

November 2, 2023

Call meeting to order

- Plan to adjourn 5min early

Attendees (green = present):

- Naomi Binnie - University Library
- Adam Burak– Engineering (Chair)
- Arlo Clark-Foos - CASL (Dearborn)
- Mimi Dalaly – Public Health
- Luca Giobbio – LSA-Political Science (undergraduate)
- Shanna Kattari - Social Work
- Jacob Lederman - Dept Behavioral Sciences (Flint)
- Kelly Michael Jones-Law School (Student)
- Rebekah Modrak (SACUA Liaison)
- Massy Mutumba - Nursing
- Wayne C. Petty - Music, Theatre & Dance
- Eric Vandenberghe - Faculty Senate Office
- Kristen Verhey – Medical School
- Oleg Zamulin- LSA
- Luke Mccarthy- Faculty Senate Office
- Keely Jones- Graduate Student (Law)

Agenda:

1. Approve previous meeting minutes?
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2. Bylaws
3. Grievance
4. Organize an in-person meeting (lunch provided) to foster committee cohesion (Topics)

Topics:

Bylaws

- Do they exist at the unit level?
- I asked my own unit about their bylaws and found that we have 3 formal policy documents, each 1 page long. In addition, there was an informal document with various guidelines (13 pages).
 - Process for Promotion and/or Tenure Casebooks
 - Expectations for Zero Percent Faculty in NERS (privileges and expectations)
 - Candidacy Exam Scoring and Decision on Pass or Fail
 - INFORMATION FOR NEW FACULTY AND STAFF MEMBERS
 - More of an onboarding document with some policy information
 - Nothing on the makeup of the department, how people are elected/appointed, salary increase

procedures, etc.

- Referred to Associate Dean for Academic Affairs (ADAA) website (adaa.engin.umich.edu)
 - CoE-Rules-October-2021-FINAL (47 pages)
- What should bylaws include?
 - What is the makeup of the unit governance
 - Who can vote, and what is a quorum
 - What are important positions in the unit, and how are they appointed/elected
 - What is the process to change rules
 - Appeal procedures
- Should we suggest that each unit develop a set of bylaws?
 - A template from the University that units can base their bylaws off of would be incredibly useful

What did others find in their own units?

- Radio silence

Grievance

- Arlo shared Dearborn grievance procedures:
 - umdearborn.edu/office-provost/faculty-grievance-procedure
 - Mainly a 3 person executive committee composed of faculty from the college (excluding associate deans and deans). That committee is formed at the beginning of each academic year by the college executive committee. The grievance committee cannot create policy and their charge is "to receive, conduct inquiries, and make recommendations to the Dean concerning faculty grievances appealed from the departments of the College."
- Massy shared School of Nursing grievance procedures:
 - hr.umich.edu/sites/default/files/school-of-nursing-grievance-procedure.pdf
- Keelly shared Law School's Grievance procedures
 - hr.umich.edu/sites/default/files/law-school-grievance-procedure.pdf
 - Includes 2 internal representatives
 - Is this a conflict?
- Grievances appeal the process, but not the decision
 - Should there be a mechanism to appeal the decision?
 - Oleg: not if they were following procedures properly
 - Massy: School of Nursing has appeals process

- Kristen: School of Medicine has appeals process
- Luke: Grievant can claim “manifest unfairness”
- Oleg: we should recognize that there are established grievance procedures, rather than insinuating that there are no rules
 - We need to identify discrepancies in the grievance procedures, and propose solutions to fix them
 - They need teeth
 - There is no mechanism requiring anyone do anything at the conclusion of a grievance hearing regardless of the outcome
 - Up to the discretion of “the appropriate party”
 - It is recommended by a member that this committee recommend ways to give the GHB teeth to enforce the recommendations
 - Should the results of GHBs be made publicly available?
- Most grievance rules based off 2010 rules
- Do not need to exhaust internal UM remedies (grievance) in order to pursue legal action

College of Engineering (COE) grievance policies:

- CoE-Rules-October-2021-FINAL (appeal procedures, page 27)
 - Mediation discussed
 - “voluntary on behalf of all parties to a dispute”
 - Not applicable to “supplemental” faculty (adjunct/visiting), nor to those covered by a collective bargaining agreement
 - FACULTY GRIEVANCE APPLICATION FORM: “The process is available to all regular and supplemental instructional and primary research staff qualifying as faculty members under Regents’ Bylaw 5.”
 - Regents’ Bylaw 5: “The term faculty shall include members of the teaching and research staff together with the executive officers, the directors of various teaching, research, and library units, research associates, curators, and persons with similar duties.”
 - “The procedure does not apply to decisions regarding employment, including tenure or promotion decisions, merit pay determinations, and decisions regarding clinical competence/patient safety, that are based solely and exclusively on judgments about professional performance.”
 - File a grievance within 90 days
 - Seems short to me
 - “Both the grievant and the respondent shall abide by all the procedures set forth here, shall participate in good faith, and shall respect the confidentiality of the process. Communication concerning the proceedings shall be limited to parties, advisers, mediators, and any others for whom information is strictly necessary for the legitimate effectuation of the process.”

