Meeting Synopsis:

1. Call to order
2. Consent Agenda
   • minutes from February 11, 2021
3. Chair’s report
4. Faculty Dispute Resolution: discussion
5. FCMA Class A legislation on FCMA name change
6. FCMA Class C resolution on Campus Policing and Safety
7. Good of the order
8. Adjourn

1. Call to order

The meeting was called to order 2:35 p.m.

2. Consent Agenda
   • minutes from February 11, 2021

The consent agenda was approved.

3. Chair’s Report

Chair Reddy noted the Class A legislation on the Diversity Requirement should have a sample rubric for units and search committees to use.

4. Faculty Dispute Resolution discussion

Mike Townsend (Secretary of the Faculty), Zoe Barsness, and Amanda Paye joined the council to continue discussions on the ADR and Faculty Grievances legislation (Exhibit 1).

5. FCMA Class A legislation on FCMA name change

A majority of the council noted interest in changing the council’s name. Members will continue discussions via email and consider voting on a final name after discussions with senate leadership and FCWA.

6. FCMA Class C resolution on Campus Policing and Safety
Chair Reddy shared a draft Class C resolution on Policing and Campus Safety (Exhibit 2). The chair noted they plan to share this draft with other stakeholders.

7. Good of the Order

A member noted UWPD hired an unarmed campus safety responder, with plans to hire 4 more.

8. Adjourn

The meeting was adjourned at 3:57 p.m.

__________________________
Minutes by Alexandra Portillo, faculty council analyst, xanport@uw.edu

Present:

Faculty Code Section 21-61 A: Xuegang Jeff Ban, Yoriko Kozuki, Pietro Paparella, Gautham Reddy (chair), Michael Spencer, Ronald Kwon, Bobby Wilson
Faculty Code Section 21-61 B: Leyla Salmassi, Jessica Jerrit
Faculty Code Section 21-61 C: Chad Allen
Guests: Zoe Barsness, Mike Townsend, Amanda Paye, Tom Halverson (FCTL)

Absent:

Faculty Code Section 21-61 A: Andrea Otanez, Brenda Williams
Faculty Code Section 21-61 B: Clara Coyote, Meshell Sturgis

Exhibits

Exhibit 1 – 21-2-18 Task Force Submission to Faculty Senate
Exhibit 2 – Draft 2 Class C Resolution on Police Oversight Body
Overview of Class A Legislation to Revise Faculty Code Chapter 27

This overview of the Class A Legislation to revise Chapter 27 of the Faculty Code was prepared by the Drafting Committee of the Faculty Senate Task Force on Faculty Discipline and Dispute Resolution. It includes a brief history of the project to improve the current systems for faculty discipline and dispute resolution and the development of the draft Class A Legislation. It also describes the overall structure of the draft legislation as compared to the current code and briefly summarizes the process for faculty grievances, which is the most significant revision to the Chapter. Finally, it describes the points of significant feedback and how that feedback was addressed in the current draft (version 16.0).

The draft Class A Legislation to revise Chapter 27 and drafts of companion legislation have been endorsed by the Faculty Council on Faculty Affairs (FCFA) and the Faculty Council on Tri-Campus Policy (FCTCP). They were presented to the Senate Executive Committee (SEC) and are now being submitted in draft form to the Faculty Senate for discussion in its February 25, 2021 meeting. The goal is to then proceed with presentation of the Class A Legislation for formal Senate review, any amendment, and potential advancement to the full faculty for a vote in Spring Quarter 2021.

I. History

In Autumn Quarter 2017, then Senate Chair and the Secretary of the Faculty appointed a Task Force with representation from faculty leadership and administrative leadership, as well as faculty and administrators at large, to undertake a project to improve the current systems for faculty discipline and dispute resolution (Task Force members attached as Appendix A).

The Task Force’s work to date has been accomplished in deliberate phases:

- Phase 1
  - Mapping the current dispute resolution and faculty disciplinary systems and identifying the challenges and opportunities
  - Developing a motivating values framework for the design of the new systems and expected benefits (attached as Appendix B)
  - Reviewing best practices adopted by peer institutions, American Association of University Professors (AAUP) position papers, evidence-based research on organizational justice and dispute resolution, and the requirements of state and federal laws and regulations to explore potential models and inform the new systems design

- Phase 2
  - Developing the design principles for the revised systems and extensively seeking feedback from administrative and faculty stakeholders, including the FCFA, the FCTCP, the Board of Deans and Chancellors (BODC), Faculty Council Chairs, Elected Faculty Council Chairs, the Senate Executive Committee (SEC), the Faculty Senate, and other process partners (College of Arts & Sciences Dean’s Office, Compliance Services, Human Resources, Internal Audit, Office of Academic Personnel, Office of the Ombud, Office of Research, School of Medicine Dean’s Office, the University Complaint Investigation and Resolution Office, UW Bothell Organizational Excellence and Human Resources, and UW Tacoma Office of Academic Affairs)
  - Presenting a Class C Resolution to the Faculty Senate regarding those design principles, which was approved by the Faculty Senate on May 14, 2020 and which supported the drafting of Class A Legislation to revise Chapters 27 and 28 of the Faculty Code consistent with the design principles articulated in the Class C Resolution (attached as Appendix C).

- Phase 3
  - Drafting Class A Legislation by the Drafting Committee of the Task Force consistent with the design endorsed in the Class C Resolution
Extensively seeking feedback during the drafting process, including from FCFA, FCTCP, BODC, Faculty Council Chairs, Elected Faculty Council Chairs, Task Force members, the UW Chapter of AAUP, and other faculty and administrative stakeholders, including those involved in the design, prior to presenting the draft to the Senate Executive Committee and Faculty Senate.

Given the extent of the necessary revisions to Chapters 27 and 28 to achieve the design approved by the Class C Resolution, faculty leadership has decided to present the Class A Legislation in two separate parts:

- revisions to Chapter 27 to address interpersonal conflict and faculty grievances to be presented in this academic year; and
- revisions to Chapter 28 to address faculty discipline which is anticipated to be presented in Academic Year 2021-2022.

II. Overall Structure of Chapter 27

The overall structure of the revised Chapter 27 is consistent with the design of the current code but is restructured so that the entire dispute resolution process is contained in Chapter 27:

- The current Chapter 27, Section 27-41, “Conciliation,” remains toward the beginning of the Chapter and information about informal dispute resolution and alternative dispute resolution approaches available through the Ombud Office was added so that the Chapter starts with less formal dispute resolution approaches, with an added reminder that faculty are encouraged to attempt informal resolution and/or alternative dispute resolution;
- The current Chapter 27, Section 27-31, “Administrative Proceeding,” has been moved to the draft Chapter 27, Section 27-71, “Unit-level Review,” and has been enhanced to provide a structure for the two-step Unit-level Review once a grievance has been initiated (although certain grievances advance directly to Institutional Review); and
- An institutional-level review process was borrowed from the current Chapter 28 brief and comprehensive adjudicative proceedings and designed to be more supportive of the resolution of faculty grievances.

III. Companion Legislation

Because the Class A Legislation to revise Chapter 27 is being advanced separately from the Class A Legislation to revise Chapter 28, the Drafting Committee is proposing that minor revisions be made to Chapter 28 to “untangle” grievances from adjudications relating to charges of faculty misconduct under Chapter 28. Additionally, minor revisions need to be made to Chapter 25 to reconcile the references to Chapters 27 and 28. To achieve this, attached are the following:

- Class C Resolution: Interim Revisions to Faculty Code Chapter 25 and Chapter 28, which describes why these revisions are being proposed and, also, to clarify how petitions filed under Chapter 28 on or after the effective date of the legislation will be addressed;
- Revisions to Chapter 28; and
- Revisions to Chapter 25.

In the interim, adjudicative proceedings under the current Chapter 28 will be utilized solely for adjudicating a petition filed by the Provost of charges that a faculty member has violated a University
regulation, rule, or policy (in conjunction with the procedures described in relevant University policies and Chapter 25, Section 25-71) and any petitions filed by faculty relating to those proceedings.

IV. Summary of the Faculty Grievance Process

As described above, more structure is provided for “Administrative Proceedings” under the current Chapter 27, Section 27-31, which is now entitled, “Faculty Grievances.” The grievance process in the draft Chapter 27, Sections 27-52 through 27-101 is intended to provide a transparent and efficient internal structure for faculty to question the substance of administrative decisions when other recourse is not provided for by a University rule, regulation, or policy. The process is designed to promote resolution of grievances at the earliest opportunity and at the appropriate levels of administrative decision making. A faculty member may file a petition for a grievance to dispute administrative decisions, actions, or inactions that affect the terms, conditions, and course of the faculty member’s faculty employment as described.

The grievance process is a multi-step review process, requested by the faculty member. Prior to filing a petition for a grievance, the faculty member may attempt to informally resolve the dispute but is not required to do so. Otherwise, prior to and throughout the grievance process, faculty and administrators are encouraged to utilize the semi-formal alternative dispute resolution options offered by the University, such as mediation or conciliation through the Office of the Ombud. When they do so, the time limits for filing a petition or for conducting the grievance are paused. Required time limits begin again only when alternative dispute resolution is exhausted and has not reached resolution.

Once a grievance has been initiated, certain grievances are addressed through a two-step “Unit-level Review” with a later option to request an institutional-level review if the grievance is not resolved. Some grievances, however, advance directly to the institutional-level review, such as denial of tenure and/or promotion.

The Unit-level Review provides faculty members the opportunity to meet with administrators to present their grievance and to receive a written response. It is designed to facilitate transparency, problem-solving, and early resolution and, if unresolved, to document the grievance and the administrative responses. If the grievance is not resolved in the Unit-level Review, a grievant may request to advance to an “Institutional Review.”

The Institutional Review is completed by a Faculty Grievance Panel comprised of three faculty members selected from the Faculty Rights and Responsibilities Pool, which is similar to the current Faculty Adjudication Panel as described in the current Chapter 28, Section 28-33, Subsection B. The panel has the discretion to conduct an Institutional Review solely based on the written grievance file or to hold an Institutional Review meeting to gather information directly from the parties involved in the grievance. Following Institutional Review, either the grievant or the administrator acting as the respondent may request a Discretionary Review of the panel’s decision by the President, the panel may recommend Discretionary Review, or the President may decide to initiate a Discretionary Review.

V. Diversity, Equity, and Inclusion

The FCTCP raised the concern of how the draft Chapter 27 will support and promote diversity, equity, and inclusion. The Drafting Committee has been specifically seeking such feedback and will continue to do so as the Class A Legislation moves forward, including from the Faculty Council on Women in Academia and the Faculty Council on Multicultural Affairs.

Overall, the feedback the Drafting Committee has received is that the added structure and clarity, particularly in the Unit-level Review under draft Chapter 27, Section 27-71 will promote consistency and efficacy in the process and outcomes, which is expected to have a positive impact in regard to diversity, equity, and inclusion. This added structure also creates the opportunity to collect data and monitor outcomes to identify concerns and process-improvement opportunities, including in regard to diversity, equity, and inclusion.
The Task Force has also recommended the creation of a committee, made up of faculty and administration, to review grievance outcomes and identify process improvements. This committee can be tasked with collecting, reviewing, and monitoring this data for this purpose.

VI. Summary of Significant Feedback and Discussion

The draft Class A Legislation contains extensive commentary as footnotes describing why certain provisions were included and, also, how the draft Chapter 27 compares to the current relevant Faculty Code provisions. These footnotes will not be published in the Faculty Code but will be retained and utilized when needed to interpret Chapter 27 in the future. Following is a brief summary of the more significant feedback and discussion during the drafting process:

A. Identification of the Respondent in a Grievance

Under the current code, Chapter 28, Section 28-36, Subsection C, the Chair of the Faculty Adjudication Panel identifies the parties to the adjudication, which includes the administrator(s) whose actions or failure to act gave rise to the grievance (the “respondent”). Under the draft Chapter 27, Section 27-52, Subsection D administration determines who the appropriate “respondent” is at each step of the grievance and each respondent must have the authority to address and resolve the substance of the grievance.

This provision is intended to avoid protracted disputes about the appropriate “respondent” that have occurred in the current process. It also allows campuses and units that have intermediate levels of administration to appoint the most effective person to act in each respondent role and to allow for growth and change in organizational structures.

B. Faculty Grievance Panel for Institutional Review

The number of members of the Faculty Grievance Panel is three members rather than permitting a party to request five members as in the current code Section 28-33, Subsection D. The smaller panel size was adopted to avoid scheduling delays and enhance timeliness, the lack of which was identified to be one of the most significant sources of concern and frustration in the current adjudication process.

C. Remedy for Tenure and/or Promotion, Merit or Salary Increase, Non-Renewal, or Removal Due to Program Elimination

Under the draft Chapter 27, Section 27-82, in grievances relating to decisions regarding promotion and/or tenure, merit or salary increase, non-renewal, and removal due to program elimination, the panel cannot make an independent decision and, instead, the “remedy” is for the panel to refer the decision back to the decision maker. The panel provide instructions on how the decision-making process must be corrected, such as correcting a procedural error or instructing that an “impermissible criteria” not be considered. The primary reason for this provision is to avoid a faculty panel usurping the departmental faculty’s role in these decision-making processes as provided for in other Chapters of the Faculty Code.

Although the current code Chapter 28, Section 28-54, Subsection B may appear to give the panel unfettered decision making authority, upon further review and discussion, it must be read in conjunction with Section 28-32, Subsection B which provides for a limited review of decisions relating to the “merit or quality” of the faculty member. A review of the commentary relating to the significant revisions made to Chapter 28 in 1994 supports this interpretation. The commentary for what was a new Section 28-32, Subsection B.3 (the “injustice” provision) states:

[The proposal] would allow a faculty member to challenge any action or inaction affecting the faculty member’s terms and conditions of employment in which a university regulation has been violated or in which the faculty member alleges an injustice has occurred. The Council proposal does not allow the issue of merit to be revisited in the case of tenure denial, however, because merit is more properly addressed in the tenure process. The
merit issue is therefore limited in Chapter 28 adjudications to a review as to whether there were impermissible factors considered.


Faculty panels in past adjudications involving promotion and merit have also acted consistent with this interpretation. In past cases relating to promotion and merit, although the panels found in favor of the faculty petitioner, the panels indicated that they did not feel they were in a position to make an independent decision. Instead, they referred the decision back to the departmental decision-making process. The President has also noted the importance of the department faculty’s role in such decisions.

D. Economic Relief and Attorney’s Fees

In the draft Chapter 27, Section 27-83, Subsection E the panel may recommend “economic relief,” but that relief is qualified to economic relief that the University has the authority to award as permitted by law. The reference to and standard for the recommendation of attorney’s fees in the current code Chapter 28, Section 28-54, Subsection B are also not included. Under the draft Chapter 27, Section 27-85, if the panel recommends economic relief, the President must determine whether the recommended economic relief is within the legal authority of the University, even if the President does not conduct a Discretionary Review. The President must also consider all possible sources of funding.

Although the current code section appears to permit the relatively unrestricted award of economic relief, including attorney’s fees, there are legal restrictions on the types of monetary payments the University can make as a public entity. For example, by law, public funds can only be disbursed when it serves a public purpose and cannot be used for an individual benefit. Depending on the circumstances, it is possible that payment of economic relief in the form of monetary “damages” to an individual or to reimburse an individual for attorney’s fees would be prohibited by law. On the other hand, payment of back wages, such as for a retroactive merit increase or promotion, may be permissible because the University is required by law to pay such wages.

A review of the 1994 legislation revealed that the provision that the panel may “recommend” economic relief and attorney’s fees was added into Section 28-54, Subsection B at that time. The commentary does not specifically discuss whether the drafters considered whether an award of economic relief may be permitted by law or limited by the gift of public funds doctrine. As a result, the Drafting Committee has identified economic relief as an issue of concern that requires further research, legal interpretations, and subsequent institutional policy decisions. In the meantime, the proposed language is broad enough to permit the award of economic relief when permitted by law but avoids misleading faculty to believe certain monetary remedies could be awarded when they may not be permitted by law. As further clarification becomes available, it can be shared with faculty governance and decision-makers in the faculty grievance process.

E. Discretionary Review by the President

Similar to the current code Chapter 28, Section 28-61, Subsection A, either party may request a review of the faculty panel’s decision by the President. The standard of review in a discretionary review under the draft Chapter 27, Section 27-84, Subsection A has been revised to reflect the nature of grievances and to provide instruction to the President about the types of grievances for which discretionary review may be conducted.

The draft Chapter 27, Section 27-84 also contains several new procedural requirements to promote transparency in the decision-making process. Under the draft Chapter 27, Section 27-84, Subsection C, the President is required to consult with the Chair of the Faculty Senate if the President is considering initiating a discretionary review. If the President “reaches in” to initiate a review when it has not been requested by a party or recommended by the panel, the President must describe in writing why the President is initiating a review. Under the draft Chapter 27, Section 27-84, Subsection E, the President must either affirm the panel’s decision or refer the decision back to the panel with instructions (which is
similar to the current code, Chapter 28, Section 28-61, Subsection C). Following referral, if the President reaches a final decision that differs from the panel’s decision, the President must specifically describe in writing the reasons for that decision.

