

2003-04 Faculty Handbook Approved Revisions

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4.1 Grievance Procedure

This grievance procedure is the means by which grievances may be heard and adjusted within Saint John's University and the College of Saint Benedict. The intent and scope of the grievance procedure are described in Section 2.15.

In addition to this institutional grievance, the grievant may file with a federal or state court or agency if the alleged conduct violates a law, but he or she must do so within the applicable limits established by federal and state law (see Section 2.15.1).

Grievance proceedings shall be maintained as confidentially as possible, allowing for the need of the grievant, the person(s) grieved against, and the institutions to gather and present evidence concerning the grievance at these institutions and in other outside proceedings. All hearings shall be held in private.

Amendments to the ~~(delete)~~ grievance procedure **(add) grievance statement** (in accord with Section 2.16.1.b) will not affect an ongoing grievance if approval of the amendments by the faculty and the presidents occurs after the filing of a general notification (Section 4.1.6).

4.1.1 Reasons for Initiating a Grievance Procedure

A grievance procedure may be initiated when a faculty member or a group of faculty members makes either or both of two types of claims: an allegation of a violation of rights, policies, procedures, or standards or an allegation of inadequate consideration of the evidence. Although both types of allegations would be investigated by a single *ad hoc* grievance committee (in accord with Section 4.1.1.1 below), these two are distinguished because of the somewhat different procedures entailed in the latter case (see Section 2.15.3).

(add) In addition, the Faculty Handbook Committee may initiate a grievance when it believes the *Faculty Handbook* has been violated, as provided in Section 5.3.11.1. When the Faculty Handbook Committee initiates a grievance, it shall notify the Faculty Governance Coordinating Committee (FGCC) of its intention to file a grievance according to the process set forth in Section 4.1.6. The FGCC shall thereafter perform all of the functions normally assigned to the Faculty Handbook Committee under this grievance procedure, including ruling on whether the alleged violation is grievable and appointing the *ad hoc* grievance committee.

When the Faculty Handbook Committee is a respondent in a grievance, the FGCC will likewise perform the functions normally assigned to the Faculty Handbook Committee under this grievance procedure.

4.1.1.1 Violation of Rights, Policies, Procedures, or Standards

A grievance may be initiated when a faculty member or a group of faculty members claims that there has been:

- a. a violation of policy or procedure of these institutions as set forth in the *Faculty Handbook*;
- b. an infringement of the rights of an employee or employees of these institutions as set forth in the *Faculty Handbook* which relates to compensation, appointment or reappointment, tenure, promotion, dismissal, suspension, reassignment, or layoff;
- c. unprofessional conduct or a violation of the academic freedom and integrity standards applicable to faculty (Section 2.10); or
- d. a violation of the procedures of the “Joint Human Rights Policy,” the “Joint Sexual Assault Policy,” or the “Joint Complaint Procedure for Human Rights Violations” (see Section 2.15.3.1).

4.1.1.2 Inadequate Consideration

If a faculty member alleges that a decision by the institutions concerning contract status, tenure, or promotion was based on inadequate consideration of the evidence, a grievance may be initiated. An allegation of inadequate consideration refers to a procedural rather than a substantive issue. The substance of a decision, i.e., the judgment as to what outcome is warranted by the evidence, is not grievable. Rather, the standard of adequate consideration suggests questions such as whether those named in a grievance sought out and conscientiously considered all relevant evidence and standards, whether they excluded irrelevant and improper evidence and standards, and whether they made a good faith exercise of professional academic judgment (Section 2.15.3.2).

4.1.2 Time Limits and Definitions

The grievance procedure may stop at any time, providing principals (the grievant and person[s] grieved against) to the dispute unanimously agree.

Time limits, given throughout the preliminary and formal stages of the following grievance procedure, are prescriptive unless mutually agreed upon by all parties.

All parties should be aware throughout these procedures that the timelines vary between “working days” and “days,” “days” meaning simply successive days and “working days” meaning days on which classes meet.

If a hearing is still in progress when the academic year is over, there will be an immediate recess until one week after the opening of these institutions in the fall term, unless there is unanimous consent of the two major parties to the grievance, as well as consent of the members of the hearing body, to continue the hearing.

4.1.3 Faculty Grievance Consultant

The Faculty Handbook Committee will maintain a roster of faculty members familiar with the grievance procedure who will be available upon request to provide technical advice and other consultation to parties involved in a grievance. This consultant is not to be construed as legal counsel and is only acting in an unofficial advisory capacity. While the position is not one of advocacy, an individual serving as consultant to one party of the grievance may not assist the other parties involved. The decision to utilize a grievance consultant is up to the individual party and is in no way required in the grievance process.

4.1.3.1 Responsibilities of the Faculty Grievance Consultant

The responsibilities of the faculty grievance consultant vary, depending on the phase of the grievance process. If, during the process, any party feels that a significant conflict of interest has arisen, the consultant must withdraw from the process and the parties involved are free to seek assistance from another consultant.