- Why the gag order?
- “Before filing a formal grievance, a grievant shall seek to resolve the dispute by discussing it informally with the person(s) who made the disputed decision or took the disputed action, or actively participated in it, or who has the authority within the relevant unit or units to provide redress.”
 - This could take significant time
 - Also, could be very intimidating
 - If they want to force interaction, why not force *both sides* to mediate
- “Prior to the first meeting of the GHB, the GHB, the grievant, or the respondent may initiate in writing a one-time clarification of the issues to be considered. If the GHB requests the clarification, it shall be transmitted simultaneously to the grievant and the respondent, who will have ten working days to provide a written response. If one of the parties submits a clarification, a copy shall be provided to the DAHR, the FGM, and the other party. The other party will have ten working days to provide to the DAHR, the FGM, and the party who submitted the clarification any additional comments or information in response to the clarification. The DAHR will then forward both the clarification and the response to the GHB.”
 - What happens if they don’t meet the deadline?
 - “The Dean or Director, or the Provost if the Dean or Director is a respondent, shall take prompt action to remedy any undue delay in the processing of grievances or other failure by any party to comply with specified procedures or GHB directives or decision on appeal under Section X.C.4 or Section X.D.3”
- “Although the GHB does not have executive authority, the parties are expected to respect and accept the findings, conclusions, recommendations, and any proposed remedy of the GHB as the considered judgment of a competent and disinterested peer group. The GHB may recommend actions that do not fall within the respondent’s authority, but recommendations addressed to those who are not parties should not give rise to the same expectations. In all cases, the recommendations will be given thoughtful consideration and final decisions on the actions will be made by the appropriate party.”
- Grievance Hearing Board (GHB) chair selected from university level pool of Faculty Grievance Hearing Panel (FGHP). Two more members selected from college level pool, but not from same department.
- “If the final decision of this grievance procedure ultimately finds in your favor, the FGM shall contact you three months after the final decision to ascertain whether, in your opinion, the provisions of that favorable final decision have been adequately enforced and implemented. To assure such compliance and the valid authority of the grievance process, the FGM will convey your opinion to the Provost (along with copies to you and your Dean) for further action if appropriate. I consent to the above inquiry and reports.” (application form)

What do formal grievance procedures from other colleges/schools look like?

University level grievance policies:

- Grievance Procedure and Dispute Resolution (spg.umich.edu/policy/201.08)
 - “Time limits set forth for filing and appealing grievances, must be strictly followed by the grievant.”
 - Only by the Grievant?

- “When both parties in a formal grievance process request it, the time clock on the grievance procedure may be stopped for a time period satisfactory to both parties to allow for a good faith attempt to resolve the conflict or disagreement through mediation.”
- “An employee may select any individual (except an employee who is included in a University collective bargaining unit or the grievant’s immediate supervisor) to assist in the review meetings at Steps 2 and 3. If the assistant is a University employee, the assistant will not lose time or pay for attending meetings held during the assistant’s normal working hours.”
 - Does this include a lawyer?
 - It is unfair to preclude collective bargaining employees
- “An employee’s attendance at a grievance review meeting held during normal working hours shall be with pay. Any other time spent in formulating or preparing a grievance shall be done outside the regular work schedule and shall be without compensation.”
 - Does this apply to the department head as well?
- University Grievance Review Committee: “The conduct of the meeting is prescribed by the University.”
 - Where?
- “The employee will have an opportunity to present all relevant information to the University Review Committee during the meeting. The Committee will consider this information in formulating its response. Participants should not expect that witnesses will be called, testimony taken or that the proceedings will be recorded electronically.”
 - Does the Griever have a chance to refute the claims?
 - If so, then how does the board establish which is truthful?
- Cooperation/Non-Retaliation: “These procedures are designed to provide a fair internal mechanism for resolving disputes of employees. The success of these procedures depends upon willingness of all members of the University community to participate when asked and to participate truthfully.”
 - A frequently cited problem is that the institutional representative can be unwilling to participate in good faith and face no repercussions
 - Another frequently cited problem is that the institutional representative can be found in the wrong and then face not consequences and be required to make no changes
 - “An employee who penalizes or retaliates against another employee may be subject to corrective action.”
 - May be
- 201.08 Grievances and Dispute Resolution (hr.umich.edu/working-u-m/management-administration/uhr-procedures/20108-grievances-dispute-resolution)
 - “Within 15 calendar days (30 calendar days if the grievant works with a representative of Staff Human Resources or the Equity, Civil Rights, and Title IX Office to informally resolve a grievance) of knowledge of the facts giving rise to the grievance, discuss grievance with immediate supervisor.”
 - Really short
 - “Work to informally resolve the grievance. In no event will this effort void the time limits established in the procedure outlined in this Standard Practice Guide, except when the parties choose to participate in mediation, per SPG 201.09.”
 - This prioritizes the grievance, rather than informal resolution.

- Try to resolve informally, but if it takes too long your grievance will lapse. Good luck!
 - “Reply orally to the employee within three mutual working days from the date of the discussion.”
 - If all of this is off the record, then there is no way to establish whether or not it really occurred
 - Grievance form has no instructions, mainly just text boxes (hr.umich.edu/sites/default/files/staff-grievance.pdf)
 - “Present Grievance Form 39707 to Department Head (or equivalent level of supervisor) or his/her designated representative within seven calendar days following an unsatisfactory answer at Step 1. If no answer is received at Step 1 within the time limit of three mutual working days from the date of discussion, the grievant may appeal within seven calendar days after the due date.”
 - Again, really short timeline.
 - Also, if the department head ignores you, you are allowed to appeal?
 - Totally one-sided. Grievant has deadlines. Department head doesn’t even need to respond.
 - Department head needs to:
 - Notify the appropriate Human Resources office, and send a copy of the grievance to that office.
 - Schedule review meeting, and hear oral presentation of the grievance within seven calendar days of receipt of the written grievance.
 - Provide the employee with a written response to the grievance within seven calendar days of the review meeting.
 - If findings include the conclusion that a representative of the University with supervisory responsibility violated University policy, consider corrective action as provided in SPG 201.12.
 - No required action
- What are some changes that can be made to improve the process?
 - Mainly just fair treatment on both sides, but what does that mean?
 - Forced mediation?
 - Consequences if changes are not implemented following a successful Grievant?
 - Representation by an advocate?

Walking meeting (masked)

- Where?