**VII. Conclusion**

The Drafting Committee very much appreciates the thorough and thoughtful feedback it has received. Given the Drafting Committee’s role and responsibility of attempting to give effect to the values and design developed through the Task Force, we hope that we can address any feedback from the Faculty Senate in its upcoming meeting.
Appendix A – Task Force Members

Steering Committee  
*2018-2019

- Robin Angotti^, School of STEM, UW Bothell, Chair of Faculty Senate
- Sandra Archibald*, Dean, Evans School of Public Policy & Governance
- Zoe Barsness, Milgard School of Business, UW Tacoma, Steering Committee Co-Chair and Task Force Co-Chair
- Cheryl Cameron, Vice Provost for Academic Personnel
- Richard Christie*, Department of Electrical & Computer Engineering, and Chair of the Advisory Committee on Faculty Code and Regulations
- Azita Emami^, Dean, School of Nursing
- Joe Giffels, Associate Vice Provost for Research Administration and Integrity, Office of Research
- Nancy Hovis, Senior Director of Business & Regulatory Affairs, School of Medicine
- Joseph Janes, Information School, and Past Chair of Faculty Senate
- Sharon Kioko, Evans School of Public Policy & Governance
- Jill Lee, Executive Director, Compliance Services
- Lynne Manzo*, Department of Landscape Architecture
- Jill Purdy, Executive Vice Chancellor for Academic Affairs, UW Tacoma
- Valery Richardson, Title IX Coordinator, Office of the Title IX Coordinator
- George Sandison, Department of Radiation Oncology, UW Medicine, and Past Chair of Faculty Senate
- Elaine Scott*, School of STEM, UW Bothell
- Margaret Shepherd, Chief Strategy Officer, Office of the President
- Chuck Sloane, University Ombud
- Joseph Tennis, Information School
- Mike Townsend, School of Law, Secretary of the Faculty, Steering Committee Co-Chair and Task Force Co-Chair
- Lea Vaughn*, School of Law
- Thaisa Way*, College of Built Environments, and Past Chair of Faculty Senate

Values & Principles Committee

- Chad Allen, Associate Vice Provost for Faculty Advancement, and Department of English
- Zoe Barsness, Milgard School of Business, UW Tacoma, Chair of Values & Principles Committee, and Task Force Co-Chair
- Sharona Gordon^, Physiology & Biophysics, School of Medicine
- Jack Lee, Department of Mathematics, and Chair of FCFA
- Jill Lee, Executive Director, Compliance Services
- Ian Messerle, Manager, University Complaint Investigation & Resolution Office
- Carole Palmer, Information School
- Gowri Shankar, School of Business, UW Bothell
- Chuck Sloane, University Ombud
- Robert Stacey, Dean, College of Arts & Sciences
- Mike Townsend, School of Law, Secretary of the Faculty, and Task Force Co-Chair
- Lea Vaughn*, School of Law
• Thaisa Way*, College of Built Environments, and Past Chair of Faculty Senate
• Sara Webb, Department of Psychiatry & Behavioral Sciences, School of Medicine
• Rob Wood, College of the Environment
• Ka Yee Yeung, School of Engineering & Technology, UW Tacoma

Drafting Committee

• Zoe Barsness, Milgard School of Business, UW Tacoma, and Task Force Co-Chair
• Jack Lee, Department of Mathematics, and Chair of FCFA
• Mike Townsend, School of Law, Secretary of the Faculty, and Task Force Co-Chair
• Jill Lee, Executive Director, Compliance Services
• Amanda Paye, Compliance Analyst, Office of University Committees
Appendix B – Values Framework and Expected Benefits

Values Framework and Approach

To build a strong foundation for the work of the Task Force, the Values and Principles Committee started by developing a values and principles framework:

Community values:
- Academic and intellectual freedom
- Academic, research, and professional integrity
- Equity and inclusion
- Ethical behavior, fairness, and respect
- Individual and community well-being
- Accountability to each other and then community as a whole
- Learning and continuous improvement

Principles for dispute resolution processes:
- Clear, equitable, fair, transparent, ethical, timely

Principles for dispute outcomes:
- Efficacy, accountability, proportionality, education, alignment, and consistency.

The work group recognized that successful implementation of the new system will require that all those involved – faculty and administration – aspire to support and promote a culture consistent with these values and principles to achieve the projected benefits.

Expected Benefits of the New System

The expected benefits of the new system include:
- Problem solving early at the lowest level of conflict will be prioritized so that more issues can be resolved in a manner that addresses the parties’ interests, yet preserves institutional and communal ability to hold faculty and decision makers accountable;
- Processes will be better aligned with the intensity and type of conflict, issue, or problem being addressed which will reduce the use of institutional and individual resources for lower-level issues and preserve these resources for issues that potentially have serious consequences, complexity, or institutional impact;
- Addressing issues at the appropriate level reduces risks and costs associated with escalation and adversarial conflict; and
- Increased transparency of processes and decision making will promote consistency, equity, and fairness of outcomes.
Appendix C – Class C Resolution

Class C Resolution regarding faculty disciplinary and dispute resolution processes

WHEREAS, in Autumn Quarter 2017, the Senate Chair and the Secretary of the Faculty appointed a task force with a tri-part committee structure made up of representatives of faculty leadership, administrative leadership, and representatives of faculty and administrators experienced with the current systems;

WHEREAS the task force has concluded that the faculty discipline and dispute resolution provisions in the Faculty Code have not been comprehensively reviewed and updated in more than 20 years;

WHEREAS the task force has concluded that the current one-size-fits-all faculty discipline and dispute resolution process fails to promote and support important values and principles identified by the task force, including:

• Community values:
  o Academic and intellectual freedom
  o Academic, research, and professional integrity
  o Equity and inclusion
  o Ethical behavior, fairness, and respect
  o Individual and community well-being
  o Accountability to each other and the community as a whole
  o Learning and continuous improvement

• Principles for dispute resolution processes:
  o Clear, equitable, fair, transparent, ethical, timely

• Principles for dispute outcomes:
  o Efficacy, accountability, proportionality, education, alignment, and consistency;

WHEREAS the task force has concluded that there is a need for greater opportunity to intervene early and engage in problem solving at the unit level; and

WHEREAS the task force has discussed models for faculty discipline and dispute resolution, with feedback from faculty leadership and representatives, including the Faculty Council on Faculty Affairs, the Faculty Council on Tri-Campus Policy, the Chairs of the Elected Faculty Council, the Chairs of the University Faculty Councils, and the Board of Deans and Chancellors.

BE IT RESOLVED that the UW Faculty Senate supports the development of Class A Legislation revising the Faculty Code to create separate processes and enhanced tools to address distinct faculty issues, categorized for the purposes of the project as: faculty grievances, faculty misconduct, and interpersonal conflict between faculty colleagues.

BE IT FURTHER RESOLVED that the UW Faculty Senate supports drafting Class A Legislation consistent with the basics of the current draft of the model outlined below and as generally reflected in Appendix A for a faculty grievance process where faculty can raise concerns regarding administrative decisions that affect their terms and conditions of employment, with the understanding that the details contained therein will evolve as conversations take place among the relevant stakeholders during the drafting process. The basics of the draft model include:

1. Creating steps for addressing a grievance within the academic unit which promote early resolution and problem solving;
2. Broadening the types of grievances that are accepted for review at the unit level in comparison to the current standard in Chapter 28 for adjudications, with the intent to allow the broadest possible access for faculty grievances; and
3. For grievances not resolved at the unit level, creating steps at the institutional level, including an institutional review by a panel.
BE IT FURTHER RESOLVED that the UW Faculty Senate supports drafting Class A Legislation consistent with the current draft of the model outlined below and as generally reflected in Appendix B for addressing allegations of faculty misconduct, with the understanding that the details contained therein will evolve as conversations take place among the relevant stakeholders during the drafting process. The basics of the draft model include:

1. Enhancing and clarifying the range of available sanctions with definitions of minor, moderate, and major sanctions;
2. Aligning the process that must be completed prior to implementation of the sanctions with the severity of the sanction, including the opportunity for an appropriate level of review and appeal;
3. Creating a unit-level corrective action process for minor sanctions;
4. Creating a brief proceeding for moderate sanctions;
5. Creating a full proceeding for major sanctions;
6. Creating transparent criteria for determining which process will be utilized; and
7. Properly integrating other University processes and policies relating to formal investigations, as well as those required by governmental laws and regulations, including Executive Order No. 61 - Research Misconduct Policy, Executive Order No. 31 - Nondiscrimination and Affirmative Action, Executive Order No. 51 - Sexual Violence Elimination Policy, and investigations by Internal Audit of financial fraud or ethics violations.

BE IT FURTHER RESOLVED that, to support early intervention and resolution of interpersonal conflict, the UW Faculty Senate supports the drafting of Class A Legislation to enhance and clarify the rights and responsibilities sections of the Faculty Code, emphasizing responsibilities to each other and the University community.

BE IT FURTHER RESOLVED that the task force provide the Faculty Council on Faculty Affairs and the Faculty Senate with opportunities to review and provide feedback on the proposed Class A Legislation prior to putting the legislation up for vote.

Approved by:
Faculty Senate
May 14, 2020
Chapter 27 – Alternative Dispute Resolution and Faculty Grievances
Administrative and Conciliatory Proceedings for the Resolution of Differences

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Chapter 27 – Alternative Dispute Resolution and Faculty Grievances

Administrative and Conciliatory Proceedings for the Resolution of Differences

This chapter describes the available dispute resolution resources and processes for faculty to resolve disputes relating to administrative decisions and, also, conflicts among and between faculty colleagues. Faculty are not required to follow the order in which the resources are presented below. Whenever possible, faculty are encouraged to utilize dispute resolution options that engage those involved in the dispute in early and effective problem solving to resolve the disputes.

Informal dispute resolution, such as described in Section 27-31 and 27-32, often yield outcomes that are more timely and nuanced than those available through more formal processes. When informal resolution is unsuccessful or when a faculty member does not wish to attempt informal resolution, the faculty member may seek assistance from semi-formal options offered by the University, such as the Office of the Ombud or through Conciliation as described in Section 27-41.

When the dispute relates to a decision, action, or inaction by an administrator that affects the terms, conditions, or course of the faculty member’s faculty employment, the Faculty Grievance process described in Section 27-51 has been designed to provide a transparent and efficient internal structure for resolving such disputes between faculty and administrators. The types of disputes that are subject to a faculty grievance are described in Section 27-54, Subsection A. Faculty are encouraged, but are not required, to engage in or exhaust the dispute resolution options in this Chapter prior to filing a petition for a grievance under Section 27-54, Subsection B. To encourage faculty to engage in alternative dispute resolution as described in Section 27-41, the time limits are paused, including for filing a petition for a grievance as described in Section 27-53, Subsection B or during a grievance as described in Section 27-63, Subsection A.

When such disputes or conflicts require resolution of an allegation that would otherwise subject a faculty member to disciplinary proceedings, such disputes must proceed as provided for in other sections of the Faculty Code.

Faculty members are encouraged to seek advice from the Office of the Ombud, the Secretary of the Faculty, or a Faculty Liaison about the options and processes described in this Chapter. More information about the Faculty Liaisons is available in Section 27-110, Subsection C.

Finally, Section 27-110 describes the appointments of faculty pools and other faculty roles that facilitate and support the Faculty Grievance process described in this Chapter.

This chapter describes informal proceedings available for the resolution of differences as described in Chapter 25, Section 25-62. The proceedings set forth in this chapter are voluntary. A faculty member may instead initiate a request for adjudicative proceedings, keeping in mind the time limits of Chapter 28, Section 28-35. Should the faculty member choose to engage in administrative and/or conciliatory proceedings prior to seeking adjudication, time limits provided in Chapter 28, Section 28-35 shall be extended for the period required for completion of such proceedings. Administrative and conciliatory proceedings are always available, with no time limits.
Section 27-31 Administrative Proceedings

The faculty member may first discuss the issue about which he or she is concerned with the appropriate department chair and, if the faculty member so wishes, the academic dean. The matter may be concluded by mutual consent at this point.

Section 27-31 Interpersonal Conflict Between Faculty Colleagues

When disputes arise between faculty colleagues, faculty are encouraged to attempt to resolve the conflict directly with the other faculty member. Faculty may also seek assistance from their unit head, such as a chair or director, or seek assistance through the University alternative resolution resources as described in Section 27-41, which are semi-formal processes provided by the University to support faculty in their efforts to resolve such conflicts.

When unit heads are unable to facilitate resolution of the conflict, they are encouraged to refer the faculty members to the Office of the Ombud for the purpose of engaging in alternative dispute resolution. Engaging in alternative dispute resolution, however, is voluntary.

Section 27-32 Informal Dispute Resolution of Administrative Decisions

Faculty may, but are not required to, attempt informal resolution of disputes arising from administrative decisions directly with administrators. Attempts at informal resolution, however, do not suspend the time limits for filing a petition for a grievance under Section 27-53, Subsection A.

Section 27-41 University Alternative Dispute Resolution Resources

When informal dispute resolution attempts have not been successful or if a faculty member decides not to engage in informal resolution, a faculty member may seek to utilize the following University resolution resources. Participating in these processes is voluntary.

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1 The Unit-level Review (Steps 1 and 2) under Section 27-71 of the grievance process replaces and provides a more detailed framework for “Administrative Proceedings” under the current Section 27-31. It has been moved to begin at Section 27-51, below, to follow the alternative dispute resolution description to encourage faculty to utilize such resources prior to filing a grievance. In the current code, it is optional for the faculty member to initiate an administrative proceeding, but in this process, the Unit-level Review is required for certain grievances. In the current code, there is no time limit for initiating administrative proceedings, but a petition for a grievance must be filed within 90 days under Section 27-53, Subsection A to encourage faculty to engage in the process and to avoid escalation of the dispute.

2 The Task Force received feedback that both faculty and administrators wanted more clarity about options for addressing interpersonal conflicts between faculty colleagues either when one will not engage in dispute resolution or the colleagues have not been able to resolve it on their own. This section was separated out because a faculty member cannot file a grievance against a faculty colleague; instead grievances are reserved for faculty to dispute administrative decisions.

3 This section clarifies that administrators may refer faculty colleagues to the Office of the Ombud. Because the Ombud process is voluntary, there should be no consequence for a faculty member who declines to participate. Administrators may, however, hold a faculty member accountable if the conflict escalates, affects others, or affects the working or learning environment, such as proceeding under Chapter 25, Section 25-71, if warranted.

4 Faculty may engage in informal resolution, but if that attempt is not readily successful, faculty should be encouraged to utilize University alternative dispute resolution resources as described in Section 27-41 or to move forward with the grievance process to avoid an untimely petition, escalation of the conflict, or an exacerbation of any negative consequence to the faculty member.
A. Office of the Ombud

The Office of the Ombud, as described in Executive Order No. 18, “The University Ombud,” provides a safe space for faculty to discuss their situation or dispute in confidence. Depending on the situation, the Ombud may offer mediation or other methods of engagement to help the individuals involved resolve their dispute. The Office of the Ombud is available to faculty in their work and educational relationships with administrators, staff, and students, as well as faculty colleagues.

B. Conciliation

Conciliation as described in Sections 27-42 through 27-43 is an additional University resolution option designed solely for disputes arising amongst faculty members or between individual faculty members and administrators. Experienced faculty are appointed as conciliators and are attached to the Office of the Ombud to conduct conciliations, as described in Sections 27-42 through 27-43. Similar to mediation and other processes offered by the Office of the Ombud, conciliation is an option for faculty members to receive support in attempting to resolve disputes, without resorting to more formal processes.

If the process of resolution by mutual consent under Section 27-31 does not take place or fails, the faculty member or the dean may request the assistance of a conciliation officer as a neutral third party by applying to the University Ombud for the assignment of a conciliation officer. Conciliatory proceedings aim at resolving problems by informal means without resorting to the more formal adjudicative proceedings provided in Chapter 28.

Section 27-42 Conciliators Conciliation Officers and Conciliation Board

A faculty member or administrator may make a request to the Office of the Ombud to initiate conciliation.

A. Conciliator Conciliation Officer Eligibility

Conciliators Conciliation officers shall be current voting faculty that hold the rank of associate professor or a higher rank in the tenure, without tenure, teaching, or research tracks or emeritus faculty who held that ranks at the time of retirement. They should also be familiar with procedures and opportunities for the resolution of disputes or complaints involving faculty members.

B. Conciliation Officer Numbers and Terms

There shall be no fewer than six conciliators conciliation officers who shall serve three-year terms.

C. Conciliator Conciliation Officer Selection

Conciliators Conciliation officers shall be selected by the President from a list of names exceeding the number of positions to be filled, prepared, and approved by the Senate Executive Committee. Vacancies for the remainder of unexpired terms shall be filled according to this same procedure.

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5 This section has been added to include the Office of the Ombud as a resource for faculty in addition to Conciliation.

6 The substance of the conciliation process has not been revised (except for Section 27-43, Subsection C). The term “Conciliatory Proceedings” has been changed to “Conciliation” to reduce the appearance of formality. “Conciliation officer” has also been changed to “conciliator” for the same reason. References to the current code, Chapter 28, have been revised to refer to Faculty Grievances where appropriate.

7 Under the current Section 27-41, only a faculty member or dean may request a conciliatory proceeding, but this has been revised to permit any administrator to request conciliation. Engaging in conciliation is still voluntary for both the faculty member and administrator.

8 At the request of the Ombud, the eligibility criteria for conciliators has been broadened to better reflect the perspectives of faculty who engage in conciliation and, also, to broaden the pool from which conciliators may be drawn.
Conciliation officers may be reappointed to successive terms by mutual consent of the President and the Senate Executive Committee.

D. Conciliator Conciliation Officer Removal

Any conciliator conciliation officer may be removed during his or her term of office by concurrent decision of the President and the Senate Executive Committee.

E. Attachment to University Ombud

Conciliators conciliation officers shall be attached to the Office of the University Ombud but shall be limited in their activity to disagreements arising among faculty members or between individual faculty members and the University administration.

F. Conciliation Board

In attempts to achieve conciliation of differences, the conciliator conciliation officer assigned to a case shall have the assistance and advice of a Conciliation Board, consisting of the University Ombud and the other conciliators conciliation officers. The Conciliation Board shall:

1. Advise or assist the conciliator conciliation officer, at his or her request, on conciliation efforts in which he or she is engaged; and
2. Report annually to the President, the Secretary of the Faculty, and the Senate Executive Committee the number of conciliations, if voluntary disposition was or was not achieved, and any observed patterns of disputes which have occurred, together with any recommendations to be studied by the appropriate faculty council for legislative consideration.

G. Conciliator Conciliation Officer Assignment

The University Ombud, who may consult with the other members of the Conciliation Board, shall determine which conciliator conciliation officer shall be assigned to a case, and shall inform the Secretary of the Faculty of appointments made. No conciliator conciliation officer shall be assigned to a case arising within his or her own school or college.

Section 27-43

A. Investigation by Conciliator Conciliation Officer

The assigned conciliator conciliation officer is authorized to investigate the matter, to examine and collect documents and other information, and to discuss the issues with both sides with a view to achieving a mutually agreeable resolution. In discussions with the conciliator conciliation officers, only the parties may participate.

B. Conciliator Conciliation Officer as Intermediary

The assigned conciliator conciliation officer shall act as an intermediary. Although free to advise and assist the parties to the dispute in analyzing the situation and in crystallizing the issues, the conciliator officer does not serve as a representative or counsel for any party.