- a. Prior to the formation of an *ad hoc* grievance committee
 1. To provide assistance to faculty members exploring whether there are grounds for filing a grievance (Section 2.15.3);
 2. To participate actively in efforts to find an informal resolution of the issues, if the grievant requests such assistance;
 3. To provide advice, upon request, to participants in the grievance procedure in the construction and filing of official statements such as the (delete) general notification (Section 4.1.6), the grievance statement (Section [delete] 4.1.6.3 [add] 4.1.6), or the formal response from the party grieved against (Section 4.1.6.4); and/or to answer questions and provide whatever relevant advice the faculty grievance consultant deems helpful.
 4. The consultant will notify the chair of the Faculty Handbook Committee when accepting the role of advising one party or the other.
- b. After the formation of an *ad hoc* grievance committee
 1. The *ad hoc* grievance committee is a neutral group of faculty colleagues to which the Faculty Assembly as a whole delegates responsibility for investigating the grievance. In order to keep this primary responsibility clear, the faculty grievance consultant does not attend meetings between the *ad hoc* grievance committee and the parties to the grievance but will be available for advice to the participants during the committee's preliminary efforts to find an informal resolution to the issues (Section [delete] 4.1.6.6 [add] 4.1.7.1).
 2. Upon the request of a participant to the grievance, and upon a decision by the faculty grievance consultant that such advice would be helpful to the

process, the faculty grievance consultant may continue to provide informal advice throughout the grievance process, including during the time when formal hearings may occur (Section ~~4.1.9~~ **4.1.8**).

4.1.4 Timeline

The following is a timeline for the grievance process. If any confusion arises between interpretations of this timeline and of the text describing these stages in detail, the text shall be taken as definitive. However, the timeline may be altered by mutual agreement of the parties to the grievance and the appropriate committee dealing with the grievance at that stage of the process. In the event of minor discrepancies in following the timeline, the goodwill of all parties involved is expected, as the intent of the grievance procedure is resolution of the situation rather than dismissal on technical grounds.

- a. 30-day preliminary stage (Section 4.1.5);
- b. 10 working days from the end of the 30-day preliminary stage for filing of the ~~(delete)~~ general notification **(add) grievance statement** (Section 4.1.6);
- c. 10 working days from the filing of the ~~(delete)~~ general notification **(add) grievance statement** for a decision by the Faculty Handbook Committee concerning the grievability of the violations alleged (Section 4.1.6.1.a);
- d. 10 working days from the Faculty Handbook Committee's decision on grievability for:
 1. circulation by the grievant of the ~~(delete)~~ general notification **(add) grievance statement** (Section 4.1.6.2.a);
 2. notification by the grievant to the Faculty Handbook Committee that the ~~(delete)~~ general notification **(add) grievance statement** has been circulated (Section 4.1.6.2.b);
 3. the appointment and announcement by the Faculty Handbook Committee of the chair of the *ad hoc* grievance committee (Section 4.1.6.2.c);
 4. the appointment by the Faculty Handbook Committee of a slate of 10 candidates for the other two positions on the *ad hoc* grievance committee (Section 4.1.6.2.d);
 5. chair of the Faculty Handbook Committee notifies the slate and provides them with the ~~(delete)~~ general notification **(add) grievance statement** (Section 4.1.6.2.e);
- e. 15 working days from the appointment of the chair of the *ad hoc* grievance committee for:
 1. the grievant to submit the grievance statement (Section 4.1.6.3.a);
 2. notification by the grievant to the chair of the *ad hoc* grievance committee and to the chair of the Faculty Handbook Committee that the grievance statement has been circulated (Section 4.1.6.3.b);
 3. notification from the chair of the *ad hoc* grievance committee to the parties to the grievance concerning the process for constituting the *ad hoc* grievance committee (Section 4.1.6.3.c);

- f. 15 working days from the filing of the grievance statement for:
 - 1. formal response by those grieved against (Section 4.1.6.4);
 - 2. the choice of the other two members of the *ad hoc* grievance committee (Section 4.1.6.5);
- g. 15 working days from the deadline for a formal response by those grieved against for investigation by the *ad hoc* grievance committee and its decision concerning formal hearings (Section ~~4.1.8~~ **4.1.7.4**);
- h. 15-day period from the decision to hold formal hearings for the start of formal hearings (Section ~~4.1.9~~ **4.1.8**);
- i. ordinarily a 60-day period from the decision to hold formal hearings for completion of the hearings (Section ~~4.1.9.2~~ **4.1.8.2**);
- j. 7 working days after the end of formal hearings for the *ad hoc* grievance committee's decision (Section ~~4.1.10~~ **4.1.9**);
- k. 7 working days after receipt of the decision for parties to the grievance to declare their acceptance or rejection of the *ad hoc* grievance committee's decision (Section ~~4.1.9~~ **4.1.8**);
- l. 10 working days after the *ad hoc* grievance committee's notification of its decision for appeal (Section ~~4.1.11~~ **4.1.10**);
- m. 10 working days for the appropriate administrator(s) to notify the appealing party of a date by which the appeal will be reviewed (Section ~~4.1.11.1~~ **4.1.10.1**);
- n. 10-day period to review the appeal and to notify all parties of a decision (Section ~~4.1.11.1-2~~ **4.1.10.1-2**).

