

Policy #	AD-114	Revision #	02
Accessibility level	A	Effective date	01/20/2021

## I. POLICY STATEMENT

This Policy is intended to provide a fair, internal process for resolving employment related disputes that arise between faculty or academic staff members and administrators at Fahad Bin Sultan University. The formal procedures described in this Policy are intended to be used only when matters cannot be resolved informally. A faculty or academic staff member who feels aggrieved should first seek an informal resolution at the unit, department, or college level, in hierarchy, before filing out a formal grievance under this Policy. The procedures contained in this Policy are not intended to be used to challenge the desirability of unit or University policies, but to attenuate misunderstanding in the University.

## II. DEFINITIONS

- A. **Grievance:** A written complaint filed by a faculty or academic staff member against an administrator of the University alleging a violation of University, college, department, school, or unit policy or established practice.
- B. **Faculty member:** A person with a paid University appointment at the rank of professor, associate professor, assistant professor, or instructor, including those with fixed-term and visiting status.
- C. **Academic Staff:** A person with a paid University appointment at the rank of academic specialist, lecturer, assistant instructor, research associate, or librarian, including those in a continuing appointment system and those with fixed-term and visiting status.
- D. **Administrator:** A person appointed as the head of an administrative unit, school director, department chair, dean, or separately reporting director.
- E. **Policy:** A written statement of principles and procedures that govern the actions of faculty, academic staff, and administrators, including written rules, bylaws, procedures, or standards.
- F. **Practice:** Actions taken by the administrator within an administrative or academic unit based on customs or standards in that unit that are usually unwritten but of longstanding duration, and for whose existence the grievant can offer evidence.
- G. **Violation:** A breach, misinterpretation, or misapplication of existing policy or established practice.

## III. GRIEVANCE PROCEDURE

Each faculty member may express a grievance through the following procedures with the assurance of timely and thorough consideration. Grievant is assured freedom from reprisal for the filing of their grievance. Also, they may file a formal grievance against an administrator that alleges a violation of University, college, department, school, or unit policy or established practice.

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## INITIATION OF GRIEVANCE PROCEEDINGS

A faculty /academic staff member who feels aggrieved may discuss his/her complaint in a confidential conference with the Faculty Grievance Official (FGO).

## FILING A GRIEVANCE

To file a grievance, an individual faculty or academic staff member must submit a written, signed statement (the "grievance") to the FGO within 20 business days of the date that the grievant knew or should have known the alleged violation or any infringement. The grievance must contain the following information:

- the specific policy or established practice that has allegedly been violated;
- the date of the alleged violation and the date on which the grievant became aware of the alleged violation;
- the facts relevant to the alleged violation;
- the person(s) against whom the grievance is filed (the "respondent"); and
- the redress sought.

The grievant shall also submit any documents that are relevant to the FGO's initial jurisdictional findings pursuant to Section III.D of this Policy as pieces of evidence.

If a grievance is filed against the Provost individually, a hearing will be held pursuant to Section III.I of this Policy. The finding(s) and recommendation(s) of the Hearing Panel will be forwarded to the Chancellor for decision instead of to the Provost. The Chancellor's decision will be final and not subject to appeal.

## THE RESPONDENT

The FGO shall submit a copy of the grievance and any documents submitted with the grievance to the respondent within three (3) business days of receipt. The respondent shall submit any relevant documents concerning the FGO's initial jurisdictional findings to the FGO within seven (5) business days of receipt of the grievance.

## JURISDICTIONAL & PROCEDURAL DECISIONS

1. The FGO shall determine whether the following jurisdictional requirements have been met within (10) business days of the date that the grievance was filed. The FGO may also seek information from appropriate University office(s) to assist in making these jurisdictional determinations.
  - a. Whether the grievant has standing under the Faculty Grievance Policy;
  - b. Whether the grievance has been filed in a timely fashion;
  - c. Whether the grievance identifies an appropriate respondent(s);
  - d. Whether the grievance adequately identifies the existing policies and/or established practices alleged to have been violated;