C. Privileged and Confidential Conciliations Proceedings

Statements and information divulged in the course of the conciliatory proceedings shall be privileged and confidential. They may be shared by the conciliation officer only in the course of consultation with the University Ombud and the Conciliation Board. They shall not be used for impeachment purposes nor shall they be discoverable or subject to subpoena or disclosed to anyone else, including the Hearing Committee conducting a subsequent adjudicative hearing, or the other parties involved, or in any other adjudicative or judicial proceeding, without the written permission of the individual who divulged the original information. All materials shall be returned to the appropriate parties at the conclusion of the conciliatory proceedings.
The content of conciliations is privileged and confidential as set forth in this section, subject to other applicable University policy and law. The content of conciliation includes statements and information divulged in the course of conciliations and any communications occurring during or for the purpose of the conciliation. During the conciliation, such content can only be shared outside of the conciliation by the conciliator for the purpose of consultation with the Office of the Ombud and the Conciliation Board under Section 27-42, Subsection F. In University proceedings and processes, including Faculty Grievances under Section 27-51 through 27-101 and proceedings under Chapter 28, such content cannot be disclosed nor can the conciliator, Office of the Ombud staff, or individuals involved in the conciliation be compelled to disclose them. Statements and information may only be disclosed with the written permission of the individual who divulged the original information or with the written permission of the individuals involved in the conciliation if that disclosure relates to communications occurring during or for the purpose of the conciliation.

D. Concluding Conciliation Conciliatory Proceedings

Either party may decide to end conciliation conciliatory proceedings at any time. Ordinarily, the conciliation effort shall conclude within 60 days of the request for conciliation. The University Ombud shall keep the parties informed of these time limits. Upon completion or breaking off of the conciliation proceedings, the conciliator conciliation officer shall take one of two possible actions:

1. If a voluntary disposition was achieved, its results and terms shall, in writing, be given by the conciliator conciliation officer to the parties to the conciliation and filed with the University Ombud.
2. If a voluntary disposition was not achieved, the conciliator conciliation officer shall, in writing, notify the parties and the University Ombud that the conciliatory proceedings have conciliation has ended and that other processes adjudicative proceedings may be available, such as Faculty Grievances under this Chapter, as described in Chapter 28. The faculty member may seek advice from the Secretary of the Faculty or the University Ombud about those processes.

E. University Ombud Report to the Secretary of the Faculty

At the termination of a conciliation proceeding, the University Ombud shall promptly report to the Secretary of the Faculty the date of termination of the conciliation proceeding, the general nature of the dispute and whether a mutually agreeable resolution was or was not achieved.

NOTE: The following is all new legislation.

Section 27-51 Introduction and Overview of Faculty Grievances

The grievance process described in Sections 27-52 through 27-101 is intended to provide a transparent and efficient internal structure for faculty to question the substance of administrative decisions when other recourse is not provided for by a University rule, regulation, or policy. The process is designed to promote resolution of grievances at the earliest opportunity and at the appropriate levels of administrative

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9 This section was revised because the current code appears to guarantee that statements and information cannot be subject to disclosure in external proceedings, including judicial proceedings. The code cannot prevent disclosure in external proceedings and, also, it is possible that certain statements and information must be disclosed by law. University policies that govern disclosure include Executive Order No. 18, “The University Ombud,” or that may require disclosure include Executive Order No. 56, “Reporting Suspected Child Abuse or Neglect.” The Uniform Mediation Act, Chapter 7.07 RCW may be applicable to conciliations to prevent disclosure in proceedings external to the University.

10 This sentence is intended to prevent disclosure in Faculty Grievances and adjudications under Chapter 28 to the greatest extent possible, even if not protected from disclosure by law.

11 As described in Section 27-61, Subsection B, for petitions that raise an issue for which another University policy or process is provided, it should be diverted that process.
A faculty member may file a petition for a grievance to dispute administrative decisions, actions, or inactions that affect the terms, conditions, and course of the faculty member’s faculty employment as described in Section 27-54, Subsection B and within the time limits as described in Section 27-53.

The grievance process is a multi-step review process, requested by the faculty member. As described in Section 27-32, prior to filing a petition for a grievance, the faculty member may attempt to informally resolve the dispute but is not required to do so. Otherwise, prior to and throughout the grievance process, faculty and administrators are encouraged to utilize the semi-formal alternative dispute resolution options offered by the University as described in Section 27-41, such as mediation or conciliation through the Office of the Ombud. When they do so, the time limits for filing a petition or for conducting the grievance are paused. Required time limits begin again only when alternative dispute resolution is exhausted and has not reached resolution as determined by the University Ombud.

Once a grievance has been initiated, certain grievances are addressed through a two-step unit-level process as described in Section 27-71 with a later option to request an institutional-level review if the grievance is not resolved. Some grievances, however, advance directly to Institutional Review as described in Section 27-54, Subsection A, such as denial of tenure and/or promotion.

The Unit-level Review as described in Section 27-71 provides faculty members the opportunity to meet with administrators to present their grievance and to receive a written response. It is designed to facilitate problem-solving and early resolution and, if unresolved, to document the grievance and the administrative responses. If the grievance is not resolved in the Unit-level Review, a grievant may request to advance to Institutional Review under Section 27-81, Subsection A.

The Institutional Review is completed by a Faculty Grievance Panel comprised of three faculty members selected from the Faculty Rights and Responsibilities Pool [see Section 27-110 Subsection A]. The panel has the discretion to conduct a review solely based on the written grievance file or to hold an institutional review meeting as described in Section 27-82, Subsection G. Either the grievant or the administrator acting as the respondent may request a Discretionary Review of the panel’s decision by the President, the panel may recommend Discretionary Review, or the President may decide to initiate a Discretionary Review.

Under Chapter 34.05 RCW, the Administrative Procedure Act, relating to exhaustion of administrative remedies, faculty may be required to avail themselves of the faculty grievance process prior to seeking review beyond the University.

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12 Adjudicative proceedings under Chapter 28 were designed in accordance with the Administrative Procedures Act (APA), Chapter 34.05 RCW, but given the types of issues that will be addressed through the grievance process, it need not comply with the APA. Instead, this process was designed to provide for a less legalistic process to facilitate problem-solving. Future interpretations should be consistent with that framework and draw from labor relations best practices rather than adjudicative proceedings under the APA or judicial proceedings.

13 The unit-level process provides a more detailed process for conducting “Administrative Proceedings” under the current code Section 27-31. While it is optional for the faculty member to request an administrative proceeding under the current code, the unit-level process is required for all grievances, except those that advance directly to institutional review under Section 27-54, Subsection A.

14 Although grievances are not adjudicative proceedings under the APA, it is possible that a faculty member may have standing to seek judicial review of an adverse decision that results from this process, so the exhaustion of remedies statement from the introduction of the current Chapter 28 is included. See RCW 34.05.530, which describes “standing” to seek judicial review.
Section 27-52 Definitions

A. Coordinator

For each grievance, the Chair and Vice Chair(s) of the Faculty Rights and Responsibilities Pool [see Section 27-110, Subsection B] decide which of them will be assigned as the Coordinator as described in Section 27-61, Subsection A for each grievance. For each grievance, the Coordinator takes the actions as described in this Chapter, including:

- Deciding whether a grievance will be initiated upon receipt of a petition and, if so, whether it will proceed through a Unit-level Review or be advanced to Institutional Review;
- Upon receipt of a request to advance to Institutional Review following a Unit-level Review under Section 27-71, deciding whether the grievance will advance to Institutional Review;
- Selecting the members of the Faculty Grievance Panel to conduct an Institutional Review;
- Coordinating the development of the grievance file for an Institutional Review;
- Facilitating the Institutional Review by the Faculty Grievance Panel and if the panel decides to hold an institutional review meeting, facilitating that meeting; and
- Delivering the panel’s decision from an Institutional Review.

In the event that the Chair and Vice Chair(s) cannot serve in this role in a grievance, the Chair may appoint a Coordinator from the Faculty Rights and Responsibilities Pool or the Chair may request that a hearing officer be appointed [see Section 28-33, Subsection B].

B. Day

Day is any calendar day, including Saturdays, Sundays, and University holidays. The time limits specified in this Chapter do not include the day of the act or event from which the time limit begins to run. The last day of the time limit is included, except if the last day falls on a Saturday, Sunday, or University holiday, then the time limit ends on the next business day.

C. Grievant

Any person who, at the time of the decision(s), action(s) or inaction(s) being contested, meets the definition of faculty member as set forth in Chapter 21, Section 21-31 may petition for a grievance under this Chapter. Once a grievance is initiated, the faculty member is referred to as the “grievant.”

D. Respondent

The respondent is the administrator selected by administration to respond to the grievance in Steps 1 and Step 2 of a Unit-level Review under Section 27-71 or in an Institutional Review under Section 27-82, Subsection A. Each respondent must have the authority to address and resolve the substance of the

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15 Under the current code Section 28-33, Subsection B, in the extraordinary event that neither a Chair and/or Vice Chair can be identified from among the faculty, a hearing officer may be temporarily appointed in the same manner to serve as Adjudication Panel Chair. In this process, the Chair may appoint a member of the pool as the Coordinator who may have more experience with the process than an external attorney; otherwise, a hearing officer from the list that will be maintained for Chapter 28 can be utilized.

16 This definition is borrowed from the current code, Section 28-31, Subsection L. It was retained to include faculty who are no longer employed at the time they filed the grievance but met the definition of faculty member at the time of the decision(s), action(s), or inaction(s), even though the possible solutions may be limited.

17 The grievant will be asked to identify in their petition who the decision maker was, but administration will decide who will act as the respondent at each step of the process. This is intended to avoid any protracted disputes about the appropriate “respondent” that have occurred in the current process. It will also allow campuses and units that have intermediate levels of administration to appoint the most effective person to act in each role and to allow for growth and change in organizational structures.
grievance, including providing an appropriate solution.\textsuperscript{18} In a grievance that proceeds through a Unit-level Review under Section 27-71, the Step 1 respondent is typically the person acting on behalf of the University in an administrative capacity who made the decision at issue in the grievance.\textsuperscript{19} and the respondent for Step 2 is typically the next-level administrator over the Step 1 respondent.

If the grievance is of an action(s), decision(s), or inactions(s) of a dean, the Provost or Chancellor may act as the respondent for Step 2 or may delegate their authority to another administrator in an equivalent or higher administrative appointment as the dean.

E. Faculty Grievance Panel

The Faculty Grievance Panel completes Institutional Reviews of a grievance as described in Section 27-82. For each Faculty Grievance Panel, the assigned Coordinator selects three faculty members from the Faculty Rights and Responsibilities Pool [see Section 27-110, Subsection A].\textsuperscript{20} In selecting members of a particular grievance panel, the Coordinator must attempt to achieve the highest degree of diversity and impartiality and make every possible effort to select panel members with differing backgrounds that the Coordinator deems relevant to the issues at hand and the persons involved.\textsuperscript{21}

A member of the Faculty Rights and Responsibilities Pool must not be selected as a panelist if the member:

- holds an appointment in the same department of a departmentalized school or college or is a member of the same non-departmentalized school or college as the grievant or the administrators involved;\textsuperscript{22}
- has some involvement in the substance of the grievance; or
- has a personal or professional relationship with a grievant or administrators involved that could reasonably be expected to interfere with the panel member’s ability to reach an unbiased decision.\textsuperscript{23}

\textsuperscript{18} Administration is be expected to appoint an administrator who has the independent authority to address and resolve the grievance. “Address and resolve” does not mean that the administrator has to have the authority to grant the specific solution the grievant is seeking, but instead an “appropriate solution,” such as if a grievant is seeking a solution that is outside the authority of the University to grant or the requested solution is not permitted under Section 27-83.

\textsuperscript{19} The President, however, would typically not act as a respondent because the President is responsible to the Board of Regents when acting in an administrative capacity; instead, those with disputes about actions and decisions by the President can be directed to the Board of Regents. Because of this, the current code Section 28-54, Subsection D, where the Board of Regents conducts the review of the panel’s decision if the President is the appropriate respondent has not been included. Also, the Faculty Code cannot bind the Board of Regents to act or limit its decision-making authority; instead that must be done by a Board of Regents order or policy.

\textsuperscript{20} Having a faculty panel conduct the Institutional Review was borrowed from the current code’s comprehensive adjudication where a faculty hearing panel makes the decision in the hearing. The panel is comprised of three rather than giving a party the option of requesting up to five under the current code Section 28-33, Subsection E to reduce scheduling difficulties that might delay the process.

\textsuperscript{21} This is borrowed from the current code Section 28-33, Subsection G.

\textsuperscript{22} The Steering Committee favored not allowing a panel member from the same department of a departmentalized school or college or from the same undepartmentalized school or college to be selected for the panel to avoid perceptions of favoritism.

\textsuperscript{23} This section does not further dictate how the Coordinator must select panel members because, depending on the grievance, it may be helpful to select panel members who have specialized knowledge relevant to the grievance, such as grievances that relate to a particular discipline.
If after selection, any panel members discover that any of the above reasons would preclude them from acting as a panel member, they must promptly notify the Coordinator and the Coordinator will replace the panel member.

Section 27-53  Time Limits for Filing a Petition for a Grievance

A. Time Limit for Filing a Petition

Except if the time limit is extended under Subsection B or C below, a faculty member must file a petition for a grievance with the Secretary of the Faculty as set forth in Section 27-54 within 90 days of the date the faculty member discovered or reasonably should have discovered the action(s), decision(s), or inaction(s) or the underlying facts regarding the action(s), decision(s), or inaction(s) that give rise to the grievance.  

B. Time Limits for Filing a Petition Extended During Alternative Dispute Resolution

Prior to filing a petition for a grievance, faculty are encouraged to consider utilizing the University’s alternative dispute resolution resources as described in Section 27-41. If a faculty member and administrator have agreed to engage in alternative dispute resolution as described in Section 27-41 prior to the faculty member filing a petition for a grievance, the time limits for filing a grievance under Subsection A above, are paused until alternative dispute resolution is exhausted. Once an individual withdraws from alternative dispute resolution or the Office of the Ombud determines that alternative dispute resolution is no longer effective, the Office of the Ombud will notify the individuals and the time limit for filing a petition for a grievance will resume as of the date of the notice from the Ombud.

C. Request for an Extension of Time Limits for Filing a Petition

Prior to the expiration of the time limit under Subsection A above, a faculty member may make a request to the Secretary of the Faculty to extend the time limit for filing a grievance. The Secretary of the Faculty has the discretion to extend the time limit on the basis that an issue beyond the faculty member’s control will prevent a timely filing or that circumstances would prevent the faculty member from meaningfully participating in the grievance if it were filed within the prescribed time limit. Reasons for an extension include, but are not limited to, that the faculty member is or will be on a medical leave of absence or family leave during the relevant time period or that the faculty member holds a nine-month appointment.

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24 Under the current code, Section 28-35, Subsection B, a petition must filed within 90 days, but the extension from June 16 to September 15 has not been included. Instead, a faculty member may make a request for an extension from the Secretary of the Faculty under Subsection C, below.

25 In the current process, some challenges relating to assessing timeliness arose in cases where the time limits were extended for the purpose of informal resolution because the beginning and end dates were not clear or documented. To avoid that issue, time limits are extended only for the semi-formal alternative dispute resolution processes offered by the University because the Ombud can confirm the beginning and end dates.

26 Under the current code Section 28-35, Subsection B if alternative dispute resolution is attempted prior to filing a petition for a grievance, the parties must notify the Secretary of the Faculty and, also, if the faculty member’s concerns are not resolved. This has not been included; instead, if alternative dispute resolution is not successful and a petition is filed outside the time limit, the Coordinator must confirm the extension of time with the Ombud for the purpose of determining timeliness under Section 27-61, Subsection B. This avoids the Ombud having to speculate which mediations, facilitations, or conciliations might lead to a grievance or meet the definition of a grievance. Once concluded, the time limit for filing a petition does not start over but resumes from the date of the notice from the Ombud.

27 This is intended to permit an untimely filing without the time involved in going through an appeal process as set forth in the current code Section 28-35, Subsection D, where a committee was formed to make the decision of whether it would be “grossly unjust” not to permit the petition.
Within seven days of the request, the Secretary of the Faculty must respond to the request in writing, providing reasoning for the decision. If the Secretary of the Faculty requires more time to review the request, the Secretary of the Faculty must provide notice to the faculty member.28

Section 27-54 Petitions for a Grievance

A faculty member may file a petition for a grievance as described in Subsection B below, to dispute an action(s), decision(s), or inaction(s) by any persons acting on behalf of the University in an administrative capacity29 which affected the terms, conditions, or course of the faculty member’s faculty employment.30 Some examples are: the allocation of space, support staff, or other resources or materials; and teaching, committee or other assignments within the department, school or other unit.31

Grievances relating to the following advance directly to Institutional Review with the scope of review as defined in the relevant section:32

- Denial of tenure under Chapter 25 and/or promotion under Section 24-54, which is reviewed under Section 27-83, Subsection A;
- A final decision regarding merit or salary increase under Section 24-55, which is reviewed under Section 27-83, Subsection B, only after the process in Section 24-55, Subsection H has been completed if it is mandatory or if the faculty member has exercised the option to engage in that process;

28 Time limits for actions and decisions by the Secretary of the Faculty, the Coordinator, and the panel were included to provide those involved with some indication of when they can expect those decisions and actions to occur; however, a failsafe has been included that they can extend the time limit with notice to the participants at each stage. The current code under Section 28-71, states that if any time limit is not met, the “failure shall not affect the validity of the procedure, or any decision resulting from an adjudication held pursuant to this chapter, unless the delay was unreasonable and unduly prejudicial to the interests of any party or nonparty participant of right.” It does not state, however, what the consequence would be, so this was not included.

29 The description of the decision maker as “any persons acting on behalf of the University in an administrative capacity” was taken from the current code Section 28-32, Subsection B.3, the “injustice” provision. This description is applied to both the injustice provision and the “procedural violation” provision rather utilizing the different description of “an authorized University official” in the current code Section 28-32, Subsection B.3 because having two different descriptions has caused some confusion. This would allow for staff or other faculty acting on behalf of administration in roles other than administrative appointments to be named as a “respondent” in the petition, but that is balanced by administration having the discretion to decide who acts as the respondent.

