothing is implemented. If you want to challenge it goes to the next highest level – it is difficult for people to go above the chair.

Member Swenson expressed agreement with Chair Pasquale's points. She also noted that there are faculty that work with the provost's office on tenure decisions, but they are not publicly known.

There are no written rules at the provost level that describes the process.

It was noted that time sensitivity is often a larger problem with faculty. Deans often don't have the same time constraints.

SACUA is a parallel system with AHR – SACUA may be in a position to follow up with the grievant concerning implementation.

There is intersectionality between OIE process and the grievance process – decisions are independently

handed over to the dean, and the faculty member cannot grieve the underlying decision.

It was noted that exit interviews may not always be useful if someone is angry with plans to “salt the earth” before they leave. It was also noted that the purpose of the exit interview is important. There is not an interest in going after the problematic person. If there is a pattern, there should be follow up. It was cautioned that the person responsible for exit interviews may be closely aligned with the dean of the school/college.

Chair Pasquale will send the annual report to the committee for review. He said the purpose of the committee is to connect the dots. They have the dots, now they need to work on the connectors. The report will include what the committee has done, and the questions they need to address next year.

OIE

Faculty grievance process
Administrative oversight

It was suggested to remove oversight of OIE for next year because this is being handled by others. It was noted that OIE is a breakage point between and connecting processes.

At the April meeting, the committee will talk through the end of year report and plans for next year. They will also discuss the impact of committee’s work, issues that have been recognized and highlighted, and next steps.

12:26 Meeting adjourned

Respectfully submitted by,

MaryJo Banasik
Faculty Senate Office