4.1.5 The Preliminary Stage

The necessary first step toward an informal solution is for the grievant to attempt personally to resolve his or her dispute with the other person or persons. This informal procedure takes place within a 30-day period; it begins on the day on which the grievant submits a dated letter specifically identified as initiating the 30-day preliminary stage, outlining the dispute and stating the date the alleged event occurred to both the person(s) being grieved against as well as the chair of the Faculty Handbook Committee, and the provost. The principals may call upon one of the faculty grievance consultants or any person who has knowledge of the dispute or who may assist in an informal resolution. The human rights officer, the director of Human Resources, and/or the provost may be called upon at this time to aid in an informal resolution. While these persons may actively seek a satisfactory solution, the responsibility for resolving the dispute remains with the principals.

This 30-day period is meant to be used for actively seeking a resolution to the dispute. Any record of what transpires during the preliminary stage does not become part of the grievance record.

If a faculty member is simultaneously alleging a grievable violation and a human rights violation (see Section 2.15.1), this preliminary stage may overlap with the informal complaint stage of the "Joint Complaint Procedure for Human Rights Violations."

4.1.6 The Filing Process: Beginning of the Formal Stage

If the grievant has not settled the dispute within the 30-day preliminary stage and wants to proceed with the grievance procedure, he or she shall submit an intention to file, hereafter referred to as the (delete) general notification **[add] grievance statement**. This (delete) general notification **[add] grievance statement** shall be filed with the chair of the Faculty Handbook Committee, with a copy to the provost, within 10 working days after the 30-day preliminary stage has ended unless the grievant can establish to the chair of the Faculty Handbook Committee that a delay in filing is the result of extenuating circumstances, in which case they will agree to a new filing date.

The (delete) general notification **[add] grievance statement** must contain sufficient information to determine the section(s) of the *Faculty Handbook* that relate to the dispute; it describes the (delete) general **(add) specific** nature of the grievance **(add) and specifies the factual claims upon which the grievance is based**, names the person or persons against whom the grievance is made, and (delete) suggests resolution **(add) proposes a possible remedy or remedies. When the grievance statement is put into final form (4.1.6.3.a), additional factual claims may be specified, but the matter of the grievance, including the section(s) of the Faculty Handbook to which it is related, cannot be altered.**

4.1.6.1 Decision to Form an *Ad Hoc* Grievance Committee

Within 10 working days after the chair of the Faculty Handbook Committee receives the (delete) general notification **[add] grievance statement**, the following must occur:

- a. The Faculty Handbook Committee shall decide whether or not the issues of the dispute are grievable. For purposes of this decision, the committee will presume the accuracy of the facts presented by the grievant and will rule only on whether the violations are grievable, as defined in Section 2.15.3.
- b. If the committee decides that the alleged violations are grievable, it will proceed to form an *ad hoc* grievance committee to investigate the matter, as described in Section 4.1.6.2 below.
- c. If the Faculty Handbook Committee finds that the issues of the dispute are not included in Section 2.15.3, then the grievance process is ended. This decision cannot be challenged, and the grievant may not initiate another grievance on these matters.
- d. If a faculty member is simultaneously alleging a grievable violation and a human rights violation (see Section 2.15.1), the committee will consult with the institution's human rights officer. If the Faculty Handbook Committee and the human rights officer conclude that one or more of the grievable complaints also entails a claim of a human rights violation, a single *ad hoc* grievance committee will be formed to investigate both kinds of allegations. The human rights officer will serve as a nonvoting advisor to the *ad hoc* grievance committee and will

submit to that committee and to all the principals to the grievance a report of findings concerning the alleged human rights violation. The complainant retains the right to initiate a human rights complaint through the Human Rights Office.

- e. In accord with Section 2.15.2.c, if the faculty member alleges only a violation of the “Joint Human Rights Policy,” a grievance cannot be filed, but a human rights complaint may be initiated.

4.1.6.2 Appointment of the Chair of the *Ad Hoc* Grievance Committee and Slate Selection

Within 10 working days after the grievant receives from the Faculty Handbook Committee notice of its decision that the issues of the dispute are grievable, the following must occur:

- a. The grievant shall submit copies of the (delete) general notification **[add] grievance statement** to any named party, the department chair or appropriate supervisor, the appropriate dean, the provost, and president(s).
- b. The grievant shall submit a signed and dated acknowledgment to the chair of the Faculty Handbook Committee that the (delete) general notification **[add] grievance statement** has been so distributed.
- c. The Faculty Handbook Committee shall appoint one tenured member of the College of Saint Benedict or Saint John’s University faculty, or a College of Saint Benedict or Saint John’s University administrator with tenure, to serve as chair of the *ad hoc* grievance committee. The Faculty Handbook Committee must make every reasonable effort to ensure that the appointed chair does not have a conflict of interest in the case. The appointment of the chair cannot be challenged. If the *ad hoc* grievance committee will be simultaneously investigating both a grievable allegation and a human rights violation (in accord with Section 4.1.5), the chair of the *ad hoc* grievance committee will be selected from those tenured faculty members who serve on the Human Rights Hearing Panel (described in “Joint Complaint Procedure for Human Rights Violations”).

