

Chancellor's Memorandum

**CM-24 – Procedures for Faculty Grievances/Appeals**

**To:** All Dean, Vice chancellors and Department Heads

**From:** LSU Health Sciences Center New Orleans Chancellor

Date: August 12, 2004

Subject: Revision of CM 24 - Procedures for Faculty Grievances/Appeals

**Introduction**

The following procedure is established to provide faculty members with a mechanism to address personnel and other work related problems. The issue presented by grievance, and when applicable, by appeal should be one that has not or cannot be resolved within the regular administrative procedures. These procedures do not apply to Termination for Cause. The applicable due process procedures for Termination for Cause are found in Faculty Handbook Section 9.3.2.

**Definitions**

- "Chancellor" refers to the Chancellor of the LSU Medical Center or his designee.
- "Parties to the Appeal" refers to the complainants, i.e. the person making the complaint and the person or persons against whom the complaint is made/or whose decision is contested.
- "Faculty Member" refers to any full time salaried academic member of the Health Sciences Center in New Orleans or any part time individual enfranchised by any of the Health Sciences Center in New Orleans.
- "Days" refers to official LSUHSC-NO working days.
- "Peremptory Challenges" refer to challenges as to those persons scheduled to serve on a Committee or a chairperson of a Committee, which challenges do not require assignment of reasons and which challenges shall be granted.
- "Dean" refers to the Dean of the applicable LSUHSC-NO school or his designee.
- Any reference herein to masculine also encompasses the feminine, and to the singular also encompasses the plural.

**General Provisions**

- A. The filing of a grievance or appeal does not relieve the complainant of assigned duties and responsibilities.
- B. This grievance procedure is written in terms of a complaint against the decision of the Department Head. A complaint against the decision of a Dean or Vice Chancellor also follows the steps as delineated, beginning with informal discussion, then filing an appeal, if applicable, to the next level in the chain of authority.
- C. All Parties to the appeal shall attempt to resolve the conflict or dispute at the lowest administrative level possible. If these efforts fail then informal reconciliation and/or a formal appeal can be initiated. The faculty member who believes that he has been treated unjustly is obliged to confer informally with the individual or individuals responsible for the action.

- D. Two or more faculty members who allege that they have received similar unfair treatment may petition the Chancellor to have their appeals considered together. This decision to consolidate appeals shall be made by the Chancellor. If the appeals are consolidated, the Standing Appeal Committee may make separate recommendations regarding each faculty member. Claimants can refuse consolidation.
- E. A faculty member who at any stage of the process fails to follow a request for further action by the deadline indicates acceptance of the determination at the previous stage. A faculty member who does not receive a response by the deadline may immediately proceed to the next stage of the procedure.
- F. Any time limit set forth in this procedure may be extended by mutual written agreement of the Parties and, when applicable, the consent of the Chairperson of the appropriate committee.
- G. If a faculty member seeks resolution of the matter through any agency outside of the Health Sciences Center, whether administrative, judicial, or other agency, the Health Sciences Center shall have no obligation to continue appeal proceedings subject to constraints of law.

### Informal Reconciliation

A faculty member shall discuss a grievance with his Department Head within thirty (30) days of the most recent incident. Thereafter, both the faculty member and the party allegedly responsible for the complained of action shall meet with the Department Head in a serious, good faith attempt to resolve the dispute. In the case of a complaint against an action by the Department Head, the faculty member shall first discuss the grievance with the Department Head in an attempt at informal resolution. Regardless against whom the complaint is made; the majority of issues should be resolved at this stage.

If after informal discussion, the matter is not resolved between the faculty member and the party allegedly responsible for the complained of action, the faculty member may request intervention by the Dean. The faculty member shall deliver the Request for Intervention to the Dean within ten (10) days after the meeting with the Department Head. The Request for Intervention shall include the following: a concise statement of the complaint; a reference, when applicable, to the section(s) of the [Faculty Handbook](#) that were allegedly violated; and a statement of relief sought.

