

## DOCUMENTS OF THE GENERAL FACULTY

**PROPOSAL FROM THE FACULTY GRIEVANCE COMMITTEE TO REVISE THE *HANDBOOK OF OPERATING PROCEDURES 4.03*, TEACHING ASSISTANT AND ASSISTANT INSTRUCTOR GRIEVANCE PROCEDURES TO CONFORM TO THE *HANDBOOK OF OPERATING PROCEDURES 3.18***

On behalf of Faculty Grievance Committee, Professor Alan Friedman (professor, English and committee chair) submitted the following proposal to revise the *Handbook of Operating Procedures*, Chapter 4, Section 4.03 to conform to Chapter 3, Section 3.18. The secretary has classified this proposal as *general* legislation, which will be presented to the Faculty Council at its meeting on April 14, 2008.

Sue Alexander Greninger, Secretary  
The Faculty Council and General Faculty

**PROPOSAL FROM THE FACULTY GRIEVANCE COMMITTEE TO REVISE THE *HANDBOOK OF OPERATING PROCEDURES 4.03, TEACHING ASSISTANT AND ASSISTANT INSTRUCTOR GRIEVANCE PROCEDURES TO CONFORM TO THE HANDBOOK OF OPERATING PROCEDURES 3.18***

**CHAPTER 4 - STUDENTS**

**Sec. 4.03. Teaching Assistant and Assistant Instructor Grievance Procedures**

**I. Policy**

- A. A teaching assistant or assistant instructor of the University of Texas at Austin has the right to seek redress of any grievance related to the terms and conditions of employment.
- B. Each teaching assistant or assistant instructor may express a grievance through the following procedures with the assurance of timely and thorough consideration. Grievants are assured freedom from reprisals for the filing of their grievances.
- C. The administration has [through appropriate officials reserves] the right to discipline teaching assistants or assistant instructors. It also has the right [and] to terminate the employment of a teaching assistant or assistant instructor for [stated] good cause [shown]. [(Chapter III, Section 6.3 of the Board of Regents' Rules and Regulations] The President shall [govern all actions as appropriate.] decide the termination of a teaching assistant or assistant instructor before the expiration of their appointment. Additional procedures for handling these actions are set out in the paragraphs below. These procedures do not apply to matters handled under HOP Policy 4.B.2, "Sex Discrimination and Sexual Harassment" in the UT Austin Handbook of Operating Procedures - <http://www.utexas.edu/policies/hoppm/04.B.02.html>. The teaching assistant or assistant instructor retains the right to follow the procedures below to appeal any discipline imposed under the "Sex Discrimination and Sexual Harassment" policy.
  1. In cases where the President has determined that good cause exists for termination of a teaching assistant or assistant instructor, the President may suspend the teaching assistant or assistant instructor with pay pending the completion of the hearing after determining that such a suspension is in the best interest of the institution. Unless the President determines immediate suspension is necessary, the President shall consult with the Committee of Counsel on Academic Freedom and Responsibility before making the suspension.
  2. Other discipline includes such actions as suspension without pay, reduction in pay, demotion, written reprimand, and professional sanctions that are in writing and made part of the teaching assistant's or assistant instructor's personnel file. The routine assignment of work responsibilities, such as teaching and committee service, is not considered disciplining. Oral reprimands and oral counseling are not considered discipline.
  3. In these other instances of disciplining defined in I.C.2, disciplinary action shall be imposed as follows:
    - a. If the Provost determines that immediate discipline is necessary, the Provost may impose disciplinary action on a teaching assistant or assistant instructor without following the provisions of I.C.3.b. or I.C.3.c. below. Without revealing the identity of the individual, the administrator who has imposed the discipline will inform the Faculty Grievance Committee, in writing, within three (3) working days of the action taken, the reasons for it, and any additional action being contemplated. The teaching assistant or assistant instructor will also receive a written explanation for the action taken within three (3) working days. The teaching assistant or assistant instructor has the right to grieve the imposed discipline.
    - b. If an administrator, other than the Provost, determines that immediate discipline is necessary, the following steps will occur:
      - (1) The administrator will notify the teaching assistant or assistant instructor in writing, with copy to the Provost, of his or her intent to seek the Provost's approval to proceed with immediate discipline.