The Faculty Handbook Committee will write to all parties to the grievance to announce the appointment of the chair.

- d. The Faculty Handbook Committee will provide to the appointed chair of the *ad hoc* grievance committee a slate of 10 candidates, from which two shall later be chosen to serve on the *ad hoc* grievance committee. Faculty named in the slate can be from the College of Saint Benedict or Saint John’s University but must be tenured. The slate may include up to three administrators. The administrator(s) must either be tenured to the faculty or have five or more years of full-time service as an administrator at the College of Saint Benedict or Saint John’s University.
- e. When a grievance is brought by a member or members of the College of Saint Benedict or Saint John’s University against a member or members of the other

institution, either party may request that the slate be divided into two slates of five, one composed solely of members of the college and one of members of the university, with one member of the *ad hoc* grievance committee to be chosen from each slate.

- f. In the case of a campus-specific grievance, either party may request that only members of the relevant institution be named on the slate.
- g. The chair of the Faculty Handbook Committee shall notify the 10 that they are on the slate and furnish them with the (delete) general notification **[add] grievance statement**. The committee must make every reasonable effort to ensure that persons on the slate do not have a conflict of interest in the case. A person may withdraw from the slate by stating specifically in writing to the chair of the Faculty Handbook Committee that he or she has a conflict of interest in the case. The slate may not be challenged.

4.1.6.3 Submission of the Grievance Statement

Within 15 working days following the appointment of the chair of the *ad hoc* grievance committee and the slate, the following procedure must occur:

- a. **(add) The grievant must put the grievance statement in final form. Additional factual claims may be specified, but the *matter* of the grievance, including the section(s) of the *Faculty Handbook* to which it is related, cannot be altered.**
- a.b. The grievant shall submit copies of the grievance statement to the appropriate president(s), provost, dean(s), and department chair and/or dean of the School of Theology, and three copies to the chair of the *ad hoc* grievance committee, who will distribute those copies to the *ad hoc* grievance committee members upon their appointment. (delete)The grievance statement should define the specific nature of the dispute, name the person(s) grieved against, and suggest a resolution to the grievance.
- b.c. The grievant shall submit to the chair of the *ad hoc* grievance committee and the chair of the Faculty Handbook Committee, a signed and dated acknowledgment that the grievance statement has been submitted to all related parties as specified in (delete) 4.1.6.3.a **(add) 4.1.6.3.b.**
- c.d. The chair of the *ad hoc* grievance committee shall notify in writing the grievant and the respondent(s) to the grievance that the committee will be constituted in accordance with Section 4.1.6.5, for purposes of hearing the grievance. The notification shall refer the parties to Section 4.1 for a description of the grievance procedure.

4.1.6.4 Formal Response

Within 15 working days following the filing and notification (see Section 4.1.6.3.b above) of the grievance statement, the person or persons against whom the grievance is made shall respond to the charges in a written statement which shall be submitted to the chair of the *ad hoc* grievance committee and to the grievant.

Failure to respond in writing to the charges within 15 working days will be interpreted as meaning the grievance statement is an accurate account.

4.1.6.5 Formation of the *Ad Hoc* Grievance Committee

Within 15 working days following the filing and notification (see Section 4.1.6.3.b above) of the grievance statement, the *ad hoc* grievance committee chair shall circulate among the involved parties the slate of nominees (see Section 4.1.6.2.c-e) and shall convene the principals to the grievance to select and agree upon two members of the slate for the *ad hoc* grievance committee. In the event the principals cannot agree, each side shall have the right to exclude up to four of the slate; the chair of the *ad hoc* grievance committee shall choose two from among those not excluded.

When the slate of nominees is divided into two slates of five and the principals cannot agree on a member from one of the slates, each side shall have the right to exclude up to two of that slate; the chair of the *ad hoc* grievance committee shall choose from among those not excluded.

If the *ad hoc* grievance committee will be simultaneously investigating both a grievable allegation and a human rights violation (in accord with Section 4.1.5), the two additional faculty members of the *ad hoc* committee, along with the chair, as needed, will receive appropriate informal training of the sort ordinarily provided to the faculty members serving on an *ad hoc* hearing committee formed to investigate a human rights violation. (See “Joint Complaint Procedure for Human Rights Violations.”)

4.1.7 (add) Preliminary Actions of the Ad Hoc Grievance Committee

(add) Once formed, the ad hoc grievance committee will attempt to resolve the grievance in a manner mutually acceptable to the grievant and parties named in the grievance (Section 4.1.7.1). If no mutually acceptable resolution can be reached, the committee shall proceed with a preliminary investigation. Once completed, the ad hoc grievance committee shall recommend reconsideration of the case due to inadequate consideration (Section 4.1.7.3) or decide that formal hearings should be held (Section 4.1.7.4) or dismiss the grievance (Section 4.1.7.5).

