13. ACADEMIC PERSONNEL GRIEVANCE PROCESS (APGP)

13.1. GRIEVANCE

Where it is alleged that there has been a failure to follow procedures set forth in the Faculty Handbook, that Constitutional rights, statutory rights, or academic freedom have been abridged, or that a sustained pattern of unfair treatment or a significant arbitrary and capricious action has occurred, a faculty member has a right to file a grievance with the Academic Personnel Review Commission (APRC). A grievance based on (1) discrimination or harassment based on protected status, or (2) merit rating disputes, or (3) tenure and/or promotion should follow its own internal review process.

13.1.1. ACTIONS PRIOR TO INITIATING A GRIEVANCE

Prior to invoking the Academic Personnel Grievance Process (APGP), the faculty member should demonstrate a reasonable attempt to resolve the dispute by him/herself. The use of mediators or alternative dispute resolution should be considered. The Associate Provost for Faculty Affairs should be involved in the resolution attempts.

13.1.2. RETALIATION PROHIBITED

In no way shall an employee's status with the university be adversely affected because he or she utilizes these procedures.

13.2. ACADEMIC PERSONNEL REVIEW COMMISSION (APRC)

The Academic Personnel Review Commission (APRC) shall serve as a neutral body to determine if a faculty member has made a prima facie case so that a grievance may proceed to the University Hearing Panel (UHP) utilizing the APGP. The APRC may facilitate informal resolution of University-related grievances, and the APRC has authority to grant time extensions and determine whether procedures set forth in the Faculty Handbook have been violated. The APRC is responsible for empanelling a UHP and may dismiss a member or reconstitute a UHP when necessary to ensure fairness and due process. Decisions made by the APRC must be supported by a majority of the commissioners.

13.2.1. APRC COMPOSITION

The APRC shall be composed of three commissioners (two faculty members and one administrator). Commissioners serve 3-year staggered terms. One commissioner shall be appointed by the Provost and shall be a tenured, ranked faculty member currently serving as an academic administrator. One commissioner shall be selected by the Faculty Senate Judicial Review Committee and shall be a tenured, ranked faculty member. The third commissioner shall be a tenured, ranked faculty member appointed by joint agreement of the Provost and the Faculty Senate Judicial Review Committee. The three APRC members shall elect their own chairperson. Commissioners may be reappointed. They shall be afforded such relief from their other responsibilities as will enable them to discharge their duties as specified in the Faculty Handbook.

13.2.2. RECUSAL OF COMMISSIONER

A commissioner shall recuse himself/herself if the commissioner had a decision-making role in the actions complained of or if the commissioner is a party against whom a grievance is brought or in other situations that could involve bias. A faculty member or administrator may request that a commissioner be recused from a specific case by
petitioning the body that appointed the commissioner (i.e., the Provost or Faculty Senate Judicial Review Committee). The request should contain a compelling rationale for the recusal. A commissioner may recuse himself/herself for reasons of illness or other good causes. If an APRC commissioner is recused on a single case, a commissioner pro tem may be appointed to serve on this case; a faculty member commissioner shall be replaced with a faculty member chosen by the Faculty Senate Judicial Review Committee and an administrator shall be replaced with an administrator selected by the Provost.

13.2.3. APRC ANNUAL REPORT TO FACULTY SENATE

The APRC shall make an annual report to Faculty Senate during the first fall meeting, specifying the total number of cases filed in the previous 12 months, the types of cases (e.g., termination of employment, denial of academic freedom of speech, etc.), whether or not there was a prima facie case and whether the grievance was resolved.

13.2.4. CONFIDENTIALITY

All commissioners shall maintain confidentiality throughout the APGP process. Commissioners may state whether there was a prima facie case and whether or not the grievance has been resolved and in whose favor, but should not discuss the details of the case with individuals who are not directly involved in the grievance or its resolution.