The Dean or his designee shall arrange a meeting with the concerned Parties within (10) days of receipt of the Request for Intervention. At the close of the meeting or within five (5) days thereafter, the Dean shall render a decision. The decision shall be in writing and a copy of the decision shall be delivered by certified mail to the faculty member. Copies of the decision shall also be provided to the Department Head and the party allegedly responsible for the complained of action. The decision of the Dean shall be final in matters deemed not appealable.

### Formal Appeal

Not all personnel and work related problems are of a nature such that they will be subject to formal appeal. In the case of grievances that do not involve appealable issues, the decision of the Dean will be final. In cases involving appealable issues as defined in this policy, the following procedure will be applicable. The following are defined as appealable issues:

- Alleged denial of academic freedom;
- Alleged failure to follow due process procedures with respect to appointment renewals, tenure, promotion, compensation, suspension or reassignment;
- Alleged violation, misinterpretation, or inequitable application of a Faculty Handbook provision;
- Alleged discrimination on the basis of age, sex, race, religion, national origin, marital status, disability, or veteran status;
- Findings of sexual harassment, sexual discrimination, or any other discrimination;
- Personal decisions by Department Heads, other administrators, or faculty committees, which allegedly do not conform to the letter or intent of established and accepted procedures and criteria.

Non-reappointment and judgments regarding academic quality or professional performance, including the granting or denial of tenure, are not proper subjects for appeal; however, the propriety of the procedures employed in making such determination is subject to the appeals procedure.

### Standing Appeal Committee

A Standing Appeal Committee shall be formed to hear faculty appeals. This Committee shall be advisory to the Chancellor and shall report only to him. The Committee shall be constituted of six (6) faculty members and six (6) faculty alternates appointed by the Chancellor from the elected representatives of each school of the Health Sciences Center. As each member and alternate rotates off the Committee, a replacement and corresponding alternate shall be selected to serve for a period of six (6) years. The Chairperson of the Committee and his alternate shall serve in such capacities for a one-year period and shall be that individual and his corresponding alternate serving in their last year on the Committee. The Chancellor may reappoint Committee members though no Committee member may serve consecutive terms.

Each party to the appeal is allowed two peremptory challenges, which must be submitted in writing to the Chairperson of the Committee within five (5) days of notification by Chancellor of those persons constituting a Standing Appeal Committee. Thereafter, the challenged Committee member (including, if appropriate, the Committee Chairperson) shall be recused and his alternate shall serve.

If a member of the Committee believes that it would be inappropriate for him to hear and decide a particular case due to a perceived conflict of interest, he may recuse himself prior to convocation of the formal hearing. Under these circumstances, the member's corresponding alternate shall replace the recused Committee member. If members become unable to continue to serve after deliberations have begun, the Committee shall continue without its full complement. However, a minimum of four (4) Committee members must be present at each session, or the session will be cancelled. If vacancies occur after the deliberations have begun, such that the Appeal Committee is reduced to fewer than four (4) members, the Appeal Committee procedure will be void, the Chancellor will designate an ad hoc Committee and alternates, and the Formal Appeal procedures will begin again.

### Appeal Procedure

In cases involving appealable issues, a faculty member dissatisfied with the decision of the Dean may institute a formal appeal as follows:

The faculty member shall deliver Notice of Appeal to the Chancellor within five (5) days after receipt of the Dean's decision. The Notice of Appeal shall include the Request for Intervention and a copy of the Dean's decision. The Chancellor shall make the determination as to whether an issue presented is appealable under the provisions of this procedure. This decision of the Chancellor is not subject to appeal. Appeals involving allegations of discrimination, which have not yet been investigated pursuant to Faculty Handbook Section 10.6.4, shall be referred to HRM by the Chancellor for investigation, and report.

Upon receipt of the Notice of Appeal (or in cases where there has been an allegation of discrimination, after receipt of the report and recommendations of HRM), the Chancellor shall within ten (10) days take one of the following actions:

- Consider the matter and grant the relief sought or adopt the decision of the Dean.
- Grant the appeal and convene the Standing Appeal Committee.
- Deny the appeal in whole or part as not setting forth an appealable issue. In cases where an appeal is based in whole or part on discrimination, the Chancellor shall refer that portion of the appeal to the Standing Appeal Committee.