4.1.6.64.1.7.1 (delete) The Ad Hoc Grievance Committee (add) Mutually Acceptable Resolution of Grievance

The *ad hoc* grievance committee shall make every reasonable effort to resolve the grievance **(add) in a manner mutually acceptable to the grievant and the parties named in the grievance** at this stage. If resolution occurs at this stage, the grievance statement, the formal response and the *ad hoc* grievance committee's announcement of the resolution are placed in the custody of the appropriate Human Resources Office or the Office of the Provost if the person grieved against is the Human Resources officer. The *ad hoc* grievance committee must send a written announcement of the resolution to the grievant(s), the parties named in the grievance, the provost, and the chair of the Faculty Handbook Committee.

4.1.84.1.7.2 (delete) Decision Concerning Formal Hearings (add) Preliminary Investigation

If the grievance is not resolved, the *ad hoc* grievance committee shall **(add) proceed to a preliminary investigation that must include interviews with the grievant and the parties named in the grievance, a review of the grievance statement, and a review of the formal response of those grieved against to** determine whether there are sufficient grounds (delete) based on a preliminary investigation that focuses on the grievance statement, the formal response of those grieved against, and interviews with the immediate parties to the grievance to believe that a violation, as specified in Section 2.15.3, may have occurred.

(add) After completion of the preliminary investigation, the committee shall take one of the following three actions: recommend reconsideration of the case due to inadequate consideration (Section 4.1.7.3), decide that formal hearings should be held (Section 4.1.7.4), or dismiss the grievance (Section 4.1.7.5). (delete) If the committee determines, based upon its preliminary investigation, that the information, taken as a whole, indicates sufficient grounds, the committee will take the following action:

4.1.74.1.7.3 Allegations of Inadequate Consideration of Evidence

Allegations of inadequate consideration (as described in Section 2.15.3.2) will be handled as follows:

- a. Any grievance committee investigating such an allegation must discover whether those grieved against gave adequate consideration to the evidence.
- b. The grievance committee must recognize that it should not substitute its own judgment for the judgment of the original evaluators on the merits of whether the grievant should have been reappointed or promoted or granted tenure, or otherwise dealt with.
- c. If the grievance committee finds sufficient evidence (see Section ~~4.1.8~~ **4.1.7.3.e** below) to believe that inadequate consideration occurred, it will recommend a reconsideration of the case, indicating the respects in which consideration may have been inadequate.
- d. In particular, the grievance committee will not proceed to formal hearings (described in Section ~~4.1.8~~ **4.1.7.4** below) because of evidence of inadequate consideration.
- e. **formerly 4.1.8.a** If the committee concludes that a decision may have been based on inadequate consideration (as defined in Section 2.15.3.2), ~~it will make it's~~ **(add) the committee's** formal report **(add) to the grievant(s), the parties named in the grievance, the provost, dean(s), the department chair and/or the dean of the School of Theology, the chair of the Faculty Handbook Committee, and the** president(s) ~~with~~ **(add) must include** a recommendation that the person, persons, or committee which gave inadequate consideration assess the merits of the case once again, this time remedying the inadequacies of their prior consideration. No grievance will proceed to formal hearings because of a finding of inadequate consideration.

4.1.84.1.7.4 Decision Concerning Formal Hearings

- b. If the committee concludes that a violation specified in Section 2.15.3.1 may have occurred, it will proceed to formal hearings and a formal determination.
- e. If the *ad hoc* grievance committee has been simultaneously investigating both a grievable allegation and a human rights violation and if the committee, by majority vote, concludes that insufficient grounds exist for believing that there may have occurred a violation as specified in Section 2.15.3 but that there is sufficient evidence to believe that a violation of the "Joint Human Rights Policy" may have occurred, the *ad hoc* grievance committee will proceed to formal hearings to investigate the allegations further and make a formal determination. This investigation will constitute the official human rights investigation of the institutions and the complainant may not file another human rights complaint pertaining to the subject of this complaint. The human rights officer will remain as a nonvoting advisor to the committee.

4.1.84.1.7.5 (add) Dismissal of Grievance

c. If the *ad hoc* grievance committee (by a majority vote) concludes that insufficient grounds exist for believing that a violation may have occurred, it must dismiss the grievance. The *ad hoc* grievance committee's order of dismissal may not be appealed by either of these institutions or the grievant. The grievant may not file another grievance pertaining to the subject of the grievance.

d. If the *ad hoc* grievance committee has been simultaneously investigating both a grievable allegation and a human rights violation and if the committee, by majority vote, concludes that insufficient grounds exist for believing that there may have occurred a violation covered by either the "Joint Human Rights Policy" or by this grievance procedure, it must dismiss both complaints. The grievant may not file another grievance or human rights complaint pertaining to the subject of the complaint(s) dismissed.