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- e. Whether the grievance contains a reasonably adequate statement of the facts relevant to the complaint; and
  - f. Whether any other jurisdictional issue(s) need to be decided in connection with the initiation of the grievance and, if so, an explanation of such issues.
2. The FGO shall inform and notify the parties in writing and formally whether each jurisdictional requirement has been met, along with the names of the concerned University offices consulted regarding the jurisdictional decisions. If any jurisdictional requirement has not been met, the FGO shall dismiss the grievance as a result.
  3. Each party shall have the right to appeal the FGO's jurisdictional decisions by filing a written statement explaining the reason(s) and motive(s) for the appeal with the FGO within a period of 14 days of the issuance of such a decision.
  4. If any party files an appeal of the FGO's jurisdictional decision(s), the FGO shall submit the written appeal, together with any written response to the appeal from the parties and a written response by the FGO, to a jurisdictional appeal panel drawn randomly by the FGO from the list of faculty, librarians, and other academic staff eligible to serve as members of the Hearing Board or Appeals Board assigned by the University. (See Section III.H of this Policy.).
  5. The panel shall deliberate and submit to the FGO a written decision (including the basis for its decision) on the appeal within seven (5) business days of its convening by the FGO. No faculty member, librarian, or other academic staff member may serve on more than one jurisdictional appeal panel in any period of seven consecutive years.
  6. The FGO shall forward a copy of the jurisdictional appeal panel's decision to the involved parties within seven (5) business days of its receipt from the panel.

### INFORMAL RESOLUTION

Most employers have a grievance procedure, which sets out how an employee can raise a complaint and how it will be managed. Many procedures have a section about raising grievances informally in the first instance. Notwithstanding this, far too many grievances seem to proceed straight down the formal route. Sometimes, formalizing grievances can lead to polarized positions. There is a strict protocol to follow.

1. The FGO shall consult with the parties and make every single reasonable effort to resolve the grievance informally as quickly as possible. Discussions regarding informal resolution are expected to be treated with confidentiality and may not be disclosed or referenced during any subsequent formal proceedings on the grievance. The FGO may recommend that the grievant drop the grievance because it lacks merit or for other just cause. Such a recommendation, however, shall not be binding on the grievant.
2. If the FGO decides that the grievance cannot be informally resolved, the FGO shall so notify the parties in writing. If the grievant wishes to pursue the grievance, the grievant shall submit a formal request for a formal hearing to the FGO within (10) business days of such notice. Failure to submit such a request will constitute a relinquishment of the faculty member's right to pursue the grievance process.

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3. A University Hearing Board and University Appeals Board shall be established from which grievance hearing and appeal panels shall be selected.
4. All faculty with appointment in the tenure system, librarians and other academic staff with appointment in a continuing appointment system, and full-time fixed-term faculty who have served at least three consecutive years and are engaged in the academic activities of the University on a regular basis are eligible and expected to serve as members of the University Hearing Board or University Appeals Board. No faculty/academic staff member or librarian may serve on more than one grievance hearing or appeal panel in any period of seven consecutive years. At the start of each academic year, the Academic Human Resources Office will provide the FGO with a list of all faculty, academic staff, and librarians eligible to serve on these Boards.
5. A grievance hearing panel shall consist of five members of the University Hearing Board who are selected randomly by the FGO. An appeal panel shall consist of three members of the University Appeals board who are selected randomly by the FGO. Panel members shall serve throughout an entire proceeding.
6. The FGO shall take necessary precautions to avoid any conflict of interest on the part of the panel members. No panel member shall be from the same department(s) (or college in the case of non-departmental colleges) as the grievant or respondent.
7. A panel selected for a grievance involving the denial of reappointment or tenure in the tenure system shall be comprised solely of tenured faculty members. A panel selected for a grievance involving the denial of promotion to full professor shall be comprised solely of tenured faculty who hold the rank of full professor.
8. A panel selected for a grievance involving the denial of reappointment or promotion in an appointment system other than the tenure system shall be comprised solely of faculty members at the same rank.
9. Each grievance hearing panel shall have a Presiding Officer selected at random by the FGO from a list established by the UCFA. The Presiding Officer shall have voice but not be a voting member of the hearing panel. The Presiding Officer shall apply the rules of procedure consistent with the guidelines stated in Section III.I of this Policy.
10. The FGO shall notify each party of the names of the Presiding Officer (if applicable) and members of the panel. Within seven (7) days of that notice, either party may submit a written challenge to the Presiding Officer or any member of the panel for cause. The challenge must explain the cause for removing the Presiding Officer or panel member. The FGO shall determine whether there is cause to dismiss the challenged member of the panel and select another member. In addition, each party shall have two peremptory challenges. The FGO shall notify the parties of any replacement Presiding Officer or members of the panel. Either party may submit a challenge for cause or any peremptory challenge to any replacement Presiding Officer or member of the panel to the FGO within three (3) days of that notice.
11. If a grievance hearing panel loses two or more of its members during the course of a hearing, the hearing shall be terminated, and a new panel selected.