30 The language from the current code Section 28-32, Subsection B.1 relating to “the terms, conditions, or course of employment of the faculty member” has been revised to “the faculty member’s faculty employment” to make it clear that this process applies to grievances that affect the faculty member’s employment as a faculty member rather than their employment generally. For example, clinical decisions related to the delivery of patient care may impact a clinical faculty member’s clinical assignment, but not their faculty employment, so they are not subject to a grievance. This is because the responsibility for assessing the care of patients and/or a health professional's medical competency rests with the relevant Medical Staff and must be done in accordance with and under the applicable Medical Staff Bylaws. The remainder of the current standard in the current code Section 28-32, Subsection B (procedural violation or injustice) is the standard utilized by the Coordinator in Section 27-81, Subsection B to decide whether a unit-level grievance advances to Institutional Review and then it becomes the standard for the substantive review by the panel under Section 27-83.

31 These are the examples of matters that would be subject to a brief adjudicative proceeding under the current code Section 28-41, Subsection A.

32 A grievance involving denial of promotion and/or tenure, merit or salary increase, removal due to program elimination, and non-renewal are advanced to Step 3 because the final decision makers are at high levels of administration and the current standard under the current code Section 28-32, Subsection B is applied. For all other grievances, the standards of “procedural violation” and “injustice” have been moved to Step 3 to attempt to provide faculty with greater access to the Unit-level Review.
• Removal due to program elimination under Chapter 26 and Section 25-52, which is reviewed under Section 27-83, Subsection C;
• Non-renewal of an appointment under Section 24-53, which is reviewed under Section 27-83, Subsection D, except if the non-renewal is related to a mandatory promotion decision, it will be reviewed under Section 27-83, Subsection A; and
• Other grievances where the Provost or President are the appropriate respondent because the Provost or President was actively involved in the final action(s), decision(s), or inaction(s), which are reviewed under Section 27-83, Subsection E.

Petitions for a grievance relating to denial of tenure and/or promotion, merit or salary increase, removal due to program elimination, and non-renewal may only be filed once the entire decision-making process under the relevant Chapters of the Faculty Code is complete.

Certain types of disputes may be diverted from the grievance process as described in Section 27-61, Subsection B when they are governed by other University rules, regulations, and policies which provide recourse for the faculty member.\(^{33}\)

Decisions made within the grievance process under this Chapter are not grievable through a separate or independent petition. These include decisions by the respondent(s), the Secretary of the Faculty, the Coordinator, the Faculty Grievance Panel, and the President or designee.\(^{34}\)

B. Filing a Petition for a Grievance

A petition for a grievance must be filed in writing with the Secretary of the Faculty within the time limit described in Section 27-53, Subsection A, unless extended under Section 27-53, Subsection B or C.

Faculty are encouraged to file separate petitions for unrelated grievances, even if they involve the same administrator. Multiple faculty members who have related or substantially similar grievances or whose grievances have arisen out of the same or similar factual circumstances may file one joint petition for a grievance.\(^{35}\)

The petition should include:\(^{36}\)

1. A description of the action(s), decision(s), or inaction(s) and how it affected the terms, conditions, or course of the faculty member’s faculty employment;\(^{37}\)
2. If the grievance may be advanced directly to Institutional Review under Subsection A above, a description of the procedural violation and/or the injustice under Section 27-83 or, if the grievance

\(^{33}\) This is intended to divert grievances that are governed by other University policies and processes, including those that may give rise to compliance responsibilities. An example is allegations of violations of University conduct policies that are governed by University policies and Chapter 25, Section 25-71 and Chapter 28.

\(^{34}\) This is an attempt to clarify “immunity” under the current code Section 28-82. It is intended to make clear that decisions made within the grievance process are not subject to a grievance (or an adjudication under Chapter 28).

\(^{35}\) The current code has been interpreted to not permit multiple faculty to file a joint petition for an adjudication. This process permits multiple faculty to file a joint petition or to file individual petitions, but if a joint petition is filed, the unit-level respondents have the discretion to hold a joint meeting or to meet with each individually.

\(^{36}\) The intent of this section is to encourage faculty to thoroughly describe and document the substance of the grievance to facilitate transparency and early resolution. The word “should” is used relating to what information should be included in the petition, because not including it is not fatal to the grievance. If the grievant does not provide the information, the assigned Coordinator (see Section 27-61, Subsection A) may contact the faculty member to discuss it under Section 27-61, Subsection B.1.

\(^{37}\) This is designed so that faculty do not have to speculate about or describe why they think the administrator made the decision they did, but only to describe the decision and the solution they are seeking.
is of a removal due to program elimination, how that decision meets the standard under Section 27-83, Subsection C;

3. The date the faculty member discovered the action(s), decision(s), or inaction(s) at issue;

4. The name and title of the person acting on behalf of the University in an administrative capacity who engaged in the action(s), decision(s), or inaction(s) at issue in the grievance;

5. The solution the faculty member is seeking; and

6. A description of any attempts the faculty member has made to resolve the grievance, such as informally or through alternative dispute resolution as described in Section 27-41; however, the faculty member need not disclose the substance of those resolution attempts.

In the petition, the faculty member should request the outcome or decision the faculty member is seeking. The faculty member may also request a remedy or other redress as a solution if the faculty member has experienced a consequence to the terms, conditions, or course of the faculty member’s faculty employment as a result of the action(s), inaction(s), or decision(s) at issue in the grievance. For more information regarding available solutions, see Section 27-83.

If the date of the petition is outside the time limit in Section 27-53, Subsection A, the petition must also describe the reasons the grievance should be accepted, such as if the time limit was extended for the purpose of alternative dispute resolution under Section 27-53, Subsection B or the faculty member received confirmation of an extension from the Secretary of the Faculty under Section 27-53, Subsection C.

The faculty member is also encouraged to include any documentation that supports the grievance and may also include names of others who have information relating to the substance of the grievance. In the petition, the faculty member may also identify and request disclosure of information or documents not within the control of the faculty member that are relevant to the grievance.

Within seven days, the Secretary of the Faculty will forward the petition to the Chair of the Faculty Rights and Responsibilities Pool [see Section 27-110, Subsection B].

Section 27-61 Initiating a Grievance

A. Assignment of Coordinator

Upon receipt of a petition, the Chair and Vice Chair(s) of the Faculty Rights and Responsibilities Pool will decide which of them will be assigned as the Coordinator for the grievance. The assigned Coordinator will then inform the faculty member who filed the petition and the Secretary of the Faculty of the assignment.

For any grievance, the assigned Coordinator must not:

- hold an appointment in the same department of a departmentalized school or college or be a member of the same non-departmentalized school or college as the faculty member who filed the petition, or the administrator identified in the petition;
- be involved in the substance of the grievance; or
- have a personal or professional relationship with the faculty member who filed the petition, or the administrator named in the petition which would reasonably appear to interfere with the Coordinator’s ability to reach an unbiased decision.

In an individual grievance, the Coordinator is not subject to removal based on a challenge for disqualification by the grievant or any respondent. The Coordinator has the discretion to request to be replaced and, if so, the Chair or other Vice Chair(s) of the Faculty Rights and Responsibilities Pool must
select a new Coordinator and notify the grievant and the relevant respondent, depending at which step the substitution occurs, and the Secretary of the Faculty.\textsuperscript{38}

\section*{B. Determinations by the Coordinator}

Within 15 days of receipt of the petition, the Coordinator must complete a review of the petition to determine whether it will be accepted as described below. If accepted, the Coordinator decides whether a Unit-level Review will be initiated under Section 27-71 or if the grievance will be advanced to Institutional Review as described in Section 27-54, Subsection A. If the Coordinator requires additional time to review the petition, such as to consult with another University office under Subsection 1 below, the Coordinator must notify the faculty member who filed the petition and the Secretary of the Faculty.

\subsection*{1. Matters Subject to Grievance\textsuperscript{39}}

The Coordinator must determine whether the petition states a matter subject to a grievance as described in Section 27-54, Subsection A. Failure to include the information in Section 27-54, Subsection B is not a reason for declining the grievance; instead the Coordinator may request additional information or clarification from the faculty member, if needed, before conducting a review of the petition under this section.

If a petition for a grievance describes action(s), decision(s), or inaction(s) that are governed by another University rule, regulation, or policy that provides recourse for the faculty member, the Coordinator must contact the appropriate University office or the next-level administrator over the administrator named in the petition. If, after consultation with the appropriate University office or next-level administrator, it is determined that other issues raised in the grievance can be separated from the allegations that are governed by another University rule, regulation, or policy, the Coordinator may initiate the grievance with a defined scope. If, however, the issues cannot be separated or further assessment of the allegations is necessary, the Coordinator must refer the grievance to the University office or next-level administrator.\textsuperscript{40} If the grievance is referred, the faculty member filing the petition must be informed. If some or all of the allegations are accepted into that other University process, then those allegations in the petition for a grievance must be declined.

Otherwise, if the petition states a matter that is not subject to a grievance under Section 27-54, Subsection A, the Coordinator must decline to initiate a grievance and notify the faculty member.\textsuperscript{41} The Coordinator may refer the faculty member to a Faculty Liaison [See Section 27-110, Subsection C] or provide the faculty member with any available referrals to another University office.

\textsuperscript{38} Under the current code Section 28-37, a party can make a request to disqualify the Chair of the Faculty Adjudication Panel. This process does not provide for a challenge to disqualify a Coordinator because, although the Coordinator makes interim decisions, the Coordinator is not an ultimate decision maker. This will avoid challenges and delays arising later in the process based on decisions the Coordinator made earlier in the process; however, a Coordinator may request to be replaced, perhaps if a conflict has arisen later in the process.

\textsuperscript{39} Matters subject to grievance are assessed first (before timeliness) because allegations that should be addressed through other University processes may have different time limits.

\textsuperscript{40} For grievances that may trigger compliance/legal responsibilities, such as an allegation of misconduct, an assessment is done regarding whether those allegations can be separated from the grievance and the grievance could move forward. It cannot be solely for the purpose of providing a “remedy” to the complainant; instead, appropriate remedies may be granted to a complainant in accordance with Chapter 28. So, separating such allegations from the grievance will likely be rare.

\textsuperscript{41} If a grievance raises an issue that does not affect the terms, conditions, or course of the faculty member’s faculty employment or was not made by a person acting on behalf of the University in an administrative capacity, the Coordinator must decline the grievance.
2. Timeliness

If the grievance is not referred or declined under Subsection 1 above, the Coordinator must also review the petition for timeliness as described in Section 27-53. If the time limit was extended because the faculty member engaged in alternative dispute resolution, the Coordinator must confirm the extension dates with the Office of the Ombud.

When evaluating timeliness, the Coordinator has the discretion to consider a petition timely if the Coordinator determines that there has been a minor and nonprejudicial clerical or counting error in determining the applicable time limits; otherwise if a faculty member fails to file a grievance within the stated time limits, the right to a grievance under this Chapter terminates.

C. Notice of Grievance

If all or some of the petition for a grievance is accepted, the Coordinator must notify the grievant, the dean of the grievant’s departmentalized or undepartmentalized school or college (or an individual designated by the dean), and the Secretary of the Faculty that the petition for a grievance has been accepted and at what step the grievance will be initiated.

If the grievance is initiated at Step 1, the grievance must then proceed under Section 27-71. If the Coordinator advances the grievance to Institutional Review, the Coordinator must proceed with the grievance under Section 27-82.

Section 27-62 Non-retaliation

Administrators and faculty members, including those acting in their administrative capacity, are prohibited from retaliating against a faculty member who has filed a petition for a grievance, or against any individual who cooperates with or participates in a grievance under this Chapter.

Retaliation means to take an adverse action against individuals (not including formal decisions made or actions taken as part of a grievance process) because they have filed a petition for a grievance or cooperated with or participated in the grievance process under this Chapter. For purposes of retaliation

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42 Under current code, Section 28-36, Subsection B, a respondent could argue in their written response that a petition for an adjudication was untimely. This option has not been included in this process; instead, the Coordinator determines timeliness based on the petition, which is intended to avoid an adversarial beginning to the process.

43 This retains the Coordinator’s discretion under the current code Section 28-36, Subsection C to accept a petition if there is a minor error.

44 Having petitions go to the Dean’s office will avoid delays in identifying an appropriate “respondent.” Because conducting the Unit-level Review will be decentralized, administration may appoint an individual to be a point of contact for receiving grievances.

45 The Coordinator initiates Step 1 by notifying the grievant and the dean’s office directly with a cc: to Secretary of the Faculty, but then the Secretary of the Faculty takes over as the facilitator of the remainder of the Unit-level Review. If there is a request for Institutional Review following the Unit-level Review, the same Coordinator is notified and facilitates the Institutional Review process.

46 Although not contained in the current code, a common concern faculty raised with the Task Force was to provide some protection from retaliation.

47 Because this provision resides in the Faculty Code, only faculty members covered by the code can be held accountable under the Faculty Code; whereas for staff, Administrative Policy Statement 46.3, “Resolution of Complaints Against University Employees,” has been interpreted to be a generalized non-retaliation policy and any action would need to be taken in accordance with the staff member’s employment program.

48 If such allegations may result in a disciplinary sanction for a faculty member, they should be addressed through Chapter 25, Section 25-71 and Chapter 28.
under this section, to take an action means there must be a causal connection between the protected activity and the action taken, meaning that the respondent had knowledge of the protected activity and that the protected activity was a motivating factor for the action (although it need not be the only factor).

An adverse action is any action that could dissuade a reasonable person from engaging in the activity again in the future, which is evaluated from the perspective of a reasonable person in the position of the individual raising the allegation. An adverse action is more than an inconvenience or minor alteration of job responsibilities and must be considered in the context of the individual case.49

This provision only applies once a faculty member has filed a petition or participated in the grievance process and not if the faculty member discloses that they are considering filing a petition. Those who engage in alternative dispute resolution prior to the grievance process are protected from retaliation under Executive Order No. 18, “The University Ombud.”

Section 27-63 Grievance Process, Generally

A. Grievance Time Limits Extended During Alternative Dispute Resolution50

After a grievance has been initiated, the grievant and relevant respondent may agree to engage in alternative dispute resolution utilizing University alternative dispute resolution resources as described in Section 27-41 at any point in the process. When alternative dispute resolution is attempted after a grievance has been initiated, the Office of the Ombud must provide written notice to the Coordinator and the Secretary of the Faculty that alternative dispute resolution has begun in order to pause the relevant time limit and that relevant time limit is paused while alternative dispute resolution is ongoing.

If the grievance is resolved, the Office of the Ombud must notify the Coordinator and the Secretary of the Faculty and the grievance process terminates. If the grievance is not resolved, the Office of the Ombud must notify the Coordinator and the Secretary of the Faculty, and the extension period for the grievance process ends as of the date of the notice. The Secretary of the Faculty must then notify the parties of the date of the re-initiated time limit depending on the step where the grievance was paused, and the time limit re-initiates based on the date of the notice from the Secretary of the Faculty.

B. Extension of Time Limits

The grievant and the respondents in a Unit-level Review under Section 27-71 may agree in writing to extend the time limits in Step 1 or Step 2, with notice to the Secretary of the Faculty. If the extension exceeds 30 days, the extension must be approved by the Secretary of the Faculty. If agreement for an extension cannot be reached, the grievant or the respondent may make a request for an extension to the Secretary of the Faculty, stating why the extension is necessary and reasonable. The Secretary of the Faculty has the sole discretion to decide whether to extend time limits.51

Once an Institutional Review has been initiated under Section 27-81, requests for extensions of time limits by the parties must be directed to and decided by the Coordinator, with notice to the Secretary of the Faculty if a time limit is extended.

49 The definition of retaliation was developed utilizing a combination of laws and settled caselaw relating to retaliation in an attempt to address unique issues that may arise in the faculty grievance process. These laws and settled caselaw include Public Employees’ Collective Bargaining, RCW 41.56.040, the Washington Law Against Discrimination, RCW 49.60.210, and federal laws, including Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-3(a) (see EEOC Enforcement Guidance on Retaliation and Related Issues (2016)).

50 The extension of time limits for alternative dispute resolution prior to filing a petition and during the grievance process have been separated to better clarify the process.

51 This provision borrows the current code Section 28-71 where parties may request an extension of time limits from the Secretary of the Faculty, but they may first attempt to agree on extensions during the unit-level process.
C. Withdrawal of a Grievance

The grievant may withdraw a grievance at any step of the process by notifying the Secretary of the Faculty in writing. Once withdrawn, the grievant may re-file the grievance if it is re-filed within the time limits for filing a petition described in Section 27-53.

D. Communications Relating to a Grievance

Service of all University notices relating to a grievance must be sent by the Secretary of the Faculty or the Coordinator by electronic mail (email) to the individual's University-issued email address or by other electronic means as determined by the Secretary of the Faculty or the Coordinator. Service is complete at the time the email is sent.

Faculty members/grievants and relevant administrators must submit petitions, requests, responses, and other documents to the Secretary of the Faculty or the Coordinator via email or other electronic means as determined by the Secretary of the Faculty or the Coordinator. The date of submission is the date the communication is received by the Secretary of the Faculty or the Coordinator.

E. Privileged Information or Documents

Administrators cannot disclose and the Faculty Review Panel in an Institutional Review cannot seek disclosure of information or records protected under a legally recognized privilege or that is protected from disclosure by law.

As provided for by law and University policy, any communications or records relating to alternative dispute resolution must be treated as privileged in a grievance as set forth in Section 27-43, Subsection C and/or Executive Order No. 18, “The University Ombud.”

Individuals who are employed in positions that hold a privilege (an individual or authorized University representative) under this section also cannot be compelled to disclose such information in an institutional review meeting, except as permitted by law and when done in accordance with any relevant University policy.

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52 This section attempts to clarify the method and dates of service of notices to the parties and submissions to the University to provide certainty to those administering the process. For example, if a grievant sends a request at 11:59 p.m. on the final day of the time limit, it may not be delivered to the University email account until the following day. When the Secretary of the Faculty or the Coordinator sends an email, the time limit is based on the time/date the email is sent. When an individual involved in the grievance sends an email, the date/time is the date/time it is received in the email account of the Secretary of the Faculty or the Coordinator, including where they are copied on any direct communications between the parties.

53 The phrase “other electronic means” has been added to allow for future developments in electronic communications and document-sharing beyond email.

54 This section is intended to provide more detail than the current code Section 28-53, Subsection C (“The hearing officer shall give effect to the rules of privilege recognized by law, shall exclude evidence that is excludable on constitutional or statutory grounds…”). It also separates privileged information from “confidential” information, below. This section is designed to prevent disclosure of “privileged” information or documents that are legally protected from disclosure and/or that are protected from disclosure under University policy, such as: healthcare and counseling records and communications; records and communications with campus or community-based advocates (such as under RCW 28B.112.030 and RCW 5.60.060); attorney-client privileged communications and records and/or attorney work product; and privileged coordinated quality improvement/risk management/peer review records and communications as described in RCW 70.41.200, RCW 4.24.250, and RCW 43.70.510.