13.2.5. DETERMINATION OF PRIMA FACIE CASE

The APRC shall first decide whether the grievance establishes a prima facie case after receipt of the written grievance in the Faculty Senate Office. In making this determination, the APRC may interview the faculty member and other parties. Every effort should be made to determine whether a prima facie case exists within 14 days of such filing. If the APRC decides that there is no prima facie case and therefore there is an insufficient basis for the grievance, the APRC shall provide written notification to the faculty member. The faculty member may appeal to the Associate Provost for Faculty Relations, who will review the case. If the Associate Provost upholds the determination of no prima facie case, the grievance process is exhausted and the case is resolved.

13.2.6. NOTIFICATION TO PARTIES INVOLVED

If the APRC or the Associate Provost for Faculty Relations decides that the grievance establishes a prima facie case, the APRC shall provide written notification to the faculty member and the parties against whom the grievance was filed and provide them and the Provost with a written copy of the grievance. The named parties against whom the grievance is brought shall file written responses with supporting documentation at the Faculty Senate Office within 14 days.

13.2.7. ATTEMPT TO RESOLVE CASE

If the grievance is deemed to establish a prima facie case, the APRC shall meet one or more times with the faculty member and parties charged, separately or together, at the discretion of the APRC chairperson. The APRC shall attempt to resolve the dispute within 30 days, but may extend the time at its discretion if expedient to resolution. An internal or external mediator may be used if all parties agree as to the usefulness of that process. The University shall pay the cost to employ a mediator. If the parties reach a resolution through mediation, the case is resolved.

13.2.8. APRC RECOMMENDATIONS

If the parties fail to reach a resolution, the APRC shall produce a report divided into findings of fact and
recommendations with supporting reasons. This report is given to the faculty member and the party against whom the grievance has been alleged. The faculty member and APRC should be informed in writing within 7 days whether the party against whom the grievance has been alleged agrees to the recommendations. If the parties agree with the recommendations of the APRC, the case is resolved.

13.2.9. **RIGHT TO INITIATE FORMAL REVIEW PROCESS**

If the case is not resolved after the APRC report has been disseminated, the faculty member may initiate the formal review process for APGP by filing written notification with the APRC in the Faculty Senate Office and sending a copy to the Provost's Office. The notification must be filed within 14 days of the receipt of the APRC report or conclusion of mediation.

13.3. **FORMAL REVIEW (APGP)**

Within 21 days of receiving the faculty member's written notification, the APRC shall empanel a UHP to conduct a hearing.

13.3.1. **COMPOSITION OF UNIVERSITY HEARING COMMITTEE AND PANELS**

13.3.1.1. **UNIVERSITY HEARING COMMITTEE**

Twenty-four tenured, ranked faculty members shall be elected by the Faculty Senate to serve three-year staggered terms as the University Hearing Committee (UHC). The Faculty Senate shall select one-third of the UHC membership annually in the regular February meeting of the Faculty Senate for service beginning in the next academic year. These faculty members shall be nominated by their College Council which shall send two names annually to the Faculty Senate Office by February 1st. At least three of the twenty-four faculty members shall be from each college. (Replacements, where necessary, shall be appointed by the Faculty Senate Executive Committee [FSEC] or filled by the Faculty Senate at the next annual appointment period.) A faculty member who is elected to the UHC may be re-elected to successive terms.

13.3.1.2. **UNIVERSITY HEARING PANEL**

From the 24-member UHC, five member UHPs shall be selected by the Faculty Senate Executive Committee and empanelled by the APRC as needed. The faculty member and the administrator may request to replace up to three of the selected panelists prior to the first meeting of the UHP.

An orientation of the University Hearing Committee shall be conducted by the APRC and General Counsel annually. UHP decisions must be supported by a majority of the panelists.

13.3.2. **DOCUMENTARY EVIDENCE**

All filings and all evidence collected by the APRC during its review shall be forwarded to the UHP for review. The administrator and faculty member may present any other written evidence to the UHP and supplement their filings. All such material shall also be presented to the other party.