4.1.84.1.7.6 (add) Timeline for and Report on Preliminary Actions of the Ad Hoc Grievance Committee

f. This decision either to end the grievance or move to formal hearings must occur within 15 working days from the end of the grievance statement formal response period (see Section 4.1.6.4).

g. Whatever its decision at this stage of the grievance, the *ad hoc* grievance committee must make a written report of its decision and its rationale to the grievant(s), the parties named in the grievance, the provost, dean(s), the department chair and/or the dean of the School of Theology, the chair of the Faculty Handbook Committee, and the president(s).

4.1.9.1.8 The Formal Hearings

Formal hearings begin within 15 days after the *ad hoc* grievance committee's decision to hold them.

The following are components of the formal hearings, including rights and expectations of the involved parties.

4.1.9.14.1.8.1 Collection of Relevant Information

a. Request for Information.

All parties to the grievance may request in writing documentary or other information relevant to the grievance from all parties and from these institutions. In cases where relevance of the requested material is at question, the *ad hoc* grievance committee will determine whether the requested material is deemed to be relevant.

b. Response to Request for Information.

All parties and these institutions must respond to the request for production of information within 10 working days of receiving such request. In responding to a request for production of information, all parties and these institutions must:

- Use every reasonable effort to make available for inspection by the requester all documentary and other information within their control (except material subject to any legally recognized privilege);
- If they are not in possession of the information requested or if the information requested is subject to any legally recognized privilege, make a written statement to that effect to the *ad hoc* grievance committee. Legal privilege does not extend to information about, or documents relevant to, equitable application of institutional procedures.

4.1.9.24.1.8.2 Hearings

Hearings of the *ad hoc* grievance committee are open only to persons invited by the committee. The hearing procedures should ordinarily be completed within 60 days following the *ad hoc* grievance committee's decision to hold them

4.1.9.34.1.8.3 Correspondence

Any correspondence required to be delivered under this grievance procedure must be hand-delivered to the party or parties to the grievance and a written acknowledgment be obtained.

4.1.9.44.1.8.4 Representation

Whenever the parties to the grievance are present at a meeting or a hearing held by the *ad hoc* grievance committee, both have the right to have an advisor of their choosing from the faculty or staff of these institutions. (An “advisor” may not be legal counsel.)

4.1.9.54.1.8.5Observer

At the request of either party, the chair of the *ad hoc* grievance committee will invite a representative of a recognized educational association to attend the proceedings as an observer. The local chapter of the organization will decide how that person should be selected.

4.1.9.64.1.8.6Record of the Formal Hearings

Beginning at this formal stage all hearings will be audio-taped and the master copy will be kept by the chair of the *ad hoc* grievance committee who may allow the grievant and the persons named in the grievance to listen to another copy. The *ad hoc* grievance committee, in consultation with the president(s) of the appropriate institution(s), or the chair or vice-chair of the Coordinate Academic Affairs Committee when the president is a party to the grievance, shall determine the extent to which the records of its hearing will be accessible to other parties.

4.1.9.74.1.8.7Witnesses

a. Cooperation and Testimony

If any party to the grievance believes that additional information may be obtained from witnesses, all parties to the grievance will cooperate with the *ad hoc* grievance committee in securing witnesses. The *ad hoc* grievance committee may limit the number of witnesses provided that the number is fairly divided among the parties. All parties will assume that witnesses will testify truthfully; this assumption must be stated to each witness.

b. Witnesses' Participation

Witnesses called are expected to participate in the proceedings. In the event a witness cannot appear before the hearing body, the *ad hoc* grievance committee will request that the witness either make a written statement of testimony or privately audio-tape the testimony in the presence of a member of the *ad hoc* grievance committee. The *ad hoc* grievance committee may recall the witness for further questioning. In the event a witness does not appear at a hearing, a note will be made in the record that the named witness did not appear but gave testimony by other means.

4.1.9.8 4.1.8.8 Further Evidence

A conscientious effort will be made by the *ad hoc* grievance committee and all parties to the grievance to obtain the most reliable evidence from whatever other sources seem necessary to them. All parties to the grievance have the right to knowledge of all evidence on which the *ad hoc* grievance committee will determine its decision or recommendation.

4.1.9.9 4.1.8.9 Testimony as Evidence

All parties to the grievance have the right to hear the testimony of all witnesses on which the *ad hoc* grievance committee will be determining its findings. The *ad hoc* grievance committee should be guided in evaluating testimony by the principles of relevance, materiality, credibility, and firsthand knowledge.

4.1.9.10 4.1.8.10 Violation of the *Ad Hoc* Grievance Committee's Request

If any party to the grievance or the college or university continues to refuse to produce information after being requested to do so by the *ad hoc* grievance committee, the committee shall make a decision based on the information it has.