55 For example, requests for review of documents or information that have been designated within the health system as within QI or peer review privilege must be handled in a separate review process under the Coordinated Quality Improvement Plan (CQIP) approved by the Washington Department of Health, requests to
F. Confidential Information or Documents

Information or documents that are not privileged under Section E above, may be limited from disclosure under University rules, regulations, or policies when such disclosure is limited or prohibited to certain individuals under that rule, regulation, or policy. This includes information described as confidential in Chapter 24, including Section 24-54.56

Individuals who are employed in positions who have access to confidential information or documents under the University rule, regulation, or policy also cannot be compelled to disclose such information in an institutional review meeting, except as required by the Faculty Grievance Panel in an Institutional Review or as directed by the President under Section 27-82, Subsection E.4.

Section 27-71 Unit-level Review

When a grievance has been initiated at the unit level by the Coordinator, the following process applies. If multiple grievances have been filed or one petition has been filed by multiple grievants that are related or substantially similar or the petitions arise out of the same or similar factual circumstances, the Step 1 respondent or Step 2 respondent has the discretion to offer to hold a joint meeting with those grievants or to meet with each separately. If any grievant(s) declines a joint meeting, the respondent must meet with that grievant separately.57

A. Step 1 – Immediate Review

An immediate review is intended to facilitate problem-solving at the administrative level closest to the level of administrative decision making and, if unresolved, to document the grievance and the administrative response.

1. Scheduling the Step 1 Meeting

Once the respondent for Step 1 has been identified as described in Section 27-52, Subsection D, the respondent must notify the grievant and the Secretary of the Faculty. The Step 1 respondent must meet with the grievant within 15 days of the date of notice of the petition from the Coordinator.58 The grievant and Step 1 respondent may extend this time limit by mutual written agreement or with approval of the Secretary of the Faculty in accordance with Section 27-63, Subsection B. Once the Step 1 meeting has been scheduled with the grievant, the respondent must notify the Secretary of the Faculty.

waive such privilege are to be made to the Executive Director of UW Medicine Risk Management who will further coordinate with the official with the authority to waive such privilege.

56 There is no “discovery” process in the grievance process as is permitted in the current process as referenced in Section 28-52 because it has been designed to expect transparency and disclosure of information and documents. The process in Section 27-82, Subsection E for creating a “grievance file” for an Institutional Review includes a method for maintaining the confidentiality of documents and information under University policy.

57 “Consolidation” in the new grievance process will not serve the same purpose as it typically serves in the current process where “cross-petitions” are consolidated. For example, if the Provost initiated an adjudication for a charge of misconduct and that faculty member/respondent filed a petition alleging procedural violations or an injustice in the investigation or the adjudication, those petitions are typically consolidated. Here, the administrator may not file a “cross-petition” against a faculty member, so consolidation would serve a purpose more like a class action if multiple faculty members have the same or similar grievances. The option to hold a consolidated meeting is included if it will facilitate problem-solving and accelerate time limits, but it is within the discretion of the unit-level respondents to offer and the grievant(s) to participate in a joint meeting.

58 The time limit for holding the meetings in the unit-level process starts as of the date of notice and not from the date administration determines who the respondent(s) will be. This is intended to avoid delays while administration is identifying the respondent(s).
To prepare for the meeting, the Step 1 respondent may conduct inquiries, including seeking necessary documents and meeting with others who may have information about the substance of the grievance, including those identified by the grievant.

2. Participation in the Step 1 Meeting

The grievant may be accompanied in the Step 1 meeting by a Faculty Liaison or by one person to support efforts toward problem solving, but that person cannot be an attorney acting as legal counsel. The respondent may be accompanied by an administrator with the expertise and authority to support efforts toward problem solving, but who may not be an attorney acting as legal counsel.

Prior to the meeting, the grievant and respondent must notify each other and the Secretary of the Faculty who will be attending the meeting. Once receiving this notice, if either requires additional time to prepare for the meeting, they may agree to extend the time limit or make a request to extend the time limit to the Secretary of the Faculty under Section 27-63, Subsection B.

3. Step 1 Meeting

The purpose of the meeting is to provide the grievant with the opportunity to describe the circumstances leading to the grievance and to describe the solution the grievant is seeking. The respondent is encouraged to offer alternative solutions, but the respondent need not make a decision regarding the grievance in the meeting. The respondent is also encouraged to share any relevant information and documentation with the grievant, particularly documents identified by the grievant in the petition and any information obtained during the respondent’s review of the grievance. If the respondent has the discretion to do so, the respondent may share information or documents that are considered confidential under Section 27-63, Subsection F but is not required to do so.

No part of the meeting may be recorded by any means by any participant in the meeting.

4. Step 1 Review Response

Within seven days of the conclusion of the meeting, the Step 1 respondent must deliver a written response and any supporting documentation to the grievant and the Secretary of the Faculty. The response must also include any documentation shared in the meeting. If a mutually agreeable solution was reached in the meeting, the Step 1 respondent must document that solution in the response. If not, the response must include a description of the Step 1 respondent’s reasoning for the response and a description of any alternative solutions that were discussed or considered.

Unless there is a written agreement to extend the time limit for the response, failure by the Step 1 respondent to hold a Step 1 meeting or issue a written response within the specified time limit permits the grievant to submit a request to advance to Step 2 under Section 27-71, Subsection B.1. The Secretary of the Faculty will notify the grievant and Step 1 respondent that the time limit has expired and the time

59 Legal counsel is not permitted at the Step 1 and 2 meetings but are permitted to attend an Institutional Review meeting under Section 27-82, Subsection G. This is intended to promote problem solving at the unit-level and avoid creating an adversarial environment while allowing legal counsel for grievances that advance to Institutional Review because the decision may have a significant impact on the grievant.

60 The respondents are not limited to administrators who are faculty, but could be staff, depending on the issue; however, a Step 1 respondent and Step 2 respondent may invite another administrator to the meeting, as long as that person participates for the purpose of problem solving. Given that this process was designed primarily for faculty to raise issues with administrators within their unit, it may be better if an administrator within the unit acts as the respondent(s) and invites a staff member who may have certain expertise to attend (such as a human resources representative).

61 This consequence of not acting within the time limits is a common provision in labor contracts.
limit for the grievant to request to advance to the next step of the grievance process starts the date the notice was sent.

5. Concluding the Grievance

If the Step 1 response resolves the grievance, the grievant may notify the Secretary of the Faculty. If the grievant does not submit a request for Step 2 under Section 27-72, Subsection B.1, the Secretary of the Faculty must notify the Step 1 respondent that the grievance has been concluded. The Step 1 respondent must ensure the solution, if any, in the Step 1 respondent’s response is promptly implemented and notify the Secretary of the Faculty when the solution has been implemented.

B. Step 2 – Academic Unit Review

If the grievance is unresolved in Step 1, the Step 2 - Academic Unit Review provides a method for the grievant to access the next level of administrative decision making and engage an administrator with the authority to make an independent decision. If unresolved after completing this step, the grievant may request to advance the grievance to an Institutional Review as described in Section 27-81, Subsection A.

1. Requesting Step 2

If the grievant is not satisfied with the Step 1 response or offered solution, if any, the grievant may submit a request for Step 2. The request must be delivered in writing to the Secretary of the Faculty within seven days after the Step 1 response is delivered or after the notice of expiration of the time limit for the Step 1 meeting or response is delivered by the Secretary of the Faculty.

The request should include:

1. The relevant information from the petition under Section 27-54, Subsection B; and
2. A description of why the Step 1 response or solution offered, if any, did not resolve the grievance.

The grievant must provide any other relevant information or documentation that the grievant wishes to be considered in support of the grievance that was not included with the initial petition, unless it is confidential under Section 27-63, Subsection F and, if so, it may be disclosed under Section 27-82, Subsection E if the grievance were to advance to Institutional Review.

Within seven days of the request, the Secretary of the Faculty must forward the request to the Step 1 respondent, along with the grievance file from the Step 1 review. Unless there is a written agreement or an approval to extend the time limits for requesting Step 2, failure by the grievant to request Step 2 within the specified time limit constitutes an acceptance of the Step 1 response, and the grievance will be concluded under Section 27-71, Subsection A.5.

2. Scheduling the Step 2 Meeting

Once the respondent for Step 2 has been identified as described in Section 27-52, Subsection D, the Step 2 respondent must notify the grievant and the Secretary of the Faculty.

The Step 2 respondent must meet with the grievant within 15 days of the date of the notice of the request for Step 2 from the Secretary of the Faculty. The grievant and Step 2 respondent may extend this time limit by mutual written agreement or with approval of the Secretary of the Faculty in accordance with Section 27-63, Subsection B. Once the meeting has been scheduled, the Step 2 respondent must notify the Secretary of the Faculty.

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62 The Step 1 respondent is the point of contact for the Secretary of the Faculty, which will avoid having to try to figure out who the appropriate “next level” administrative would be. The Step 1 respondent is responsible for ensuring the grievance is advanced forward to Step 2.
To prepare for the meeting, the Step 2 respondent may conduct inquiries, including seeking relevant documents and meeting with others who may have information, including the respondent who conducted Step 1 and those identified by the grievant.63

3. Participation in the Step 2 Meeting

The grievant may be accompanied in the Step 2 meeting by a Faculty Liaison or by one person to support efforts toward problem solving, but the person cannot be an attorney acting as legal counsel. The Step 2 respondent may be accompanied by an administrator with the expertise and authority to support efforts toward problem solving, but who may not be the Step 1 respondent or an attorney acting as legal counsel.

Prior to the meeting, the grievant and Step 2 respondent must notify each other and the Secretary of the Faculty who will be attending the meeting. Upon receiving this notice, if either requires additional time to prepare for the meeting, they may agree to extend the time limit or make a request to extend the time limit to the Secretary of the Faculty under Section 27-63, Subsection B.

4. Step 2 Meeting

The grievance file for the Step 2 meeting consists of the initial petition and any supporting documentation, the Step 1 response and any supporting documentation, the grievant’s request for Step 2, and any additional documentation provided by the grievant that was not provided with the initial petition.

Similar to the Step 1 meeting, the purpose of the Step 2 meeting is to provide the grievant with the opportunity to describe the circumstances leading to the grievance and to describe the solution the grievant is seeking. The respondent is encouraged to offer alternative solutions, but the respondent need not make a decision regarding the grievance in the meeting. The Step 2 respondent is also encouraged to share any relevant information and documentation with the grievant that has not already been shared, particularly documents identified by the grievant in the petition or request and any information obtained during the respondent’s review of the grievance. If the Step 2 respondent has the discretion to do so, the respondent may share information or documents that are considered confidential under Section 27-63, Subsection F but is not required to do so.

No part of the meeting may be recorded by any means by any participant in the meeting.

5. Step 2 Response

Within seven days of the meeting, the Step 2 respondent must deliver a written response and any additional supporting documentation to the grievant and the Secretary of the Faculty. The response must also include any documentation shared in the meeting. If a mutually agreeable solution was reached in the meeting, the Step 2 respondent must document that solution in the response. If not, the response must include a description of the Step 2 respondent’s reasoning for the response and a description of any alternative solutions that were discussed or considered.

Unless there is a written agreement to extend the time limit for the response, failure by the Step 2 respondent to hold a meeting or issue a written response within the specified time limit permits the grievant to submit a request to advance to Institutional Review under Section 27-81, Subsection A. The Secretary of the Faculty will notify the grievant and the Step 2 respondent that the time limit has expired and the time limit for the grievant to request to advance to Institutional Review starts the day of the notice.

63 Allowing the Step 2 respondent to conduct inquiries, including with the Step 1 respondent offsets the grievant’s ability to submit new information/documents at Step 2. This way, the Step 2 respondent can consult with the Step 1 respondent about any new information.
6. Concluding the Grievance

If the Step 2 response resolves the grievance, the grievant may notify the Secretary of the Faculty. If the grievant does not submit a request for Institutional Review under Section 27-81, Subsection A or if the request for Institutional Review is not accepted by the Coordinator under Section 27-81, Subsection B, the Secretary of the Faculty must notify the Step 2 respondent that the grievance is concluded. The Step 2 respondent must ensure the solution, if any, in the Step 2 response is promptly implemented and must notify the Secretary of the Faculty when the solution has been implemented.

Section 27-81 Initiating Institutional Review Following a Unit-Level Process

A. Requesting Institutional Review

In a grievance where a Unit-level Review has been completed under Section 27-71, if the grievant is not satisfied with the Step 2 response or offered solution, if any, the grievant may submit a request for an Institutional Review. The request must be delivered in writing to the Secretary of the Faculty within seven days after the Step 2 response is delivered or after the notice of expiration of the time limit is delivered by the Secretary of the Faculty under Section 27-71, Subsection B.6.

The grievant’s request should include:

1. The relevant information from the petition as described in Section 27-54, Subsection B; and
2. A description of why the Step 2 response or solution offered, if any, did not resolve the grievance.

If not already stated in the initial petition, the request must also describe at least one of the following:

1. how any persons acting on behalf of the University in an administrative capacity, through action or inaction, violated University regulations, rules, or policies relating to the terms, conditions, or course of the grievant’s faculty employment;
2. how the decision(s), action(s), or inaction(s) of any persons acting on behalf of the University in an administrative capacity resulted in an injustice that affected the terms, conditions, or course of the grievant’s faculty employment. For purposes of this section, “injustice” includes, but is not limited to:
   a. Any action taken that was based at least in part on any reason that was unfair in light of the decision being made; and
   b. Any action that was not supported by an articulated reason that can be shown to be fair and relevant to the circumstances.64

Within seven days of the request, the Secretary of the Faculty must forward the request to the Coordinator and the Step 2 respondent, along with the grievance file from Step 2.

Unless there is a written agreement or an approval to extend the time limits for requesting Institutional Review, failure by the grievant to request to advance to Institutional Review within the specified time limit constitutes an acceptance of the unit-level response, and the grievance will be concluded under Section 27-71, Subsection B.6.

B. Review of Request for Institutional Review

When a grievant requests Institutional Review following a Unit-level Review under Section 27-71, the Coordinator must review the request to determine whether the grievance states a matter that is subject to Institutional Review as described in Subsection A above. The Coordinator’s review is only to determine if the request satisfies the standard for Institutional Review and is not a substantive review of the grievance file from the Unit-level Review. Failure to include the information in Subsection A above, is not a reason

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64 This is the standard for a petition in the current code Section 28-32, Subsection B, but it has been applied at the Institutional Review level so that faculty can access the Unit-level Review for a broader range of grievances.
for declining the request; instead the Coordinator may request additional information or clarification from
the grievant, if needed, before conducting a review of the request under this section.

The Coordinator must complete the review within 15 days after the request is delivered by the Secretary
of the Faculty. If the Coordinator requires additional time to review the request, the Coordinator must
notify the grievant, the Step 2 respondent, and the Secretary of the Faculty.

If the grievance is accepted for Institutional Review, the Coordinator must notify the grievant, the Step 2
respondent, and the Secretary of the Faculty and proceed under Section 27-82. If the grievance is not
accepted, the Coordinator must deliver a written explanation of the decision to the grievant, the Step 2
respondent, and the Secretary of the Faculty. The Step 2 respondent must then conclude the grievance
as described in Section 27-71, Subsection B.6.

**Section 27-82 Process for Institutional Review**

A. Initiating Institutional Review

In a grievance that has been advanced directly to Institutional Review under Section 27-61, Subsection C,
if the decision maker named in the petition will not be acting as the respondent as described in Section
27-52, Subsection D, the administrator who will be acting as the respondent must notify the Coordinator,
grievant, and the Secretary of the Faculty within seven days of the notice. The grievant and the identified
respondent are the parties to the Institutional Review and any Discretionary Review.

In a grievance where a Unit-level Review has been completed under Section 27-71, the grievant and Step
2 respondent are the parties to the Institutional Review and any Discretionary Review.

The parties receive all notices relating to the Institutional Review and any Discretionary Review and may
participate in the Institutional Review and any Discretionary Review as described in the relevant
sections. 

B. Consolidated Review

If multiple grievances are advanced to Institutional Review that are related or substantially similar or the
petitions arise out of the same or similar factual circumstances, the Coordinator may consolidate the
institutional review of the grievances, except that the Faculty Grievance Panel must issue separate
decisions for each grievance. If the panel decides that Institutional Review meeting(s) are necessary for
the review, the Coordinator will design the meeting(s) to ensure that the parties to each grievance can
fully participate but to avoid undue repetition or delay in each grievance.

C. Appointing a Faculty Grievance Panel

When an Institutional Review has been initiated, the Coordinator must select the members of the Faculty
Grievance Panel according to Section 27-52, Subsection E. Once the members of the Faculty Grievance
Panel are finalized, the Coordinator must notify the parties and the Secretary of the Faculty and must also
notify the parties of their option to request a disqualification of any of the panel members under
Subsection D below.

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65 This is to clarify that the Step 2 respondent becomes the point of contact at the institutional level. Although
the Step 1 respondent may attend the institutional review meeting, if one is held, that person does not receive
all the subsequent notices in the grievance.

66 At this step, there may be an efficiency in consolidation, such as if multiple separate grievances were filed
relating to a program elimination, so the Coordinator has the discretion to consolidate the review. Here, the
grievants cannot decline consolidation to reduce the possibility of inconsistent decisions if different panel
members conduct each review.

67 This is intended to give the Coordinator the discretion to hold one joint meeting, separate meetings, or
partially joint and separate meetings, such as if there are any confidentiality concerns.
Panel members must make themselves available to complete the review. If a panel member’s absence will delay the review or cause the panel to be unable to complete the review within the designated time limits, the Coordinator may remove the panel member and select a substitute according to the selection process in Section 27-52, Subsection E.

D. Disqualification of Faculty Grievance Panel Members

The parties may request disqualification of any panel member for the following reasons:68

1. that the panel member has a personal or professional relationship with a grievant or the respondent that could reasonably be expected to interfere with the panel member’s ability to reach an unbiased decision;69 or
2. that the panel member, outside of the grievance process, has received communications or has obtained information which creates a significant risk of substantial unfairness.