- (2) The affected teaching assistant or assistant instructor may appeal this request in writing to the Provost within five (5) working days of receiving the administrator's notification.
  - (3) If the Provost determines that immediate action is not necessary, the Provost shall notify the administrator. The administrator may proceed with discipline under I.C.3.c.(3) below.
  - (4) Except when the Provost determines he or she must act immediately, the Provost, without revealing the identity of the individual, will consult with the Faculty Grievance Committee prior to approving the administrator's imposition of disciplinary action. In those cases where the Provost approves immediate disciplinary action, the Provost, without revealing the identity of the individual, will inform the Faculty Grievance Committee, in writing, within three (3) working days of the action taken, the reasons for it, and any additional action being contemplated. The teaching assistant or assistant instructor affected will also receive a written explanation for the action taken within three (3) working days.
  - (5) The teaching assistant or assistant instructor has the right to bring a grievance of the disciplinary action imposed.
- c. If an administrator determines that discipline, other than immediate discipline, is needed, the following steps will occur:
- (1) The administrator, prior to imposing a disciplinary action, shall provide the affected teaching assistant or assistant instructor an explanation in writing of the basis for the proposed action. The affected teaching assistant or assistant instructor shall have ten (10) working days to respond in writing to the explanation.
  - (2) If the affected teaching assistant or assistant instructor does not provide a written response within ten (10) working days, the administrator may proceed with the disciplinary action.
  - (3) If the affected teaching assistant or assistant instructor submits a timely response to the explanation of the proposed disciplinary action, the administrator, within five (5) working days of receiving such response, shall inform the teaching assistant or assistant instructor in writing whether he or she intends to proceed with the disciplinary action and shall inform the teaching assistant or assistant instructor of the various avenues of remedy (such as the teaching assistant's or assistant instructor's superior; departmental, college or university review; ombudsman; and the Faculty Grievance Committee).
  - (4) If the administrator's intent is to proceed with the disciplinary action, the affected teaching assistant or assistant instructor shall have fifteen (15) working days from the notice of intent to discipline to initiate a grievance. A teaching assistant or assistant instructor initiates a grievance by submitting a written grievance to the Chair of the Faculty Grievance Committee, with a copy to the administrator. If the teaching assistant or assistant instructor submits a grievance, such action will automatically suspend the imposition of the disciplinary action.
  - (5) If the teaching assistant or assistant instructor does not initiate a grievance, the administrator may proceed with the disciplinary action. The teaching assistant or assistant instructor retains the right to appeal the disciplinary action after its imposition.
- 4. Requests for extension of the stated deadlines are to be addressed to the Faculty Grievance Committee Chair who will consult with the Provost.
  - 5. In all cases of disciplinary action of teaching assistants or assistant instructors under I.C.2., appropriate remedies shall be sought for a teaching assistant or assistant instructor who is disciplined but subsequently found to have been wrongly punished. Reasonable efforts will be made, in accordance with applicable policies and rules, to return the teaching assistant or assistant instructor to the status that he or she had prior to the inappropriate disciplinary action and to provide any professional benefits he or she would have received from the University had the disciplinary action not occurred. If a hearing panel determines that a teaching assistant or assistant instructor was disciplined inappropriately, the panel's report shall recommend appropriate remedies.
  - 6. These procedures in no way alter the right of the President to place a teaching assistant or assistant instructor on administrative leave with pay when the President has determined that it is in the best interest of the University. Such cases do not constitute disciplinary action. The President will provide the Committee of Counsel on Academic Freedom and Responsibility a written

explanation for the action taken with a copy to the affected teaching assistant or assistant instructor.

- D. The Committee of Counsel on Academic Freedom and Responsibility is charged with the general supervision and review of principles and procedures relating to academic freedom, tenure, and responsibility. The Faculty Grievance Committee is authorized to hear or otherwise dispose of individual grievances. The role of the Faculty Grievance Committee is to be an advocate for the grievance process but neutral with respect to the parties.
- E. The grievance procedure as described does not replace any existing procedures for departmental, college or University review of appeals from actions of Budget Councils, departments, or colleges, or deny any access to other dispute resolving mechanisms.