The Chancellor's decision shall be in writing and a copy of the decision shall be delivered by certified mail to the concerned Parties. Copies of the decision shall also be provided to the Dean. If the Chancellor grants the appeal and decides to convene the Committee, he shall within ten (10) days of his decision:

- Notify the Chairperson of the Standing Appeal Committee in writing and provide the Chairperson with a copy of the Notice of Appeal, and (in the case of alleged discrimination), a copy of the report and recommendation of Human Resource Management; and
- Notify the Parties to the appeal of the names of the Committee members.

Upon receipt of the Notice of Appeal, the Chairperson shall distribute a copy of the formal appeal to the Committee members. Each party to the appeal shall be allowed two (2) peremptory challenges which must be submitted in writing to the Chancellor within five (5) days of receipt of notification as to the composition of the Standing Appeal Committee. The Chairperson shall establish the hearing date. The Parties shall be given at least fifteen (15) days notice of the date, time, and place of the hearing. The Chairperson shall send the notice by certified mail and copies of the notice shall be provided to the Dean and Chancellor. Each party shall provide the Committee Chairperson and the other party a witness list, a brief summary of the testimony expected to be given by each witness, and a copy of all documents to be introduced at the hearing at least ten (10) days prior to the hearing. In addition, the Appeals Committee shall conduct its own independent investigation with regard to the action being challenged. If during its own independent investigation, the Committee deems documents to be relevant which have not been submitted by the Parties, the Committee shall provide copies to each party at least ten (10) days prior to the hearing. Health Sciences Center records and documents relevant to the case shall be made available to the Committee on request, subject to legal restraints or applicable pledges of confidentiality.

The hearing shall be conducted as follows:

The Chairperson of the Committee shall conduct the hearing. Each party shall have the right to appear, to present a reasonable number of witnesses, to present documentary evidence, and to cross examine witnesses. The Committee may call additional witnesses the Committee believes have relevant testimony to offer. Testimony is under oath or affirmation before a certified court reporter. Testimony may be received telephonically, subject to the convenience of the Committee members. The Parties may be excluded when the Committee meets in executive session.

The faculty member may be accompanied by an attorney as a non participating advisor. If the faculty member elects to have an attorney present, the party allegedly responsible for the complained of action may also be accompanied by an attorney. The attorneys for the Parties may confer and advise their clients upon adjournment of the proceedings at reasonable intervals to be determined by the Chairman, but may not question witnesses, introduce evidence, make objections or present argument during the hearing. However, the right to have an attorney present can be denied, discontinued, altered, or modified if the Committee finds that such is necessary to ensure its ability to properly conduct the hearing. Rules of evidence and procedure are not applied strictly, but the Chairman shall exclude irrelevant and duly repetitious testimony. The Chairman shall rule on all matters related to the conduct of the meeting and may be assisted by University Counsel. Upon request, the Chairman shall invite an AAUP representative to be present during the hearing as a non participating observer.

The hearing shall be recorded by a certified court reporter. At the request of the Chancellor, Dean, or Committee Chairperson, the recording of the hearing shall be transcribed in which case each party to the appeal, upon written request, shall receive a copy of the transcript.

Following the hearing and after reviewing all of the evidence, the Committee shall render a written report to the Chancellor within ten (10) days. This report shall include the Committee's findings and recommendations, a summary of the testimony presented; and any dissenting opinions. The Chancellor shall review the Committee's report and may accept, reject, or modify the Committee's findings and recommendations. The Chancellor shall render a written decision within ten (10) days of receipt of the Committee's report. The Chancellor's final decision along with a copy of the Standing Appeal Committee's findings and recommendations, shall be sent to the Parties by certified mail, and copies shall be sent to the members of the Standing Appeal Committee, the Dean, Department Head, and any other appropriate administrators. The Chancellor's decision shall be final, except for appeal to the President of the LSU System as provided for in the [Bylaws and Regulations](#) of the Board of Supervisors of Louisiana State University.