The request for disqualification must be sent to the Coordinator within seven days after receipt of notice of the composition of the panel or immediately upon learning of the reason for requesting disqualification, if discovered after this time limit has expired. The Coordinator must provide a copy of the request to the other party. Within seven days of the request, the Coordinator must decide whether there is sufficient reason to disqualify the panel member and provide notice of the decision to both parties. If the panel member is disqualified, the Coordinator must appoint another panel member per Section 27-52, Subsection E and notify the parties and the Secretary of the Faculty of the new member.70

E. Grievance File for Institutional Review

To advance transparency in decision making and efficiency in the Institutional Review, the parties are expected to disclose all information and documents relevant to the grievance to the Coordinator as described in this section.

1. Submission of Information and Documents

If the grievance is accepted for Institutional Review following a Unit-level Review under Section 27-71, the grievance file from Step 2 and the grievant’s request for Institutional Review will be included in the grievance file for the Institutional Review. Within 10 days of the notice of Institutional Review, the parties must provide any additional relevant information or documents to the Coordinator. If they wish to have any confidential information or documents as described in Section 27-63, Subsection F, kept confidential from the other party, that confidential information and those documents should be submitted separately with a request for a review under Subsection 2 below.

If the grievance is advanced directly to Institutional Review under Section 27-62, Subsection C, the respondent who was identified under Subsection A above, must submit to the grievant and the Coordinator a written response to the petition within 10 days of the notice and is encouraged to offer any

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68 The standard for disqualification is similar to the current Section 28-37, Subsection A, except that under Section 27-52, Subsection E, the Coordinator is expected to not appoint a panel member for reasons which would fall under Subsection A.3 of the current code (the matter involves a departmental colleague). This will avoid any delays caused by going through the disqualification process when it can be readily determined whether the panel member falls under #3.

69 This reason has been revised to provide better clarity of the current language under Section 28-37, Subsection A of “personal consideration or relationship...” which was considered overly broad.

70 This process does not allow an appeal of the decision not to disqualify a panel member that is currently available under the current code Section 28-61, Subsection A to avoid extending the timeframe for completing a grievance.
solutions to address the grievance. Within 30 days of the notice the parties must submit documents relevant to the grievance to the Coordinator. If they have relevant confidential information or documents as described in Section 27-63, Subsection F, they wish to have kept confidential from the other party, they may submit them separately to the Coordinator with a request for a review under Subsection 2 below.

Neither party is expected to disclose privileged information or documents as described in Section 27-63, Subsection E, unless the holder(s) of the privilege (an individual or authorized University representative) waives the privilege in writing. Even if waived, the party submitting the privileged information or documents may submit them separately with a request for a review that they be treated as confidential under Subsection 2 below, and not disclosed to the other party.

The Coordinator may extend these time limits as reasonable at the request of a party with notice to the Secretary of the Faculty and the other party.

2. Review of Confidential Information and Documents

When the parties make a request for a review of confidential information or documents, each must provide an explanation of why the information or documents are considered confidential and should not be disclosed to the other party as described in Section 27-63, Subsection F.

If the Coordinator or panel questions whether the information or documents identified as confidential are protected from disclosure to the other party, the Coordinator may contact the party offering the information or documents to attempt to resolve the questions. If the panel concludes the information or documents are not confidential, the Coordinator must notify the party who provided the information or documents prior to finalizing the grievance file and that party may request that the President conduct a review as described in Subsection 4 below.

If the panel concludes that the information or documents are relevant but should be kept confidential, the Coordinator must take reasonable steps to avoid disclosure to the other party. The Coordinator must also create a list of any information or documents that were determined to be confidential in the grievance file without disclosing the content and the list must be included in the grievance file shared with the parties.

3. Grievance File for Institutional Review

The panel must make efforts to complete the review of submissions within 15 days of the end of the time limit for submitting information and documents, unless the Coordinator extends the time limit with notice to the parties and the Secretary of the Faculty. Only relevant information and documents need be included in the grievance file as determined by the panel.

The panel’s decision on what information and documents are contained in the grievance file for the Institutional Review is final.

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71 When a grievance is advanced directly to Institutional Review, the respondent must submit a written response, which is similar to the current code Section 28-36, Subsection B, because without a Unit-level Review administration would not have had an opportunity to document its reasoning regarding the decision.

72 The time limit for submitting documents after a Unit-level Review is shorter than if the grievance was advanced directly to Institutional Review because administration would have the opportunity to identify relevant information and documents during the Unit-level Review.

73 Including a process for the review of confidential information and documents as defined in Section 27-63, Subsection F, will preserve confidentiality, but also permit the panel access to all the relevant information relating to the decision. The panel would do a type of “in camera” review of the information and documents to determine whether it is confidential and should not be disclosed to the other party and, if so, the Coordinator will create a list similar to a privilege log.

74 Because this disclosure process is new, it is important that the panel can extend the time limit, if needed.
Once the grievance file is complete, the Coordinator must provide the grievance file for the Institutional Review to the parties and the Secretary of the Faculty.

4. Requesting Disclosure of Information or Documents

If the panel believes there is relevant University-owned or controlled information or documents that have not been submitted by the parties, the Coordinator may make a request to the party for disclosure of such information or documents. If the party believes they are not relevant or are privileged and protected from disclosure under Section 27-63, Subsection E, the party must describe why. If the party believes they are confidential under Section 27-63, Subsection F, they must be disclosed if they exist and are within the party’s control and the party may identify them as confidential under Subsection 2 above.

If the grievant refuses to disclose such information or documents, the review panel may draw inferences adverse to the grievant with respect to the issues to which the information or documents sought would have been relevant. The Coordinator must inform the grievant, in writing (with a copy to the respondent), of the decision to draw such inferences and the grievant may reconsider and provide the requested documents.

If the respondent refuses to disclose such information or documents, the Coordinator may make a request to the President in writing to decide whether the documents or information must be disclosed.

If the President determines that the information or documents sought are privileged and/or legally protected from disclosure, such as under Section 27-63, Subsection E, the President will inform the Coordinator and not compel their disclosure.

If the President determines the information or documents are subject to overriding University regulations, rules, and policies as to confidentiality, such as under Section 27-63, Subsection F, the President must take such steps as may be necessary to enforce compliance with the Coordinator’s decision. This may include directing that they be disclosed for the purpose of the panel’s review as described in Subsection 2 above, to maintain their confidentiality from the grievant. The President’s decision regarding the disclosure of such documents or information is final.

If the President refuses or fails to secure compliance with the decision to disclose, then the panel may draw inferences adverse to the position of the respondent with respect to the issues to which the information or documents sought would have been relevant. The Coordinator must inform the respondent, in writing (with a copy to the grievant), of the decision to draw such inferences and the respondent may take necessary steps to comply with the President’s decision to disclose.

Any inferences drawn in regard to the grievant’s position or respondent’s position must be described in the panel’s written decision.

F. Completing the Institutional Review

The Faculty Grievance Panel’s review must include a consideration of the final grievance file for the Institutional Review. The Institutional Review is facilitated by the Coordinator and deliberations of the Faculty Grievance Panel are confidential.

Prior to reaching a decision in the Institutional Review, the Faculty Grievance Panel has the discretion to hold an institutional review meeting as described in Subsection G below. It is solely within the discretion...
of the panel whether to hold a meeting for any reason, such as to explore alternative solutions if the
parties have not yet attempted to utilize University alternative dispute resolution resources as described in
Section 27-41. The Coordinator may also contact the parties to encourage them to engage in alternative
dispute resolution prior to completing the Institutional Review.

If the panel does not exercise its discretion to hold a meeting, it must issue its written decision in
accordance with Subsection H below.\textsuperscript{77}

### G. Institutional Review Meeting\textsuperscript{78}

#### 1. Notice of the Institutional Review Meeting

If the Faculty Grievance Panel decides to hold an institutional review meeting, the Coordinator must notify
the parties and the Secretary of the Faculty. Efforts should be made to hold the institutional review
meeting within 30 days, but no less than seven days, of the date the grievance file was provided to the
parties under Subsection E.3 above. The Coordinator must also notify the parties if the meeting will be
open or closed to the public.\textsuperscript{79}

At the discretion of the Coordinator, the meeting may be conducted fully or partially by electronic means
in a way that permits all those involved to participate effectively in, to hear, and see the entire meeting
while it is taking place.

#### 2. Submission of Witnesses\textsuperscript{80}

Within 10 days of the notice of the institutional review meeting, any party may submit a written request to
the Coordinator and to the other party that others who have information about the substance of the
grievance be permitted to be interviewed by the panel. In addition to the name, title, and contact
information of the witness, the written request must include a description of the information the individual
can present that is not contained in the grievance file and that is relevant to the grievance. Within seven
days, the parties may submit objections related to the other party’s requests to the Coordinator.

The Faculty Grievance Panel has the sole discretion to determine whether those individuals will be
permitted to appear or whether it will request that others appear in the meeting. In accordance with
Section 27-63, Subsection E, if the parties have attempted alternative dispute resolution as described in
Section 27-41, employees of the Office of the Ombud and/or the Conciliator(s) cannot be called as
witnesses.

At least 10 days prior to the meeting, the Coordinator must notify the parties of the witnesses that will be
permitted to appear at the meeting. The Coordinator is responsible for ensuring that all witnesses receive

\textsuperscript{77} This section does not require that the panel hold an institutional review meeting to conduct the review and, instead, it may be a paper review to avoid unnecessarily extending the timeframe for concluding the grievance. This is why the process specifically provides for development of a grievance file for the panel’s review.

\textsuperscript{78} The current code utilizes either a brief adjudicative proceeding or a formal adjudicative proceeding under the APA. This process borrows the informality of a hearing in a brief adjudication but utilizes a faculty panel as the decision maker as in a comprehensive adjudication. Rather than utilizing an external attorney as a hearing officer, this process utilizes the Coordinator to facilitate the meeting, who is a faculty member experienced with the process and with faculty matters.

\textsuperscript{79} Allowing the Coordinator to decide whether the meeting is open or closed to the public allows some flexibility to consider whether the meeting must be open under the Open Public Meetings Act, Chapter 42.30 RCW, which may depend on the subject of the grievance.

\textsuperscript{80} Since holding the meeting is discretionary, the new process does not provide for a pre-meeting process for exchanging “documentary evidence;” instead, the expectation is that documents supporting the parties’ positions have been already shared under Section 27-82, Subsection E.
notice of the meeting and the expected date and time of appearance. University employees called as witnesses are expected to attend the meeting and administration must ensure that those employees receive release time, as appropriate, to attend the meeting.

### 3. Participation in the Institutional Review Meeting

In an institutional review meeting following a Unit-level Review under Section 27-71, both the Step 1 respondent and the Step 2 respondent may attend the entire meeting. Only the Step 2 respondent may participate, and the Step 1 respondent may attend but not participate, except if called as a witness.

In a grievance that advanced directly to Institutional Review, the respondent may be accompanied at the meeting by one administrator who may attend but not participate, except if called as a witness.

The grievant may be accompanied at the meeting by one person of their choice who may attend but cannot participate in the meeting, except if called as a witness, or by a Faculty Liaison who may attend but not participate. In addition to the Faculty Liaison or other person, the grievant may be accompanied by an attorney acting as legal counsel. Only if the grievant is accompanied by legal counsel may the respondent be accompanied by an attorney acting as legal counsel.

Within 10 days of the notice of the Institutional Review meeting, the parties must notify the Coordinator and the other party who will attend the meeting, including whether the grievant will be accompanied by legal counsel. Subsequently, the respondent must notify the Coordinator and the grievant whether the respondent will be accompanied by legal counsel.

The parties’ legal counsels may attend the meeting but may not participate in the meeting. The parties may request reasonable breaks in the meeting to confer with counsel.

The Coordinator will make reasonable efforts to schedule the meeting at a time that is convenient for the parties. If the grievant does not wish to attend the meeting, the Coordinator may proceed with a meeting, or the panel may make a decision based on the grievance file. If the grievant or respondent has not reasonably responded to or cooperated with efforts to schedule the meeting, the Coordinator has the discretion to hold the meeting without the presence of that party, to recommend that the panel complete the review based on the grievance file, or to dismiss the grievance. If the grievance is dismissed and a Unit-level Review has been completed under Section 27-71, the decision from the Unit-level Review becomes the final decision in the grievance.

### 4. Conducting the Institutional Review Meeting

The institutional review meeting is not a formal hearing or legal proceeding and civil rules of procedure and evidence do not apply.

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81 In the current process, the parties are responsible for getting “their” witnesses to appear; instead the Coordinator is responsible for providing notice to the witnesses of the meeting.

82 Permitting the respondent to be accompanied by an administrator borrows the idea of an “administrative party of right” under the current code Section 28-31, Subsection H.

83 Allowing legal counsel to attend, but not allowing them to participate, will help avoid creating an adversarial setting.

84 Permitting the Coordinator to advance forward with the meeting if a party is not responsive to requests to schedule the meeting is in lieu of the current code Section 28-52, Subsection I, where the hearing officer had to contact the President to compel the administrator to participate or in the case of a party/grievant, that the case could be dismissed. An example of why the Coordinator may wish to proceed with the grievance is if the grievance has raised an issue that may impact other faculty, even if that faculty member/grievant is nonresponsive.
The Coordinator will facilitate the Institutional Review meeting to promote disclosure and consideration of relevant information. Each party must be given a reasonable opportunity to state their positions and present information; however, the Coordinator may exercise the discretion to direct the parties to focus their presentations on issues relevant to the grievance.

The Coordinator facilitates questioning of the parties and witnesses, if any. Only the panel members may directly question the parties and witnesses. The Coordinator must permit the parties the opportunity to submit to the Coordinator written questions for the other party or witnesses and the Coordinator has the discretion to accept, reject, or rephrase any question submitted by the parties based on their relevance or if they seek disclosure of information that has been determined to be confidential or may be privileged.85

The meeting must either be recorded, by audio only or video, or transcribed by a court reporter, as determined by the Coordinator. A party or witness cannot create their own recording of any part of the meeting.

**H. Decision from Institutional Review**

The Coordinator must deliver the panel’s written decision to the parties, the Secretary of the Faculty, and the President within 30 days of the date the grievance file for the Institutional Review was provided to the parties and panel. If an institutional review meeting was held, the time limit for the panel’s decision is extended to 20 days after the meeting was concluded. If the panel requires additional time to complete the review, the Coordinator must notify the parties and the Secretary of the Faculty.86 If the panel exercised its discretion to hold an institutional review meeting as set forth in Section 27-82, Subsection G, the file from the institutional review meeting must be included in the grievance file, including any recording or transcript of the meeting.

The panel’s decision must be based on the relevant scope of review for the grievance and must conform to the available solutions set forth in Section 27-83. The panel must also describe its reasoning for the decision. The panel may also recommend that the President conduct a Discretionary Review under Section 27-84 and, if so, it must describe the reasons for recommending such review and, if possible, include a recommended decision and/or solution.

The decision of the Faculty Grievance Panel must be determined by majority vote. A panel member cannot issue a separate decision, but the minority view may be referenced in the written decision.

**I. Concluding the Grievance**

If the grievance is concluded following Institutional Review because the President declines to conduct a Discretionary Review, the respondent must ensure the solution from the Faculty Grievance Panel, if any action is required, is implemented. Once implemented, the respondent must notify the Secretary of the Faculty when the solution has been implemented.

If the President does not complete a Discretionary Review, a grievant or respondent may request a clarification of the panel’s decision, such as to reconcile any differences in the interpretation of the

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85 Not allowing the parties to directly question each other was borrowed from the student conduct process to help avoid creating an adversarial setting. The Coordinator/panel may wish to conduct questioning first, which may avoid redundant or protracted questioning between the parties. Compliance Services has created a method of documenting in the record questions in student conduct proceedings when they are not asked or rephrased.

86 The panel can unilaterally extend the time limit because it is important to have the panel’s decision rather than permitting the grievant to request to move to the next “step” (Discretionary Review) as in Steps 1 and 2 if the panel does not issue its decision within the time limit.
decision. The President may also request a clarification for the purpose of implementing a decision of the panel under Section 27-85.\(^{87}\)

**Section 27-83 Scope of Institutional Review and Decisions**

**A. Review of Grievances of Tenure and/or Promotion**

Grievances involving denial of tenure and/or promotion must be reviewed by the Faculty Grievance Panel based on the following standard:

1. If the grievance alleges a procedural violation, the panel must determine whether any persons acting on behalf of the University in an administrative capacity, through action or inaction, violated University regulations, rules, or policies relating to tenure and/or promotion; and/or

2. If the grievance alleges an injustice, the review is limited to determining whether the decision was affected by factors other than the relevant and permissible considerations in making the tenure and/or promotion decision under the sections of the Faculty Code chapters addressing promotion and tenure of faculty members, including but not limited to Chapter 24, Sections 24-32, 24-33, 24-34, 24-35, and Chapter 25, Section 25-32, as amended.\(^{88}\)

If the panel reaches a finding of a procedural violation or an injustice, the panel’s solution is limited to referring the decision to the final decision maker. The referral must include instructions on how to correct the decision-making process that was the subject of the grievance under the relevant sections of the Faculty Code. The panel may also request that the President appoint an independent and objective faculty administrator to monitor the decision-making process. In the case of a mandatory promotion and/or tenure decision, the panel may extend the faculty member’s appointment through the conclusion of the following academic year for the purpose of completing the decision-making process.\(^{89}\) The panel cannot, however, award tenure and/or a promotion or direct that a promotion or tenure be awarded following a re-initiated decision-making process.\(^{90}\)

**B. Review of Grievances of Relating to Merit and Salary Increases**

Grievances involving merit or salary increase must be reviewed by the Faculty Grievance Panel based on the following standard:

1. If the grievance alleges a procedural violation, the panel must determine whether any persons acting on behalf of the University in an administrative capacity, through action or inaction, violated University regulations, rules, or policies relating to merit and salary increases, including but not limited to Chapter 24, Section 24-55 and Executive Order No. 64; and/or

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\(^{87}\) Issues have arisen in the current process because a request for a clarification is only specified following a decision by the President, but if the President does not conduct a review, the parties or President may wish to seek a clarification from the panel about its decision for the purposes of implementation.

\(^{88}\) This is the standard relating to tenure and/or promotion in the current code Section 28-32, Subsection B.3.

\(^{89}\) This was added to avoid termination of the faculty appointment and allow sufficient time for the decision-making process to be re-done.