## II. Issues Subject to Grievance Procedures

- A. These procedures are established to process grievances of teaching assistants and assistant instructors. Such grievances include, but are not limited to:
1. any issue bearing upon the academic freedom of an individual teaching assistant or assistant instructor recognizing that teaching assistants and assistant instructors are under the direct supervision of the faculty and are subject to reasonable conditions established by the faculty regarding all aspects of their teaching functions;
  2. dismissal of a teaching assistant or assistant instructor during the stated period of appointment;
  3. disciplinary actions defined under I.C.2;
  4. administrative actions which the individual teaching assistant or assistant instructor deems to be a violation of contractual rights or an infringement upon the exercise of rights guaranteed by the laws or constitution of this state or the United States. These include the:  
~~[These include the following:]~~
    - a. non-renewal of a teaching assistant or assistant instructor; and
    - b. withholding of any substantial right, attribute, or perquisite such as, but not limited to, salary, promotion, or teaching or research award.
- B. A good faith dispute between a Budget Council or department or academic administrative officer (chairperson, dean, academic vice president[;] or President) and teaching assistant or assistant instructor as to the quality of the teaching assistant's or assistant instructor's teaching or scholarship shall not be a basis upon which a hearing panel may grant relief, except in the case of grievances arising as the result of ~~[Section] II. A.2.~~ actions as described above.

## III. Faculty Grievance Committee and Hearing Panel

- A. The Faculty Grievance Committee (hereinafter Committee) consists of 16 full-time voting members of the faculty, serving two-year overlapping terms. Ten (10) members are elected ~~[at] at-large~~ by the General Faculty, and six members are appointed by the President through the regular procedures of the Committee on Committees. Each spring five members are elected at-large under the Hare System, and three members are appointed by the President. Appointments to the Committee are made with the goal of ~~[insuring]~~ ensuring appropriate representation of the various elements and interests comprised in the General Faculty. The total Committee membership shall not include more than four faculty members from any ~~[school]~~ School or ~~[college]~~ College. The Committee selects its own chair~~[person]~~ and chair-elect, who assists the chair while learning the job and then serves one year as chair. Only members who have had at least one year's experience on the Committee are eligible for election as chair-elect. The Committee~~[, and]~~ may delegate those functions it deems appropriate to subcommittees of ~~[four]~~ three or more members. The chair~~[person]~~ shall be responsible for maintaining records on all grievances filed and their ultimate disposition. At the end of each year, copies of these records shall be forwarded to the Secretary of the General Faculty ~~[Senate]~~ for appropriate maintenance. The chair~~[persons]~~ shall, in addition, provide the President and the ~~[University]~~ Faculty Council an annual report summarizing the Committee's work. If not otherwise continuing, the immediate past chair of the

committee serves for one additional year as an ex-officio member without vote to assist the new chair and to complete ongoing grievance cases.

- B. Formal hearings under this procedure shall be conducted by a special hearing panel (hereinafter "the panel"), consisting of three faculty members drawn at random from a pool of faculty hearing officers, except in grievances arising from the dismissal of a teaching assistant or assistant instructor as specified in II.A.2. and in grievances arising from the non-renewal of a teaching assistant or assistant instructor as specified in II.A.4.a. In grievances specified in II.A.2. or II.A.4.a. the panel shall consist of five faculty members drawn at random from only those faculty members in the pool whose academic rank is at least equal to that of the aggrieved teaching assistant or assistant instructor [~~a pool of faculty hearing officers~~] and the membership of these panels must be approved by the President. The pool shall be constituted in the following manner:
1. [~~each~~] Each member of the Faculty [~~Senate~~] Council shall appoint a hearing officer to serve for the period of the [~~Senator's~~] Council Member's term[;]. If a member does not appoint a hearing officer, then that member's name will be added to the pool.
  2. the President may appoint 10 additional hearing officers each year to serve two-year terms.

#### IV. Grievance Procedure

##### A Time Limitations

1. Each step in the grievance procedure is exhausted either upon the grievant's receipt of the written decision or recommendation of the appropriate officer or body or upon expiration of the stipulated time period, whichever occurs earlier. Upon exhaustion of a step, the grievant may proceed to the next step of the procedure. The time periods stipulated may be extended upon mutual written agreement of the parties or by the Committee's approval of a request by the grievant or other party.