4.1.9.11 4.1.8.11 Findings of Fact and Decision

The decision will consist of findings of fact, conclusions, and recommended disposition, all of which must be based solely on the hearings, records, and the pertinent procedures of the *Faculty Handbook*. At the completion of the hearing, the *ad hoc* grievance committee must arrive at a decision and make recommendations of action, sanction, or other resolution. The chair of the *ad hoc* grievance committee will give a generic summary of the decision to the chair of the Faculty Handbook Committee (see Section ~~4.1.12.2~~ **4.1.11.2**).

4.1.104.1.9 The Resolution Procedure

By majority vote, the *ad hoc* grievance committee will make its decision based on the evidence presented at the hearings. Within seven working days after the formal hearings have ended, the chair of the *ad hoc* grievance committee must inform all parties to the grievance of that decision, by letter. The *ad hoc* grievance committee will also report its decision to the appropriate president(s). If the president is a party to the grievance, the *ad hoc* grievance committee's decision will go to a panel consisting of members of the Coordinate Academic Affairs Committee from the institution of the president subject to the grievance.

The *ad hoc* grievance committee's decision will be considered final and may be appealed by the parties to the grievance only on grounds that the procedures of this section (4.1) have not been properly followed. Within seven working days, all parties to the grievance must provide the chair of the *ad hoc* grievance committee written acknowledgment of the receipt of the decision. The parties may choose to include in the letter their reactions to the decision, which the chair will communicate in writing to all parties in a timely fashion.

4.1.114.1.10The Appeal Stage

Within 10 working days after notification of the decision, any party to the grievance has the right to appeal. The appeal may be based only on the grounds that the grievance procedures have not been properly followed. The party appealing must submit a statement of appeal to the appropriate president(s). The review of the appeal must be based solely on the *ad hoc* grievance committee's record of its hearings.

The statement of appeal must set forth the grounds upon which the appealing party charges that the grievance procedures in this section (4.1) have not been properly followed.

4.1.11.14.1.10.1Notification of Review of the Appeal

Within 10 working days after receipt of the statement of appeal, the appropriate administrator(s) must send written notification to the appealing party of the intent to review the appeal and indicate a date by which the decision will be made. This review should take no longer than 60 days.

4.1.11.24.1.10.2Administrative Review of Appeal

The provost (or other appropriate administrator) will review the record to determine whether or not the procedures of this section have been properly followed and notify all parties to the grievance of his or her final decision. Should it be determined that the grievance procedures were not properly followed, the case will be remanded to the *ad hoc* grievance committee with specific recommendations.

4.1.11.34.1.10.3President as a Party to the Grievance

When the president is named in the grievance statement, the grievant may file an appeal for review to a panel consisting of the members of the Coordinate Academic Affairs Committee from the institution of the president subject to the grievance. The same time limits, contents of the appeal, notification of action, and review of the appeal as set forth in Section ~~(delete) 4.1.11~~ **(add) 4.1.10** and subsections apply to the panel's review.

4.1.124.1.11 Record of the Hearings

4.1.12.14.1.11.1 Reporting

Within 30 days after the deadline for parties to the grievance to file an appeal (as described in Section ~~4.1.11~~ **4.1.10**), the president(s) will report the *ad hoc* grievance committee's decision, the parties' acceptance, rejection and/or appeal, and the president(s)'s own decision to the grievant(s), those grieved against, the members of the *ad hoc* grievance committee, the department chair and/or dean of the School of Theology, dean(s), provost, and the chair of the Faculty Handbook Committee. If the president is grieved against, the chair or vice-chair of the Coordinate Academic Affairs Committee of the Board who serves at the institution of the president subject to the grievance will report this information and the committee's own decision to these same persons within 60 days of the deadline for appeal.

4.1.12.24.1.11.2 Report to Faculty Assembly

The chair of the Faculty Handbook Committee will (ordinarily at the last faculty assembly in the spring term) annually report all grievances about which a final decision has been made. The above-mentioned chair's report will be a written generic summary as provided by the chair of each *ad hoc* grievance committee. The generic report shall specify the reason for initiating the grievance as set forth in Section 2.15.3, the section of the *Faculty Handbook* violated, a summary of the formal hearings, and the decision of the *ad hoc* grievance committee. In a generic summary, no parties to the grievance may be named nor information that identifies an individual be given. When both the *ad hoc* grievance committee and the president(s) decide it is appropriate, they may determine if it is necessary and/or prudent to publish a more limited summary, no summary, or a more specific summary naming the parties to the grievance to the faculty assembly.

4.1.12.34.1.11.3 Custody and Right to See the Record

Any records of formal hearings of the *ad hoc* grievance committee and any appeal to the president(s) are placed in the custody of the appropriate Human Resources officer or the Office of the Provost if the person grieved against is the Human Resources director. These records are available only for responses to state and federal administrative and judicial courts and agencies, which by statute, rule or regulation have a right to examine their contents, and to the principals of the grievance. The principals (the grievant and person(s) grieved against) may, for the cost of duplication, obtain copies of the materials in the record of their formal hearings. Any copies will be made by a member of the director's staff or a member of the provost's staff.