\(^{90}\) There has been a difference of opinion between faculty and administration about whether the panel could award promotion and/or tenure (or merit or salary increase, removal due to program elimination, or re-appointment below) under its decision making authority in the current code Section 28-54, Subsection B, so this section specifies that the solution is limited to sending those decisions back to the decision maker and that the panel cannot award tenure and/or promotion. Faculty have interpreted it as providing unrestricted authority to the panel to award a remedy; however the current code Section 28-32, Subsection B limits the panels’ authority to review tenure and/or promotion to a “procedural” violation and an “injustice” as described in this section. In this and other sections where the panel must refer the decision back to the decision maker, the panel is not prevented from making a recommendation regarding the outcome but should take into consideration whether new information may be raised or considered in the reinitiated process that could impact the ultimate decision.
2. If the grievance alleges an injustice, the panel must determine whether the decision(s), action(s), or inaction(s) of any persons acting on behalf of the University in an administrative capacity resulted in an injustice that affected the decision regarding merit or salary increase. For purposes of this section, "injustice" includes, but is not limited to:

   a. Any action taken that was based at least in part on any reason that was unfair in light of the decision being made; and
   b. Any action that was not supported by an articulated reason that can be shown to be fair and relevant to the circumstances.91

If the panel reaches a finding of a procedural violation or an injustice, the panel’s solution is limited to referring the decision to the final decision maker. The referral must include instructions on how to correct the decision-making process that was the subject of the grievance under the relevant sections of the Faculty Code. The panel may also request that the President appoint an independent and objective faculty administrator to monitor the decision-making process. The panel cannot, however, award merit or a salary increase or direct that merit or a salary increase be awarded following a re-initiated decision-making process.92

C. Review of Grievances of Removal for Reasons of Program Elimination

Grievances involving removal of faculty for reasons of program elimination under Chapter 26 must be reviewed by the Faculty Grievance Panel based on the standard as described in Chapter 25, Section 25-52, Subsection D.93

If the panel reaches a finding in favor of the grievant, the panel’s solution is limited to referring the decision to the final decision maker. The referral must include instructions on how to correct the decision-making process for that grievance under the relevant sections of the Faculty Code. The panel may also request that the President appoint an independent and objective faculty administrator to monitor the decision-making process. The panel cannot, however, reinstate the faculty member or direct that the faculty member be reinstated, nor can the panel direct that the faculty member be appointed to another position.

D. Review of Grievances Relating to Non-Renewal of a Faculty Appointment

Grievances involving non-renewal of a faculty appointment, except those resulting from the denial of a mandatory promotion, must be reviewed by the Faculty Grievance Panel based on the following standard:

1. If the grievance alleges a procedural violation, the Faculty Grievance Panel must determine whether any persons acting on behalf of the University in an administrative capacity, through

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91 Merit and salary decisions is separated out, even though it uses the same standard as in Subsection E, below, because this section specifies that the solution is limited to referring the decision back to the decision maker. The Values & Principles discussed at length that the appropriate remedy for these decisions is to refer it to the final decisionmaker to avoid panel members, who are likely not experienced with the grievant’s discipline, to infringe on the rights and advisory opinions of unit faculty. The better solution was to require that the decision-making process be conducted again with instructions from the panel.

92 Similar to tenure and promotion decisions, above, the remedy is limited to sending the decision back into the unit’s decision-making process as prescribed by the Faculty Code for the same reasons.

93 The current code Section 25-52 provides for an appeal process with a specific scope of review for tenured and non-tenured faculty who are removed for reasons of program elimination; yet, the injustice provision in Section 28-32 also includes “program elimination” (but not “removal of an individual faculty member due to…”) with a possibly different scope of review. In an attempt to reconcile this apparent conflict, this process adopts the standard in Section 25-52. The provision in the current code Section 25-52, Subsection D that a faculty member may raise discrimination has not been included as a basis for a grievance because If a faculty member alleges the removal was based on a reason that would violate a University policy relating to conduct, such as discrimination or retaliation, it may need to be diverted under Section 27-61, Subsection B.
action or inaction, violated University regulations, rules, or policies relating to non-renewal, including but not limited to Section 24-53; and/or

2. If the grievance alleges an injustice, the Faculty Grievance Panel must determine whether the decision(s), action(s), or inaction(s) of any persons acting on behalf of the University in an administrative capacity resulted in an injustice that affected the decision regarding the non-renewal of the grievant. For purposes of this section, “injustice” includes, but is not limited to:
   a. Any action taken that was based at least in part on any reason that was unfair in light of the decision being made; and
   b. Any action that was not supported by an articulated reason that can be shown to be fair and relevant to the circumstances.

If the panel reaches a finding of a procedural violation or an injustice, the panel’s solution is limited to referring the decision to the final decision maker. The referral must include instructions on how to correct the decision-making process that was the subject of the grievance under the relevant sections of the Faculty Code. The panel may also request that the President appoint an independent and objective faculty administrator to monitor the decision-making process. The panel cannot, however, reinstate the faculty member or direct that the faculty member be reinstated, nor can the panel direct that the faculty member be appointed to another position.94

E. Scope of Review and Decisions for all Other Grievances

For all other grievances, the scope of review and decisions by the Faculty Grievance Panel must be based on this section. This includes grievances that were advanced to Institutional Review because the Provost or President was actively involved in the final action(s), decision(s), or inaction(s) or were advanced following completion of unit-level process under Section 27-81, Subsection B.

1. Scope of Review

The Faculty Grievance Panel must conduct the review as follows:

1. If the grievance alleges a procedural violation, the panel must determine whether any persons acting on behalf of the University in an administrative capacity, through action or inaction, violated University regulations, rules, or policies relating to the terms, conditions, or course of the grievant’s faculty employment as alleged in the grievance; and/or

2. If the grievance alleged an injustice, the Faculty Grievance Panel must determine whether the decision(s), action(s), or inaction(s) of any persons acting on behalf of the University in an administrative capacity resulted in an injustice that affected the terms, conditions, or course of employment of the grievant. For purposes of this section, “injustice” includes, but is not limited to:

   a. Any action taken that was based at least in part on any reason that was unfair in light of the decision being made; and
   b. Any action that was not supported by an articulated reason that can be shown to be fair and relevant to the circumstances.95

2. Decision and Solutions

If the panel reaches a finding of a procedural violation and/or an injustice, the panel must identify the solution to be provided to the grievant. The panel should consider the solution requested by the grievant.

94 Non-renewal is also separated out, even though it uses the same standard as in Subsection E, below, because this section specifies that the panel’s solution is limited to referring the decision back to the dean.

95 The threshold for Institutional Review of “other” grievances is not intended to be more narrow than the standard for an adjudication under the current code Section 28-32, Subsection B, except for injustice. The standard of a “legally impermissible reason” has been removed from the definition because that type of may need to be diverted under Section 27-61, Subsection B. Also, a University process (whether grievance or disciplinary) does not reach findings of legality; instead, the review would be based on University policy.
but is not limited to providing that solution and the panel should also consider any alternative solutions offered by the respondent(s) in their responses or the institutional review meeting.

The panel may recommend economic relief if the grievant has been proven to be entitled to the relief during the course of the grievance, but such relief is subject to a subsequent determination that the University has the authority to award such relief as permitted by law [see Section 27-85].

The panel cannot:

- Alter, revise, or invalidate a University regulation, rule, or policy;
- Impose a disciplinary sanction against any individual; and/or
- Grant a status that falls within the sole authority of a faculty body or that requires a faculty vote.

Section 27-84 Discretionary Review by President

A. Purpose of Discretionary Review

Discretionary review is reserved for grievances that:

1. Have a broad institutional impact, such as if the grievance raises an issue that is not addressed in a University regulation, rule, or policy, and if the panel’s decision was applied broadly, it would have an institutional impact;
2. Have institutional policy implications, such as if the decision is inconsistent with the interpretation, intent, or application of a University regulation, rule, policy, or practice; and/or
3. Where the decision and/or solution by the Faculty Grievance Panel may have exceeded its authority under Section 27-83.

B. Requesting Discretionary Review

If any party is not satisfied with the Institutional Review decision, any party may request a Discretionary Review by the President. The request must be delivered in writing to the Secretary of the Faculty within 15 days after the decision by the Faculty Grievance Panel is delivered by the Coordinator.

The request must include:

1. An explanation of why the Faculty Grievance Panel’s decision did not resolve the grievance and why the President should accept review, under Subsection A above;
2. If requested by the grievant, the solution the grievant is seeking;
3. If requested by the respondent, the solution, if any, the respondent is seeking; and
4. A description of any attempts the parties have made to resolve the grievance, such as informally or if alternative dispute resolution was attempted as described in Section 27-41; however, the parties need not disclose the substance of resolution attempts.

Although the current code may appear to permit the relatively unrestricted award of economic relief, including attorney’s fees, there are legal restrictions on the types of monetary payments the University can make as a public entity. For example, by law, public funds can only be dispersed when it serves a public purpose and cannot be for an individual benefit.

This section was intended to provide clarity and transparency about the scope of the panel’s authority that has arisen repeatedly in past adjudications.

This is a common limitation in labor arbitrations and is also included in some of the faculty grievance processes at other schools.

A faculty member can only be disciplined through Chapter 25, Section 25-71 or Chapter 28.

This was endorsed by the Values and Principles Committee to avoid undermining the role of faculty governance and reflects a position taken by administration in a previous adjudication.

This is consistent with the current code Section 28-61 where either party may request a review by the President.
Within seven days after the date requests are due, the Secretary of the Faculty must forward the request to the President, the party or parties who did not request review, and the Coordinator.

C. Initiating Discretionary Review

Within 30 days of receiving the decision from the Institutional Review and grievance file from the Coordinator, the President will decide whether to initiate a Discretionary Review. When deciding whether to conduct a review, the President must give consideration to any requests for review submitted under Subsection B above, or a recommendation from the Faculty Grievance Panel under Section 27-82, Subsection I. The President may delegate the authority to conduct the Discretionary Review to a Chancellor in a grievance involving a faculty member from that campus. The President (or Chancellor) must consult with the Chair of the Faculty Senate prior to initiating a Discretionary Review.

The request for Discretionary Review will be deemed denied if the President does not notify the parties within the time limit above, that review has been accepted and the Secretary of the Faculty has confirmed that the President does not intend to act on the grievance. If a Discretionary Review is not initiated, the Secretary of the Faculty must notify the parties and the Coordinator and contact the respondent to ensure that the grievance is concluded under Section 27-82, Subsection I.

If the President initiates a review, the President must notify the parties, the Coordinator, and the Secretary of the Faculty. If the parties have not requested review and the Faculty Grievance Panel has not recommended review, the President must also describe the reasons for initiating Discretionary Review.

D. Response and Grievance File for Discretionary Review by the President

Once initiated, the President may request a written response from the party that did not seek Discretionary Review or from both parties if the panel recommended Discretionary Review or if the President initiated the review. If the President requests a response, the response must be provided to the President and the other party within 10 days of the request from the President. Neither party may submit a further response or reply to the other party’s response.

E. Conducting the Discretionary Review

Within 60 days of the date the parties were notified that a Discretionary Review will be conducted, the President must either affirm the decision and issue a final written decision under Subsection G, below, or

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102 The 30-day time limit for the President to decide to accept review exceeds the 15-day limit in Subsection B, above, for the parties to request review to allow the President to wait to see if the parties request review and why before deciding.

103 Drafting Committee received strong feedback that the Chancellors be provided a role within this process (where they do not specifically have one in the current process), such as when a grievance may raise an issue that is unique to those campuses.

104 Under Chapter 22, Section 22-60, the scope of the SEC’s authority to interpret the code extends to any provision of the Faculty Code not currently the subject of an adjudication under Chapter 28. So, since the new grievance process may result in an interpretation or application of University policies and the Faculty Code, requiring the President to consult with the Chair of the Faculty Senate is intended to encourage collaboration such as when grievances raise an issue of interpretation or application for the first time or differences in interpretation.

105 The opportunity to submit a response is included here as an option for the President, which is similar to the current code Section 28-61, Subsection G where the President may request that the parties provide written or oral argument; however an option to hold in person oral argument is not included to avoid extending the timelines.
refer the decision back to the panel under Subsection F below. If referred, the President must issue a final decision within 30 days of receipt of the panel’s decision following the referral.

The grievance file for the Discretionary Review consists of the grievance file from Institutional Review, any request(s) for Discretionary Review, and any responses provided upon request of the President.

If the President requires additional time to conduct the review, the President must notify the parties, the Coordinator, and the Secretary of the Faculty.

**F. Referral to Faculty Grievance Panel**

If the President refers the decision back to the Coordinator and Faculty Grievance Panel, the President must provide a written description of the reasons for the referral with a copy to the parties and the Secretary of the Faculty. Reasons for referring the decision back to the panel may include but are not limited to: requesting clarification of the decision or reasoning; that the review revealed the importance of information the panel did not adequately address in its decision; that the panel provided a solution that exceeded its authority under Section 27-83; or to provide direction regarding the interpretation or application of University rules, regulations, or policies.

If the President refers the decision back to the panel, within 30 days the panel must reconsider its decision based on the President’s reasons. The Coordinator must deliver its written decision to the President, parties, and the Secretary of the Faculty that describes its consideration of the reasons for the referral. If the panel requires additional time for review, the Coordinator must notify the President, the parties, and the Secretary of the Faculty.

**G. Final Decision**

The President’s final decision must include the reasoning for the decision, including a description of the institutional considerations that were applied if the President’s decision is not a reaffirmation of the panel’s decision, and a solution, if any.

The written decision must be delivered to the parties, the Coordinator, and the Secretary of the Faculty. The President’s written decision is the final decision in the grievance.

**Section 27-85 Concluding the Grievance**

When the grievance is completed, the President must provide instructions in writing to the parties or other administrators to take any actions that are necessary to implement the decision and solution, if any. If the panel recommended economic relief, the President must determine whether the University has the authority to grant such relief. In determining whether the University has the authority to fund such economic relief, the President must consider all types of funds over which it has responsibility and discretion.

If those individuals require clarification, they may request clarification in writing with a copy to the parties and the Secretary of the Faculty, but efforts should be made to avoid a delay in the implementation of any

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106 This process adopts the mandatory two-step appeal process in the current code Section 28-61, Subsection C where the President may only affirm or “remand” the decision to the panel.

107 Following remand, the current code does not include a time limit for the President to issue a final decision, so Subsection E adopts a 30-day time limit which can be extended.

108 This is intended to permit the President to provide any solution that is within the President’s authority.
solution, if possible. The President may provide any written clarification to those individuals with a copy to
the parties and the Secretary of the Faculty.\textsuperscript{109}

Once a grievance is concluded, if the President’s decision reveals a gap or inconsistency in the
interpretation of existing University rules, regulations, or policies, the President or faculty governance
bodies should seek collaboration to address any such issues.

Section 27-101 Recordkeeping and Faculty Grievance Report

A. Recordkeeping

The Secretary of the Faculty is responsible for retaining all records relating to faculty grievance under
Section 27-51 through Section 27-101, including petitions filed and not accepted and records relating to
all faculty grievances, once concluded, in accordance with the University’s Retention Schedule.

Aspects of the records retained by the Secretary of the Faculty may be disclosed to other individuals not
involved in the grievance, upon request to the Secretary of the Faculty, if the records are necessary for
University operational needs, and the release is approved by the Secretary and the Chair of the Faculty
Rights and Responsibilities Pool [See Section 27-110, Subsection B].

B. Faculty Grievance Report

The Chair of the Rights and Responsibilities Pool is responsible for reporting to the faculty annually in
September. The report should include the number of petitions for grievances that were filed, a summary
of the substance of the grievance, the number of grievances that were initiated or concluded during the
prior academic year, and the decision that resulted. Names of the individuals involved in the grievance
cannot be published.

Section 27-110 Appointment of Faculty Pool and Faculty Liaisons\textsuperscript{110}

This section describes the appointments of faculty pools and other faculty roles that facilitate and support
the Faculty Grievance process described in this Chapter and, also, proceedings as described in Chapter
28. The selection processes for the appointments and pools described below should be consistent with
the University’s commitment to diversity and inclusion and the necessity of diversity in University decision-
making bodies.

A. Faculty Rights and Responsibilities Pool

The Faculty Rights and Responsibilities Pool (“FRRP”) is a standing pool of at least 24 members of the
faculty, selected broadly from colleges, schools, and campuses, nominated by the Senate Executive
Committee and approved by the Faculty Senate. The pool members serve as panel members and
decision makers in faculty grievances under this Chapter and in disciplinary proceedings under Chapter
28.

Eligible members must be voting faculty that hold the rank of associate professor or a higher rank in the
tenure, without tenure, teaching, or research tracks or emeritus faculty who held that rank at the time of
retirement. A faculty member may not serve on the Faculty Rights and Responsibilities Pool while

\textsuperscript{109}A request for reconsideration under Section 28-61, Subsection G has not been adopted to avoid extending
timelines to reach finality in decision making; however, individuals may seek clarification of the President’s
decision, if necessary.

\textsuperscript{110}Drafting Committee is recommending that this Class A Legislation to revise Chapter 27 move forward
separately from Class A Legislation to revise Chapter 28 relating to disciplinary proceedings. It is proposing
that the FRRP and roles be created in Chapter 27 and those who are appointed to the Faculty Adjudication
Panel (and as the Chair) be appointed to that role. The legislation for Chapter 28 can reconcile these roles.
Faculty Rights and Responsibilities Pool members serve three-year terms. Members are eligible for reappointment except if that member has served two consecutive terms, then the member is ineligible for reappointment for a period of three years.

B. Chair and Vice Chair(s) of the Faculty Rights and Responsibilities Pool

The leadership of the Faculty Rights and Responsibilities Pool (FRRP) consists of one Chair and at least two Vice Chair(s) nominated annually by the Senate Executive Committee and approved by the Faculty Senate to serve a one-year term. Those nominated must be a member of the FRRP or have been a member in the past.

The Chair and Vice Chair(s) are eligible for reappointment by the Senate Executive Committee if approved by the Faculty Senate. If they are not reappointed but are members of the FRRP, they may continue to serve on the FRRP based on the terms described in Subsection A above. In the extraordinary event that a Chair cannot be identified from among the faculty, a hearing officer as described in Chapter 28, Section 28-33, Subsection C may be temporarily appointed in this same manner.

As designated by the Chair, the Chair and Vice Chair(s) are responsible for managing the Faculty Rights and Responsibilities Pool, including making efforts to identify and put forward for approval a sufficient number of members as described in Subsection A above.