##### B. Request for Informal Assistance

1. Although not a prerequisite under this procedure, teaching assistants or assistant instructors are encouraged to seek informal resolution of their grievance through the Faculty Ombudsman. The teaching assistant or assistant instructor may request, orally or in writing, the informal assistance of the Committee, including a member of the Committee to serve in an advisory capacity [~~in the resolution of grievances~~]. Except as provided in [~~Section~~] IV.B.2[;] below, such a request is not a prerequisite to the use of the grievance procedure set forth below, and the teaching assistant or assistant instructor may choose to file a formal complaint prior to the completion of the informal process. [~~In conducting informal negotiations between the grievant and other relevant persons, the~~] The Committee may [~~urge~~] recommend substantive reconsideration of the grievant's complaint by appropriate administrative officers or withdrawal or modification of the complaint by the grievant.
2. Any such request or grievance which involves alleged or suspected discrimination for reasons of race, sex, age, religion, or handicap shall be directed to the Equal Employment Opportunity Office prior to the initiation of any grievance procedure. After consultation with this office[;] or if such consultation has already taken place, the teaching assistant or assistant instructor may continue under these procedures.

##### C. Initiation and Processing of Complaints

###### 1. Step One

The teaching assistant or assistant instructor initiates the formal grievance procedure by [~~the submission of~~] submitting a written complaint to the chair [~~person~~] of the Committee. [~~In grievances~~] To initiate a grievance arising under II.A.4.a., the teaching assistant or assistant instructor presents his or her grievance to the Provost and meets with the Provost. If the teaching assistant or assistant instructor seeks further review of a non-renewal decision, a teaching assistant or assistant instructor shall submit to the President, with copy to the Committee, a written request for review by a hearing panel. That request will describe in detail why the grievant believes that the non-renewal decision was based on a violation of contractual rights or an infringement upon the exercise of rights guaranteed by the laws or constitutions of the state or the United States. If the President determines that the alleged facts, if proven by credible evidence, support a conclusion that the decision was made for unlawful reasons, such allegations shall be heard by a

- ~~panel under the procedures in Step Five (as provided in IV.C.5 [a copy of the written complaint shall be provided to the President.]) Upon such [submission] determination, the grievant shall be advised of the appropriate steps (including IV.B.2[- above]) to be followed in the procedure. In grievances arising under II.A.2[- or II.A.4.a.], steps [two] Two, [three] Three, and [four] Four shall be by-passed and the formal grievance procedure shall begin with [step] Step [five] Five (as provided in IV.C.5). If, in its opinion, those steps are unnecessary, [In other cases,] the Committee may advise the grievant to by-pass [steps] Steps [two] Two and [three] Three and proceed to step IV.C.4.b. [below if in its opinion those steps are unnecessary.] In all other cases, the grievant shall proceed as follows[=].~~
2. Step Two  
The grievant submits a complaint in writing to the chairperson of the department. The chair~~person~~ of the Committee shall, if requested, designate a member of the Committee to serve in an advisory capacity to ~~[the grievant] any party of the grievance, [if the teaching assistant or assistant instructor so requests.]~~ Within 10 working days of receipt of the complaint, the chairperson of the department must provide the grievant with a decision or recommendation in writing, ~~[forwarding] with~~ a copy to the chair~~person~~ of the Committee.
  3. Step Three  
The grievant may appeal the decision or recommendation of the chairperson of the department to the dean of the appropriate school or college. ~~[The chairperson of the Committee shall designate a member of the Committee to serve in an advisory capacity to the grievant if the teaching assistant or assistant instructor so requests.]~~ The appeal must be in writing and submitted within 10 working days after the exhaustion of ~~[step] Step [two] Two~~. Within 10 working days after receipt of the appeal, the dean must provide the grievant with a written decision or recommendation ~~[in writing, forwarding] with~~ a copy to the chair of the Committee.
  4. Step Four
    - a. The grievant may appeal the decision or recommendation of the dean to the Committee. The appeal must be in writing and submitted to the chair~~person~~ of the Committee within 10 working days after the exhaustion of ~~[step] Step [three] Three (IV.C.3)~~.
    - b. The Committee must determine whether the grievant's complaint, construing all allegations in the light most favorable to the grievant, states a claim upon which relief may be granted and whether there is a reasonable factual basis to believe that the grievant's allegations might be sustained. This determination must be made by a ~~[panel] subcommittee~~ of three members of the Committee to be selected as specified in IV.C.4.c below. ~~[No member of this panel shall have been involved in any way in the grievance.]~~
      - (1) A finding of by at least two members of this subcommittee of a failure to state a claim upon which relief may be granted, or that there is not a reasonable factual basis to believe that the grievant's allegations might be sustained, ~~[by no fewer than two members of this panel]~~ will result in dismissal of the complaint. Such a dismissal will be transmitted to the parties in writing and will serve as a final decision concluding the Teaching Assistant and Assistant Instructor Grievance Procedure.
      - (2) If the complaint is not dismissed at this stage, then the Committee may attempt to resolve the grievance through informal means. If it is unable to do so within 10 working days after receipt of the appeal, the Committee shall so notify the ~~[grievant] parties~~ in writing.
    - c. The subcommittee to make this finding shall be selected by the chair who shall circulate a synopsis of the complaint to the Committee and the members shall provide a written response proposing three members to serve thereon and the reason why they or any other member should not so serve. In making these responses, the members shall consider the importance of a balanced, impartial, and knowledgeable subcommittee, no members of which shall have been involved in any way in the grievance.
    - d. In discharging the functions described in this section, the subcommittee shall have the authority to exercise the rights provided the panel in V.A.9.5.
  5. Step Five
    - a. Within 10 working days after the exhaustion of Step 4, [The] the grievant may request a formal hearing. The request must be in writing and submitted to the chairperson of the Committee [within 10 working days after the exhaustion of step four].

