

University Faculty Grievance Officer

Annual Report to the University of Louisville Faculty Senate

Prepared November 5, 2012

This report is submitted as required by the Faculty Senate *Redbook*, Section 4.4.1.A, and covers the period from July 1, 2011 through June 30, 2012. My appointment as Faculty Grievance Officer [FGO] was effective January 1, 2010.

The Revised Dispute Resolution Process

The changes to the informal dispute resolution procedure at the University of Louisville were approved by the Board of Trustees on October 13, 2011 and were determined to be effective immediately. The changes primarily focus on the procedures to be followed by faculty members, however there are some substantive changes. The new dispute resolution procedure explicitly protects faculty members from retaliation for using or participating in this process. The dispute resolution process now covers term faculty.

As amended, Redbook, Chapter 4, Article 4.4 recognizes two types of disputes; each with distinct procedures. In all instances, the faculty member must initiate use of the dispute resolution procedures that might result in a grievance complaint filed with the FGO. Some disputes, referred to as Type 2 disputes, proceed directly to the grievance complaint stage of the process and are initiated with the FGO. In most cases, a Type 1 dispute exists and consultation with the Ombuds Office is a requirement before a grievance complaint can be filed with the FGO. There are a number of options to resolve matters that could lead to a Type 1 disputes including facilitated and other informal discussions as well as formal mediation. These options are available through the Ombuds Office generally and in accordance with the procedures specified in Redbook, Chapter 4, Article 4.4.

The required timeline for faculty members who initiate the dispute resolution procedure has changed. The faculty member must take action within 60 days of the decision/action being disputed or the date when the faculty member reasonably should have learned of the decision/action. Within that 60 day timeframe, the faculty member must submit a written request for consultation with the Ombuds Office in a Type 1 dispute or submit a written statement of complaint with the FGO in a Type 2 dispute. In the case of a Type 1 dispute, if informal dispute resolution is not successful and/or the faculty member chooses to proceed with a grievance complaint, the Ombuds Office will provide the faculty member with a written statement of options. If the faculty member chooses to file a grievance complaint, it must be submitted to the FGO within thirty (30) calendar days of receipt of the Ombuds Office written statement. Redbook, Chapter 4, Article 4.4.5.A.1.

The revised Redbook also includes the appropriate terminology for these matters. A dispute is defined as difference of opinion between a faculty member and another faculty member or administrator that has led to a perceived material disadvantage by the faculty member. A dispute becomes a complaint if the faculty member is unable to resolve the dispute personally and formally contacts either the University Ombudsperson or the Faculty Grievance Officer. If the complaint is accepted by the University Faculty Grievance Committee it becomes a grievance. Redbook, Chapter 4, Article 4.4.5.

On a related note, it is my understanding that the Ombuds Office currently is handling formal mediation requests under the University policy. These formal mediations are conducted using outside mediation services.

Implementation

The new procedures required immediate implementation as of October 13, 2011. There were three pending grievances at the time which had to be resolved under the former system. New instructions for potential grievants were required, as well as substantial changes to the University Grievance Committee procedures. Changes were made to the FGO website to provide new instructions and information. New forms were developed for the Type 1 and Type 2 grievance submissions. I am investigating the possibility and appropriateness of an online submission process for the grievance complaint.

In November and December 2011, and through Spring 2012, the FGO participated in numerous meetings relating to implementation. An ad-hoc Committee on Grievance Process Implementation was formed. This group worked on mapping out the new procedures and the respective roles of the various entities involved until the two co-chairs for the University Grievance Committee were appointed in Spring 2012: Melissa Laning and Neil Nixon. As FGO, I have participated in ongoing discussions about the interpretation of the new sections in the Redbook, the new procedures, and the intersection of the FGO functions with the Ombuds Office.

The redesigned process for dispute resolution relies on the Ombuds Office to be the initial point of contact for Type 1 disputes. In practice, a faculty member who is involved in a dispute is as likely to contact the FGO as the Ombudsperson. I have referred a number of faculty members to the Ombuds Office after my initial consultation about the nature of their dispute.

Experience Under the New Process

It is difficult to assess the impact of the new grievance procedures. The Ombuds Office has been dealing successfully with the disputes before the new grievance procedure was implemented. We do not have records of the disputes that might have become Type 1 disputes but were successfully resolved in the Ombuds office. Similarly, we do not have records of the

instances when faculty members sought Ombuds Office consultation for the purpose of initiating a Type 1 dispute. I can only report on those cases in which I have consulted. Of those faculty members who have consulted with the FGO and who were referred to the Ombuds Office, it appears that some matters were resolved without resort to the grievance procedure. Other referrals from the FGO to the Ombuds Office were unsuccessful at the informal stage. Some of those faculty members either opted to pursue a grievance or did not have any further contact with the FGO about their dispute. As noted in the prior FGO annual report, the efforts of the Ombuds Office were decisive in resolving at least one dispute before it reached a formal mediation or grievance in 2011-12 under the prior Redbook system. In the cases where informal resolution has not been successful, it appears that administrators have not been willing to engage in a facilitated discussion with the Ombuds Office and the faculty member.

Grievance Statistics and Activity

In the fiscal year from July 1, 2011 to June 30, 2012, four new grievances were filed; three under the prior procedure and one under the new procedure. To compare, in fiscal year July 1, 2010 to June 30, 2011, no new grievances were filed and there were no tenure or promotion denials.

In the past fiscal year, I consulted with a total of 12 individuals. A few of these consultations were relatively brief discussions about the procedures and options for dealing with a dispute. Most of the consultations consisted of on-going meetings over the course of several months as the circumstances of a dispute changed over time. Often the consultation process involves a number of conversations before the faculty member can fully explain the situation and I can provide appropriate information. Faculty members who are in the midst of a dispute are in distress and often it can take some time to determine the precise nature of a dispute.

During the fiscal year from July 1, 2011 to June 30, 2012, there were two pending grievances from prior year. Both of these grievances were completed. As of June 30, 2012, two grievances, both of which had been filed in 2011-12, were still pending. Both cases were at the final stages of the grievance process. The table at the end of this report summarizes the grievance activity by unit.

Other Activities

As noted above, I regularly participated in an ad-hoc grievance implementation group as well as other meetings to discuss the interpretation of the revised Redbook requirements. The FGO also has answered an Open Records Request and provided information for a University audit of grievance matters.

I continue to remind faculty members about the University's Employee Assistance Program (EAP) which provides confidential counseling assistance to faculty. In my experience, faculty

members who are in the midst of a dispute are in distress. This is especially true in the case of a tenure denial.

Respectfully submitted,

Enid Trucios-Haynes
University Faculty Grievance Officer
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Statistics Chart Attached