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### GRIEVANCE HEARINGS: PROCEDURES

A grievance hearing is a meeting that aims to address and resolve any grievance raised by an employee. All businesses must have a written grievance procedure in place. The grievance hearing is only one part of an overall procedure. As an employer, it is expected to conduct the correct procedure and ensure that it is fair.

- Hearings shall be scheduled as expeditiously as possible and with due regard for the schedule of both parties. Grievances involving faculty/academic staff who hold academic year appointments will normally not be held during summer semester unless the faculty/academic staff member has a summer appointment. On the rare occasion when a party fails to respond to repeated attempts to schedule a hearing, the Faculty Grievance and Dispute Resolution Office will schedule the hearing for the first date available to the panel members and the other party.
- The FGO shall convene the hearing panel and shall be present during all formal proceedings. The FGO shall provide written notice of the time and place of the hearing, the names of counsel, the names of any witnesses, and copies of any pieces of evidence submitted by the parties and deemed relevant by the FGO, to each party at least seven (7) business days before the hearing session.
- The hearing shall be conducted in good faith and must be completed within (10) business days unless the FGO determines that an extension of time is needed.
- All hearings shall be recorded. A party may request and obtain a copy of the recording from the FGO.
- Hearings shall be closed unless the parties agree otherwise.
- The privacy of confidential records used in the hearing shall be respected.
- All parties may present their cases in person and may call witnesses on their behalf. The names of witnesses must be provided to the FGO at least seven (7) days prior to the hearing date.
- A party may elect not to appear, in which event the hearing will be held in his or her absence. Absence of a party shall not be prejudicial to the case. The FGO may grant permission for a party to appear via alternate communication methods for good cause.
- All parties are entitled to counsel of their choice. The name of counsel must be provided to the FGO at least seven (7) business days prior to the hearing session's date.
- Any party or counsel shall be entitled to ask pertinent questions of any witness or the other party at appropriate points in hearings. The Presiding Officer shall determine what questions are pertinent.
- The grievant bears the burden of proving that there has been a violation of policy or established practice. A hearing panel shall decide whether the preponderance of the evidence supports the allegations made by the grievant.
- Hearing panels shall resolve any procedural issues raised by the parties, after providing each party the opportunity to be heard on such matters. However, neither party may challenge the FGO's initial jurisdictional findings made pursuant to Section III.D of this Policy. The FGO shall distribute all



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documents submitted by the parties concerning procedural issues to the hearing panel, and shall include such documents in the grievance record.

13. Hearing panels may consider evidence submitted by the parties concerning the relative credentials of other faculty members in determining the merit of grievances involving salary, appointment, re-appointment, or promotion.
14. Hearing panels shall report their findings and recommendations in writing within (15) business days of the completion of the hearing to the FGO, who shall forward them to the grievant, the respondent, their counsel, the Provost, or the Chancellor, as appropriate, and to the administrator who is the respondent's immediate supervisor. The hearing panel's report is advisory to the Provost and does not bind the Provost to a particular decision.
15. When a hearing panel sustains an allegation made in a grievance, it shall recommend appropriate redress and act of correctness consistent with existing policies, procedures, and practices.
16. The Provost shall decide the grievance, in writing, within (20) business days of receipt of the hearing panel's findings and recommendations.
17. All parties shall be notified formally of their right to appeal by the FGO when a copy of any decision is forwarded to the parties.

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