- b. The Committee shall assign a hearing panel selected as provided for in ~~[Section]~~ III.B. above. The panel shall not include any accuser of the grievant, anyone involved in any way in the action or circumstances giving rise to the grievance, or anyone who may be a witness in the hearing. If any member of the panel is of the view that he or she cannot serve with fairness and objectivity, that person shall not participate in the hearing from whatever time that member becomes aware of the impediment to continued service. Either party may move to disqualify a panel member whose service is alleged to be in violation of these provisions. It shall be up to each such challenged member to determine whether he or she can serve with fairness and objectivity in the matter. If a panel member should voluntarily disqualify himself or herself, the Committee shall assign a substitute in accordance with the above procedure.
- c. On the basis of the grievant's complaint and construing all allegations in the light most favorable to the grievant, the panel may decide that the complaint is frivolous, too minor to warrant a hearing, or does not state a claim upon which relief may be granted. Two members of a three-member hearing panel or four members of a five-member hearing panel may decide to dismiss the complaint except in grievances arising under II.A.2 and II.A.4.a. Such a dismissal will be transmitted to the parties in writing and will serve as a final decision concluding the Teaching Assistant and Assistant Instructor Grievance Procedure. In all other cases, the panel shall hold a formal hearing. The panel's decision to hear the grievant's complaint shall be transmitted to the grievant in writing. The ~~[grievant]~~ parties may then ~~[begin to]~~ request production of documents [and other real evidence from the administration pursuant to Section] under the procedures set forth in V.B.6. of this [Procedure] procedure.
- d. A hearing shall be held by the panel in accordance with the procedures contained in ~~[Part] Section V.,~~ at the earliest date convenient to all concerned parties. Every effort will be made to convene the hearing within 15 working days after the hearing is formally requested. The parties must be given notice of the hearing date at least 10 working days in advance. ~~[However, in the case of the termination of a teaching assistant or assistant instructor before the expiration of the term of appointment, a hearing, if requested, must be held prior to the implementation of the decision to dismiss or terminate unless there is grave cause to suspend the teaching assistant or assistant instructor.]~~
- e. Upon completion of termination hearings (see II.A.2), the original of the panel's findings and recommendation, with any supplementary suggestions, shall be delivered to the President with a copy to the teaching assistant or assistant instructor. If minority findings, recommendations, or suggestions are made, they shall be similarly treated. Upon completion of any other kind of [the] hearing, the panel shall notify the parties and the President of its ~~[decision]~~ recommendations, including its findings, determinations, and ~~[recommendations, and]~~ any minority report. In all cases of disciplinary action, if a hearing panel determines that a teaching assistant or assistant instructor was disciplined inappropriately, the panel shall recommend appropriate remedies. If the parties voluntarily accept the panel's recommendations and possess authority for its implementation, the grievance procedure is ended. If approval of higher administrative officers is required for implementation, the recommendation shall be forwarded to the President for disposition in accordance with the Regents' Rules and Regulations [of the Board of Regents].
- f. To ensure that hearing panel recommendations that are agreed to by the parties or approved by the President are implemented in a timely fashion, the Provost shall report to the Grievance Committee at the end of each semester (or sooner if appropriate) on actions taken to implement panel recommendations. The Grievance Committee will monitor the implementation of the panel recommendations.
6. Step Six  
Unless the parties voluntarily accept and implement the panel's recommendations, or if presidential action is required for implementation of the panel's ~~[decision]~~ recommendation or the decision of the chairperson or dean, the grievant shall appeal in writing, or the parties shall request in writing presidential disposition, within 10 working days after the panel makes its recommendations.