C. Faculty Liaisons

Faculty Liaisons are faculty members who serve as a resource for faculty who wish to learn about the resources and options to address disputes, conflicts, or other concerns. The Faculty Liaison may also provide support within alternative dispute resolution, grievance, or proceedings under Chapter 28 as permitted by those processes.

Faculty Liaisons must be elected by a majority vote of the Senate Executive Committee and confirmed by a majority vote of the Senate. Faculty appointed as a Faculty Liaison typically have experience with conflict resolution and must be voting faculty that hold the rank of associate professor or a higher rank in the tenure, without tenure, teaching, or research tracks, or are emeritus faculty who held that rank at the time of retirement.

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111 The make-up/number of pool members is the same as the current Faculty Adjudication Panel, but the title has been changed to reflect its broader purpose. The limitation that faculty in administrative appointments cannot serve is borrowed from the current code Section 28-33, Subsection B.

112 This section borrows the appointment process the Chair and Vice Chair of the Faculty Adjudication Panel from Section 28-33, and was drafted to allow the flexibility to appoint more than two faculty members as Vice Chairs, given that the caseload from the new processes is unknown. Although the Chair is typically an attorney/faculty member from the Law School, given that the two processes have been un-intertwined, it is possible that faculty with a labor/employment background can effectively serve as the Coordinator in the grievance process.

113 The number of re-appointments, however, has not been limited to allow for greater continuity in the role. Also, nominees may be past members of the FRRP (or the Faculty Adjudication Panel).

114 Since this is a new role, this section does not specify a minimum or maximum number of Liaisons.

115 This selection process for the Faculty Liaisons was borrowed from the process for appointing the Secretary of the Faculty in the current code Section 22-56, Subsection B.
If a Faculty Liaison is not available, a member of the Faculty Rights and Responsibilities Pool may serve in the role of a Faculty Liaison at the request of the Secretary of the Faculty but cannot be selected for any other role, such as a panel member, for the same matter.\footnote{Since it is uncertain whether/how this role will be filled, in the grievance process, where the Faculty Liaison may attend a meeting to support a faculty member, the faculty member has the option to choose another individual, instead. This section also includes the option to have a member of the FRRP act as a liaison, since they would be experienced with the process.}
Class C Resolution: Interim Revisions to Faculty Code Chapter 25 and Chapter 28

WHEREAS the Faculty Senate passed a Class C Resolution regarding faculty disciplinary and dispute resolution processes on May 14, 2020, which supported “the development of Class A Legislation revising the Faculty Code to create separate processes and enhanced tools to address distinct faculty issues, categorized for the purposes of the project as: faculty grievances, faculty misconduct, and interpersonal conflict between faculty colleagues;”

WHEREAS the Drafting Committee of the Task Force on Faculty Dispute Resolution and Faculty Discipline has engaged in drafting such Class A Legislation;

WHEREAS given the extent of the necessary revisions, the Class A Legislation will be presented in two separate parts:

- revisions to Chapter 27 to address interpersonal conflict and faculty grievances, which is currently before the Senate;
- revisions to Chapter 28 to address faculty misconduct which is anticipated to be presented in Academic Year 2021-2022;

WHEREAS in order to achieve the implementation of the Class A Legislation relating to Chapter 27, if passed by the faculty, interim revisions to other Chapters of the Faculty Code are necessary to effectuate the intent of the resolution and the Class A Legislation relating to Chapter 27;

WHEREAS such interim revisions have been presented with the Class A Legislation to revise Chapter 27 as follows:

- Revisions to the current Chapter 28 so any petitions filed that would fall within the faculty grievance process are appropriately addressed through the process described in Chapter 27; and
- Revisions to Chapter 25 solely for the purpose of reconciling references to Chapter 27 and Chapter 28; therefore

BE IT RESOLVED that if the pending Class A Legislation is passed and becomes effective, then for any petitions filed under Chapter 28 on or after the effective date, the following actions will be taken:

- when the Secretary of the Faculty receives a petition from a faculty member for an adjudication under Chapter 28, the Secretary of the Faculty must inform the faculty member of the option to file a petition for a grievance under Chapter 27 and, also, of the dispute resolution options described in Chapter 27; and
- the Chair of the Faculty Adjudication Panel will deny a petition under Section 28-36, Subsection C that would otherwise fall within the new faculty grievance process under Chapter 27 and inform the faculty member how to file or request that the petition be considered as a petition for a grievance under the revised Chapter 27 and, if the petition is timely under Chapter 28, it will be considered timely under Chapter 27.

BE IT FURTHER RESOLVED that any petitions filed before the effective date proceed under the provisions of the current Faculty Code.
Chapter 28 - Adjudicative Proceedings for the Resolution of Differences

This chapter sets forth the adjudicative procedures to be used in resolving disputes involving faculty members that cannot be resolved by informal means, under Chapter 27, Section 27-32, or are not subject to the grievance process of Chapter 27. Informal dispute resolution procedures are available at any time during the resolution process, including the time period after a hearing has been requested and before a final decision has been reached. Such procedures include the Conciliation procedure through the Office of the University Ombud as described in Chapter 27. The parties are strongly encouraged to use those procedures and other informal mediation procedures whenever possible.

Section 28-32 Cases Subject to Adjudications

B. Initiating an Adjudication

A faculty member may initiate an adjudication under this chapter by filing a petition for adjudication within the time limitations specified in Section 28-35 and in the manner specified below, for resolution of a dispute which falls within one or more of the following categories but see Section 28-36, Subsection C:

1. Cases in which it is alleged that an authorized University official, through action or inaction, has violated University regulations thereby affecting the terms, conditions, or course of employment of the petitioning faculty member. Examples of such cases include, but are not limited to, allegations that University regulations were violated in the denial of tenure or promotion or in the process of program elimination.

2. Cases where the right to an adjudication is specifically granted to a faculty member under another section of the Faculty Code.

3. Cases in which the petitioning faculty member alleges an injustice resulting from decisions, actions, or inactions of any persons acting on behalf of the University in an administrative capacity and affecting the terms, conditions, or course of employment of the faculty member by the University. In cases involving denial of tenure or promotion, program elimination or discriminatory salary reduction, decisions relating to merit or quality of the faculty member can be reviewed only to the extent necessary to determine whether the decision being questioned was affected by factors other than the relevant and permissible considerations in making the particular decision being challenged. Such relevant and permissible considerations are set forth in sections of the Faculty Code chapters addressing appointment, promotion and tenure of faculty members, including but not limited to Chapter 24, Sections 24-32, 24-33, 24-34, 24-35 and Chapter 25, Section 25-32, as amended.

For purposes of this section, "injustice" shall include, but is not limited to:

a. Any action taken that was based at least in part on a legally impermissible reason or on any other reason that was unfair in light of the decision being made; and

b. Any action that was not supported by an articulated reason that can be shown to be fair and relevant to the circumstances.

117 This is intended to direct faculty to Chapter 27 for disputes that fall under Chapter 27.

118 Rather than revising this section, it refers to Section 28-36, Subsection C, which contains the substantive revision to direct petitions that state grievances to Chapter 27.
Section 28-36  Manner of Initiating Adjudications

C. Determinations by Chair of the Adjudication Panel

Within 14 days of receipt of the response, or within 14 days after expiration of the 37-day period following receipt of the notice and petition, whichever is earlier, the Chair of the Adjudication Panel shall:

- Determine if the grievance process under Chapter 27 is the appropriate process and, if so, the Chair must deny the petition;\(^{119}\)
- Determine whether the notice and petition have been properly and timely filed. In determining timeliness, the Chair shall have discretion to consider a petition, or response timely if the Chair determines that there has been a minor and nonprejudicial clerical or counting error in determining the applicable time limits;
- Determine whether a brief adjudication is appropriate under the provisions of Section 28-41 below, and if so, appoint a hearing officer to conduct the adjudication;
- Identify the parties and the nonparty participants of right, if any, to the adjudication;
- If a comprehensive adjudication is required, appoint the hearing officer, determine the appropriate composition of the hearing panel and appoint the members of such panel, under the provisions of Section 28-32 above;
- Determine, either upon the Chair's own motion or motion of any party, whether two or more petitions by one or more parties should be consolidated for hearing before a single hearing panel because the petitions contain related or substantially similar grievances or the petitions arise out of the same or similar factual circumstances;
- Make suggestions to the hearing panel regarding possible procedures to expedite the hearings, including, but not limited to, summary disposition based only on documentary evidence, including affidavits and declarations.
- Where students, or non-faculty academic personnel are to be members of the panel, the Chair shall notify the Secretary of the Faculty who shall coordinate the selection of those persons.

Once the above specified determinations are made and the hearing panel, if required, is appointed, the Chair shall promptly notify the person who filed the notice and petition and all persons who are entitled to receive a copy of the notice and petition, as specified above, of such determinations, the identity of the hearing officer and hearing panel members, and the rights of the parties to challenge appointees for cause as provided in Section 28-37. The Chair shall also promptly deliver to any nonparty participants of right a statement of their rights of participation in the adjudication.

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Section 28-41  Brief Adjudications

A. Matters that Warrant a Brief Adjudication

The Chair of the Adjudication Panel shall, pursuant and subject\(^{120}\) to Section 28-36, Subsection C, determine that a brief adjudication be used for all cases whose sole issue is one of the following:

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\(^{119}\) As described in the Class C Resolution, if the Class A Legislation relating to Chapter 27 is adopted, disputes that are grievances must be addressed through Chapter 27. Faculty cannot choose to utilize Chapter 28 instead of Chapter 27 nor is Chapter 28 an “appeal” process for the outcome in a grievance process. The Chair declines the petition rather than automatically initiating a grievance to give the faculty member the choice whether to do so, but as described in the Class C Resolution, if the petition is timely under this Chapter, it will be considered timely under Chapter 27.

\(^{120}\) Rather than revising this section, “subject to” refers back to the substantive revision in Section 28-36, Subsection C.
1. The allocation of discretionary or merit salary increases;
2. The allocation of space, support staff, or other resources or materials;
3. Teaching, committee or other assignments within the department, school or other unit;
4. A conflict between or among faculty members, other than claims of sexual, racial, or other legally impermissible discrimination or harassment or claims of scientific or scholarly misconduct; or
5. Any other issue which a Brief Adjudication Panel determines is appropriate for brief adjudication.

The Chair shall employ a Brief Adjudication Panel pursuant to this section, if the Chair determines that:

a. The case does not fall clearly within one of the categories specified in Subsections A.1 through A.4 above but which may nevertheless be appropriate for a brief adjudication, or
b. It is unclear for any other reason whether a brief adjudication would be the appropriate procedure.
Section 25-52 Removal of Faculty for Reasons of Program Elimination

D. Appeal

Each faculty member notified of removal for reason of program elimination may engage in any of the administrative and conciliatory proceedings dispute resolution processes of Chapter 27. He or she may deliver an appeal to the chair of the Adjudication Panel and to the Secretary of the Faculty as provided in Chapter 28, in which case a Hearing Committee shall determine whether the faculty member was properly identified as a member of the program eliminated; whether the procedures in this section were followed; whether the decision to remove the faculty member was reasonable; and, if the faculty member so alleges he or she was unlawfully discriminated against because of race, religion, color, sex, national origin, age, handicap, sexual orientation, or status as a disabled or Vietnam era veteran.

Section 25-62 Proceedings for the Resolution of Differences

The policies and procedures detailed in Chapters 24, 25, and 26 are intended to ensure academic freedom and to protect the rights of the individual to careful consideration of his or her merits, and also to enhance the ability of the University and its academic units to select and maintain a faculty of the highest quality possible. Occasions may arise in which a faculty member may state that his or her academic freedom or employment rights were or will be impaired if some action or inaction of his or her academic unit or of the University as a whole is permitted, as well as occasions where the University may proceed against a faculty member. A faculty member facing such action or inaction may wish to contest the administrative behavior in question through the processes described in Chapters 27 and 28. Such a person is entitled to use the following proceedings: administrative (Chapter 27, Section 27-31), conciliatory (Chapter 27, Section 27-42), and adjudicative (Chapter 28). The University Ombud is available for consultation and advice. Cases subject to these proceedings may include allegations of unlawful discrimination based on a protected class status because of race, religion, color, sex, national origin, age, handicap, sexual orientation, or status as a disabled or Vietnam era veteran. These proceedings serve to protect the rights both of the individual concerned and the University. In a larger sense they fulfill an important role in protecting the academic profession from infringement of the prerogatives necessary for its proper functioning; and by the same token they protect these rights and the status of the academic profession in our society by assuring that the prerogatives are not demeaned through misuse as a shelter for incompetence or neglect of duty.

Section 25-64 Discriminatory Reduction in Pay or Improper Non-Reappointment

A. In a case in which a tenured or non-tenured faculty member alleges that he or she has suffered discriminatory reduction in pay, or in which a non-tenured faculty member alleges violation of the Faculty Code in connection with his or her non-reappointment, including denial of tenure, the faculty member making the allegation may proceed as set forth in Section 25-62. He or she may file a petition for a review with the Chair of the Adjudication Panel and the Secretary of the Faculty, in which case the procedures set forth in Chapter 28 shall be followed. The petition for review may include allegations of unlawful discrimination because of race, religion, color, sex, national origin, age, handicap, sexual orientation, or status as a disabled or Vietnam era veteran.
B. The procedures set forth in Section 25-62 shall be followed.\textsuperscript{124} The burden of proof shall rest with the faculty member making the allegation.\textsuperscript{125}

Section 25-71 Standard of Conduct

D. If a mutually agreeable resolution is not achieved under Subsection B or C of this section, and if the dean (after consultation in the case of a departmentalized school or college with the department chair and the faculty member) determines that the alleged violation is of sufficient seriousness to justify consideration of the filing of a formal statement of charges that might lead to dismissal, reduction of salary, or suspension for more than one quarter, he or she shall follow one of the following procedures:

1. In cases concerning allegations of unlawful discrimination or sexual harassment, the dean shall request an investigation by the University Complaint Investigation and Resolution Office (UCIRO) as provided in Administrative Policy Statement 46.3.

2. In cases concerning allegations of scientific and scholarly misconduct as defined in Section 25-51, the dean shall proceed as provided in Executive Order No. 61, "Policy for Addressing Allegations of Scientific and Scholarly Misconduct."

3. In all other kinds of cases the dean shall appoint a special investigating committee of three faculty members who are not directly involved in the matter being considered. The committee shall assist the dean in the informal and confidential gathering of information and documentation and shall advise the dean in its interpretation. If as a result of the foregoing investigation the dean concludes that further action is not merited, then the matter shall be dropped (although a faculty member aggrieved as a result of these activities has recourse to the conciliatory proceedings described in Chapters 27 and 28, and to the adjudicative proceedings described in Chapter 28, Section 28-32, Subsection A.)\textsuperscript{126}

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\textsuperscript{124} This is redundant of Section 25-62 and is inconsistent with the process for a faculty member to file a petition under Chapter 28 Section 28-35, Subsection B.

\textsuperscript{125} This is inconsistent with Chapter 28, Section 28-34, which describes the burden of proof.

\textsuperscript{126} Revised to more refer to Chapters 27 and 28 generally.
WHEREAS, the recent and past police killings of Black people, Native and Indigenous people, and other people of color in the United States have created an environment of anxiety, mistrust, and outrage for people of color as well as for their allies; and

WHEREAS, with the frequency of these incidents, UW communities of color have reported feelings of fear, despair, and vulnerability that come with experiencing continuous, historical racialized trauma; and

WHEREAS, the national Movement for Black Lives has given the UW community an invitation to uphold our values of justice, equity, and anti-racism; and

WHEREAS, there are existing racial inequities that persist within every level of UW’s three campus learning environments and these racial inequities are an academic issue interfering with the mission of the University and its ability to transmit knowledge; and

WHEREAS, the Faculty Senate Executive Committee passed a Class C Resolution in 2020 calling on the university to divest from local law enforcement agencies and to reimagine a safe campus; and

WHEREAS, the Faculty Council on Multicultural Affairs hosted a summer 2020 virtual conversation to create space for all faculty to come together to discuss how to lead on the topic of dismantling the features of the University system that perpetuate racial inequity, beginning first with the question of how faculty might lead on the essential task of eliminating the role of law enforcement officers in the day-to-day experiences of students, faculty, and staff; and

WHEREAS, the Faculty Council on Multicultural Affairs and the Faculty Council on Student Affairs jointly organized a spring 2021 virtual conversation to discuss the UW’s progress in divestment from local law enforcement agencies and reimagining a safe campus and to consider next steps; therefore

BE IT RESOLVED, that the Faculty Senate calls on the University to create a campus safety and policing oversight body composed of faculty, students, staff, and members of the community at large. The oversight body shall prioritize the health and wellness of the university community and its neighbors, and its responsibilities shall include, but shall not be limited to:

1. Ensuring developed systems and processes for ensuring the accountability of the UWPD and security organizations, including the review of actions taken in cases of alleged misconduct.

2. Providing meaningful input on behalf of the UW community into the regularly scheduled union contract negotiation process.

3. Advocating for the reduction of armed UW police and redirection of funds to health and wellness.
Contributing input into hiring decisions of UW police and safety leadership.

Promoting transparency and streamlined communication.

Following up on the increased responsibility of SafeCampus in campus safety.

BE IT FURTHER RESOLVED, that the Faculty Senate will continue to address issues of racial injustice during the 2021-2022 academic year.

From Brenda:

There are two things that I would suggest to the group if I 2qw there, to keep in mind.

1) For the clause regarding input into contract negotiations, the administration might hear it as trying to do something that is not currently allowed by law (allowing a third party into the negotiations). But I would emphasize the meaningful input is on the UW administrative side, that is, UW administration should take a position in the negotiations only after the UW community has endorsed that position. So by this framework, we are the UW in the negotiations process, we are not a third party. But up to now, there has been no mechanism for the broader UW Community to participate. I am not sure how to word that, so will continue to think about it and make suggestions as they come to mind.

2) I think the bullet point on transparency can be clarified in terms of transparency on behalf of whom? the UWPD, or UW administration? As these are two sides to the negotiated contract. Neither are transparent at present. UW would say there is the labor negotiations update web page, which gives a short one or two sentence summary each month during the negotiations. But arguably, that is one sided, with tiny amounts of information flowing from the UW administration about the process. There is no mechanism for information to flow the other direction.

Thanks,

Brenda