5.3.1 Faculty Governance Coordinating Committee (FGCC)

The Faculty Governance Coordinating Committee (FGCC) is charged with constituting the committees of the Joint Faculty Assembly and the committees of the separate assemblies for Saint John's University and the College of Saint Benedict; with ensuring communication among the committees, between the committees and the Joint Faculty Assembly, between faculty committees and the administration, and between the committees and the College of Saint Benedict/Saint John's University community as a whole; with keeping a record of the actions and deliberations of the Joint Faculty Assembly and its committees; and with setting the agenda for the Joint Faculty Assembly.

5.3.1.1 Membership

The voting members of the Faculty Governance Coordinating Committee are:

- a. five faculty members elected to three-year terms—one member from each of the four academic divisions (Fine Arts, Humanities, Natural Science, and Social Science) and one member from the School of Theology;
- b. the chair of the Joint Faculty Assembly, who will serve as chair of the committee;
- c. the vice-chair of the Joint Faculty Assembly;
- d. in addition, the provost serves as a nonvoting member; and
- e. the parliamentarian of the Joint Faculty Assembly as a nonvoting consultant.

At least three of the faculty members of the committee must be tenured.

5.3.1.2 Responsibilities

The duties and responsibilities of the Faculty Governance Coordinating Committee are to:

- a. establish faculty committee membership of standing and *ad hoc* committees by:
 1. maintaining an up-to-date record of committee membership,
 2. surveying faculty to learn on which committees individual members prefer to serve,
 3. scheduling and supervising faculty elections,
 4. when appropriate, appointing or arranging for the election of members of the Joint Faculty Assembly to serve as faculty representatives to the designated committees of the Saint John's University Board of Regents and the College of Saint Benedict Board of Trustees, and
 5. consulting with the administration on the appointment of faculty members to administrative committees;

- b. coordinate the work of the joint faculty committees by:
 - 1. maintaining a manual of the policies and procedures of the Joint Faculty Assembly and its committees,
 - 2. resolving jurisdictional issues among committees of the assemblies,
 - 3. monitoring the effectiveness of the committee structure and recommending adjustments or changes when necessary,
 - 4. arranging for reports, at least once a year, from each standing committee to the Joint Faculty Assembly,
 - 5. posting and preserving minutes of the Joint Faculty Assembly, and
 - 6. overseeing the posting and preservation of minutes and reports of the faculty standing committees;
- c. formulate, prepare and distribute:
 - 1. an annual calendar of meetings of the Joint Faculty Assembly each June for the following academic year and
 - 2. the agenda for each meeting of the Joint Faculty Assembly;
- d. coordinate faculty participation in any review of the academic administration;
- e. communicate with the appropriate faculty committees as deemed necessary;
- f. **(add) in cases where the Faculty Handbook Committee is a party to a grievance, perform the functions normally assigned to the Faculty Handbook Committee under the grievance procedure (Section 4.1); and**
- f.g. initiate whatever action is necessary to fulfill its duties and responsibilities.

5.3.11 Faculty Handbook Committee

The Faculty Handbook Committee acts as a resource to faculty members concerning *Faculty Handbook* policies, coordinates faculty deliberations concerning amendments to the *Faculty Handbook*, and oversees the grievance process.

5.3.11.1 Membership

The members of the Faculty Handbook Committee are:

- a. six voting members—three College of Saint Benedict faculty members and three Saint John’s University faculty members, elected at large; and
- b. one nonvoting member—the provost.

At least four of the voting members must be tenured.

5.3.11.2 Responsibilities

The duties and responsibilities of the Faculty Handbook Committee are to:

- a. initiate or receive proposals for amending or revising the *Faculty Handbook* as described in Section 2.16;
- b. process proposed *Faculty Handbook* changes through the Faculty Assembly and the provost, who will notify the president and secure acceptance, rejection, or proposed amendments to the proposals in accordance with the procedures described in Section 2.16.3;
- c. petition for emergency changes in the *Faculty Handbook* by following procedures in Section 2.16.4;
- d. assist in the interpretation of particular passages in the *Faculty Handbook*;
- e. initiate or receive charges of *Faculty Handbook* violations, and when necessary, implement procedures for action, including filing a grievance according to procedures in Section 4.1. **(add) When the Faculty Handbook Committee initiates a grievance, the Faculty Governance Coordinating Committee shall perform all of the functions normally assigned to the Faculty Handbook Committee under the grievance procedure, including ruling on whether the alleged violation is grievable and appointing the *ad hoc* grievance committee.**
- f. oversee the preliminary steps of each grievance as described in Section 4.1.5 **(add) (except when the Faculty Handbook Committee is a party to the grievance)** and report annually to the Assembly about all faculty grievances filed, as described in Section ~~4.1.11.2~~ **(add) 4.1.10.2**;
- g. act as an oversight committee for *Faculty Handbook* issues;
- h. communicate with the appropriate faculty committees as deemed necessary; and

- i. initiate whatever action is necessary to fulfill its duties and responsibilities.