The President shall render a decision or recommendation in writing, in accordance with the Regents' Rules and Regulations, [of the Board of Regents] to the grievant within 10 working days after receipt of the appeal or request, ~~[forwarding]~~ with copies to ~~[other]~~ all concerned parties. The

President may endorse, modify, or reject the recommendations of the panel. The President's written decision ~~[or recommendation]~~ serves as a directive for any action necessary to comply with the decision, ~~[or recommendation.]~~ The decision ~~[or recommendation]~~ of the President constitutes the conclusion of the ~~[Faculty]~~ Teaching Assistant and Assistant Instructor Grievance Procedure. ~~[The grievant may seek further review as provided by regental Rules.]~~

## V. Formal Hearing Procedures

### A. Conduct of Hearing

1. The panel shall conduct a hearing to determine the facts. In ~~[the case of the dismissal or]~~ a discipline case under I.C.2, or of a teaching assistant or assistant instructor before the termination of appointment, the burden of proof is on the administration to establish, by a preponderance of the evidence, that good cause was the basis of the dismissal or discipline. In all other cases, the burden of proof shall rest with the grievant to prove, by a preponderance of the evidence, that there was a substantial violation of the grievant's academic freedom, constitutional, statutory, or contractual rights.
2. General concepts of relevancy and materiality shall prevail at the hearing. The rules of evidence that ~~[obtain]~~ apply in a court of law need not be strictly observed when, in the judgment of the panel, evidence of probative value is being offered; but every reasonable effort shall be made to obtain the most reliable evidence available.
3. At least three working days before the hearing, each party shall notify the other and the panel of the identity of witnesses, other than impeaching or rebuttal witnesses whose identity cannot reasonably be determined beforehand, to be called and of documents to be submitted in evidence. The parties shall have the right to confront and cross-examine all witnesses. The panel reserves the right to permit other witnesses to testify or to call other witnesses if the panel, in its discretion, deems such action to be advisable.
4. The panel shall ~~[insure]~~ ensure that all parties are afforded a fair procedure and substantial justice.
5. The panel may adjourn to enable either party to investigate evidence for which a claim of surprise is made.
6. Except for routine announcements, such as those relating to the time of the hearing and similar matters, public statements about the case by the parties, panel members or Committee members shall be avoided as far as possible. Public statements, if any, concerning the decision or recommendation of the panel shall be withheld until final disposition.
7. In cases arising under II.A.2., the proceedings shall be recorded and transcribed by a court reporter, and a copy of the verbatim transcript will be supplied to the grievant. In all other cases, a full electronic record of the hearing shall be taken and made available to the parties. The grievant shall be required to pay the costs incident to the preparation of a verbatim transcript in all such cases; or if the administration has prepared such a transcript, the grievant upon request shall be provided with a copy of that transcript upon payment of the normal costs for making copies of documents in an individual's personnel file.
8. The panel by a majority of its total membership~~[s]~~ shall:
  - a. make findings of fact;
  - b. determine whether the facts so found constitute:
    - (1) good cause for ~~[the dismissal or]~~ discipline under I.C.2 or termination of a teaching assistant or assistant instructor before the ~~[termination]~~ expiration of appointment~~[s]~~; or
    - (2) a violation of the grievant's academic freedom or constitutional, statutory or contractual rights;
  - c. make such recommendations as it deems appropriate. Such findings and determinations shall be based solely on any admissions and the evidence in the record. ~~[Such findings and determinations shall be based solely on any admissions and the evidence in the record.]~~
9. The panel may, where deemed necessary, request that the Dean of the Law School or the President provide, when feasible, legal counsel to the panel.