13.3.3. **PREHEARING MEETINGS**

At the first UHP meeting, the UHP shall select a chairperson, review the written material, and review the procedures
for conducting the hearing. The chairperson of the APRC shall attend this meeting. The UHP may also hold joint prehearing meetings with the parties in order to understand the basic underlying facts, simplify the issues, effect stipulations of fact, provide for the exchange of information, or to achieve other prehearing objectives as will make the hearing fair, effective, and expeditious. The UHP may not interview witnesses at any prehearing meetings. Any additional written material submitted to or requested by the UHP will be shared with the parties.

13.3.4. **HEARINGS**

The formal hearing may involve one or more meetings at which witnesses may be examined. Each party shall provide the names of its witnesses to the other party and the UHP in advance of the hearing. The administration and the faculty member will each be allowed to present an opening statement without interruption and orally question the witnesses and parties. The UHP may also orally question the witnesses and parties. The administration and the faculty member may be represented by counsel, but counsel shall not be permitted to question the witnesses or parties. If the University is the only respondent, the President will designate a representative who will be allowed to present an opening statement and question the witnesses and parties. The Missouri Rules of Evidence need not be followed, but the UHP will base its finding on only reliable evidence. A verbatim record of the hearing will be taken and made available to the parties at the University's cost.

13.3.5. **BURDEN OF PROOF**

The faculty member must prove his or her case against the administration by a preponderance of the evidence.

13.3.6. **REPORT**

The UHP shall prepare a written report divided into findings of fact and recommendations with supporting reasons which shall be presented to the Provost and the faculty member within 7 days of the conclusion of the hearing. A minority report may also be prepared.

13.3.7. **TIME PERIOD**

The time between the empanelling of the UHP and the preparation of the UHP report shall be no longer than 60 days unless there are exceptional circumstances. Extensions must be approved by the APRC.

13.4. **POST-HEARING PROCEDURE**

13.4.1. **PROVOST REVIEW**

The Provost shall accept the UHP findings of fact but is not required to accept the UHP recommendations of remedies. If the Provost determines that different remedies other than those recommended by the UHP should be initiated, said remedies shall be set forth in writing and presented to the faculty member within 14 days of the date of the UHP report. If the Provost is a party to the dispute, the President will fulfill this function.

13.4.2. **APPEAL RIGHTS**

If the remedies recommended by the UHP are not implemented by the Provost, the faculty member may prepare a written appeal to the President within 14 days of receiving the decision of the Provost. The President will rule on the appeal within 30 days of its receipt and notify the faculty member of the results in writing.
13.4.3. **RIGHT OF APPEAL TO THE BOARD OF GOVERNORS**

When the UHP, Provost and President do not agree on the implementation of remedies, the faculty member shall have the right to appeal to the Board of Governors. The appeal must be filed within 14 days of the receipt of written notification regarding implementation of remedies from the President.

13.4.4. **INFORMATION PROVIDED TO THE BOARD OF GOVERNORS**

The Board of Governors reviews the case, including all documentation, written findings, and recommendations. The following reports must be forwarded to the Board of Governors for review:

1. Comments and Recommendations of the APRC
2. Findings of Fact and Recommendations of the UHP, and
3. Recommendations of the Provost and President (or designee)

13.4.5. **BOARD OF GOVERNORS IS FINAL AUTHORITY**

The Board of Governors has discretion regarding hearings, presentations, and review. The decision of the Board of Governors shall be final.

13.5. **MISCELLANEOUS**

13.5.1. **APRC AUTHORITY**

The APRC shall be available to advise the UHP on procedural issues, to ensure that the APGP process is followed, and to ensure that the parties receive due process. The UHP may receive legal advice from the Office of General Counsel.

13.5.2. **CONFIDENTIALITY**

To the extent practical, the work of the APGP shall be confidential. All proceedings of the UHP shall be conducted in private, and the UHP report shall be available only to the parties.