B. Rights of Parties

1. All parties, at any level of the grievance procedure, may be represented or accompanied by a reasonable number of personally chosen individuals, including legal counsel to the panel. If either party is to be represented by legal counsel at the hearing, that party shall provide reasonable notice to the other party prior to the hearing so that the other party may arrange to be represented by counsel at the hearing.
2. The party having the burden of proof will have the opportunity and duty to open and close the presentation and argument or discussion, if any, to be made to the panel.
3. Each party shall have the right to testify. The grievant may not be required to testify.
4. The hearing shall be closed unless the grievant requests a public hearing and the panel concludes that there are no compelling reasons for denying that request.
5. At the request of either party, the panel may permit a representative of one or more ~~responsible~~ professional educational associations to attend the proceedings as observers and to have access to all or portions of the evidence~~[-]~~ available under state and federal laws~~[-]~~ as the panel deems appropriate.
6. Obtaining Witnesses, Documents or Other Evidence
  - a. ~~When a hearing is to be held, the [grievant] parties shall be afforded an opportunity to obtain necessary witnesses, [and documentary or other evidence,] and the administration shall assist in securing the cooperation of witnesses [and make available any necessary documents and other evidence within its control]. The Provost will request the full cooperation in the grievance process of all faculty and administrators named in the case. Should a faculty member or administrator against whom a grievance is filed refuse or otherwise not cooperate with the procedures, that situation shall be reported to the hearing panel and the Provost's office shall provide a representative to observe the proceedings. [Both the grievant and the administration may obtain discovery of documents and other real evidence for purposes of inspecting and copying. Such discovery may be obtained regarding any matter not privileged that is relevant to the issues before the panel. Unless the party of whom the discovery is requested seeks an order of the panel to limit the discovery, discovery will be facilitated through the cooperation and agreement of the parties.]~~
  - b. When a hearing is held, parties shall be afforded an opportunity to obtain relevant evidence within the control of the University, provided such evidence is not confidential or exempted from disclosure by law. Unless confidential or exempt from disclosure by law, documents relevant to the issues before the panel may be obtained by the parties to the grievance who do not have access to or control over relevant documents, by making a written request to the Public Information Officer or his or her designee. The Public Information Officer, or his or her designee, will make such information available to a requestor in accordance with the provisions of the Texas Public Information Act. Unless made confidential by law under the Family Educational Rights and Privacy Act, responsive documents for which exceptions to disclosure apply are provided by the Public Information Officer, or designee, to the UT System Office of General Counsel so that a decision regarding applicability of the specified exceptions may be requested from the Texas Attorney General. [If the party of whom discovery is requested believes that all or some of the requested material is not discoverable, or believes that the use of some or all of the requested materials should be limited, or believes that some or all of the requested materials should not be seen by certain persons, that party may petition the panel to relieve it of having to divulge the requested materials or to order limitations on the use of particular materials. The panel may require that the requested material be filed with it in order that it may make reasonable disposition of the motion to limit discovery.]
  - c. ~~[The panel may infer from a refusal to produce relevant, non-privileged materials that if produced they would have damaged the position of the non-producing party in control of such materials.]~~ Grievance cases can nearly always be addressed with information from University records that does not exceed several hundred pages. It has been determined that it is in the public interest for the University to waive costs for making requested, relevant, public information available for inspection and copying as specified in this procedure. The University will provide at no cost up to 500 pages of information to a party of a grievance

who is at Step Five (See IV.C.5) of this procedure. This waiver does not extend to any other university procedure, nor is it applicable at any other time in the grievance process.

A party to the grievance will be charged in accordance with the Texas Public Information Act if the requested information is:

(1) not relevant to the grievance at issue;

(2) over a total of 500 pages; or

(3) requested at any other step in the process, other than Step Five.

The chair of the Faculty Grievance Committee shall certify to the Public Information Officer that a grievance is at Step Five of the process and that the documents requested by the party are relevant to the grievance.

**For Assistance:** Questions regarding this policy should be directed to the Office of the Executive Vice President and Provost at (512) 471-4363 or at its web site: <http://www.utexas.edu/provost/>.

**APPENDIX 1 - Flowcharts** (download Adobe Reader)