



Cornell University Policy Library

# **ACADEMIC EMPLOYEE GRIEVANCE PROCEDURES**

## **College of Engineering**

Volume 6, Human Resources  
Chapter 2, Academic Employment  
Responsible Executive: Provost  
Responsible Office: Dean of Faculty  
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## **POLICY OBJECTIVES**

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The College of Engineering ("College") supports the right of covered academic employees to seek, through formal grievance procedures, redress of decisions made or actions taken which they consider unfair or an impediment to the execution of their responsibilities.

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## **WHO IS COVERED BY THIS POLICY**

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Certain academic employees (see the "Definitions" section of this document) are covered under this policy.

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## **RELATED DOCUMENTS**

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### University Documents and Policies:

Board of Trustee legislation; March 13, 1975

College level Grievance Procedures; Faculty Handbook

Legislation Governing the Procedures of the Committee on Academic Freedom and Professional Status of the Faculty

Student Handbook

Campus Code of Conduct

President's Statement on Affirmative Action and Equal Opportunity

University Policy, 4.6, Standards of Ethical Conduct

University Policy 6.3, Sexual Assault

University Policy, 6.4, Sexual Harassment

University Policy, 6.11, Non-Academic Grievance Procedure

### OTHER DOCUMENTS:

Civil Rights Act of 1991

New York State Human Rights Law

Title IX of the Education Amendments of 1972

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## CONTACTS

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Direct any general questions about the Academic Employee Grievance procedure to the College Dean. If you have questions about related policies, services, or resources, call the following offices:

<b>SUBJECT:</b>	<b>CONTACT:</b>	<b>TELEPHONE:</b>
Dean of Faculty	Office of University Faculty	(607) 255-4843
Dean, College of Engineering	Administration	(607) 255-9679
College Grievance Committee	Human Resources Director	(607) 255-6089
Campus Code of Conduct	Judicial Administrator	(607) 255-4680
Complaints Concerning Alleged Harassment by Students	Judicial Administrator	(607) 255-4680
Complaints Concerning Alleged Harassment by Staff or Faculty	Office of Workforce Diversity Equity and Life Quality (OWDELQ)	(607) 255-3976
Educational Programs and Resources	Cornell Interactive Theatre Ensemble	(607) 254-2759
	Judicial Administrator	(607) 255-4680
	Office of Workforce Diversity Equity and Life Quality	(607) 255-3976
Psychological/Emotional Assistance And Support Services, Employees	Employee Assistance Program (EAP)	(607) 255-1531
	Ombudsman	(607) 255-4321
	Cornell United Religious Work (CURW)	(607) 255-4214
Psychological/Emotional Assistance And Support Services, Student	Counseling and Psychological Services (CAPS)	(607) 255-5208
	Empathy, Assistance and Referral Services	(607) 255-3277

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## DEFINITIONS

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Academic Employee Covered by This Policy	An employee who holds appointment as Professor, Associate Professor, Assistant Professor, Visiting Professor (all ranks), Adjunct Professor (all ranks), Instructor, Senior Lecturer, Lecturer, Senior Research Associate, Research Associate, Senior Scientist, Senior Scholar, Senior Extension Associate, or Extension Associate.
Staff Employee	A person (other than a faculty member) who is employed to provide administrative, support, or other executive services.
College	Any organizational unit led by a dean or Vice President, that houses academic employees covered by this policy.
Grievance	<p>"An injustice or harm arising from a specific situation involving an act or acts of alleged unfairness which the individual regards as just cause for protest on his or her own behalf (or individuals on their own behalf)."</p> <p><b>Caution:</b> These grievance procedures are not applicable to complaints about appointment, reappointment, promotion or any tenure decision.</p>
Grievance Committee	A committee established by a college or division to resolve grievances either by helping the parties reach a decision acceptable to both or by rendering a recommendation to the dean.
Respondent or Charged Party	A person against whom a formal grievance has been made.
Complainant or Complaining Party	A person or group of people who file a formal grievance.
Discrimination	Negative and/or different treatment of an individual based solely on his/her EEO-protected class status.
Investigation	A systematic inquiry into allegations of sexual harassment brought by complainants through the process described in these procedures.
Mediation	Intervention between conflicting parties to promote reconciliation, settlement, or compromise.
Retaliation	The seeking of revenge, reprisal or injury to another who has exercised the right to file a complaint or make a report of sexual harassment, or has participated in an investigation into allegations of sexual harassment
Sanction	The disciplinary action imposed on an individual found to have committed the grievable action which may include termination of the employment relationship or other corrective actions

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## PROCEDURES

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### Introduction

The College of Engineering has set grievance procedures whereby any covered academician, who believes that they have been aggrieved can obtain consideration and, possibly, redress of their grievance.

**Note:** Grievances that involve accusations of harassment on legally protected grounds, such as sexual harassment and racial discrimination must be reported to the Office of Workforce Diversity Equity and Life Quality at (607)255-3976.

The following procedures are formulated in accordance with the Guidelines approved by the Executive Committee of the Board of Trustees, 13 March 1975. It should be emphasized at the outset, however, that they represent primarily a mechanism for arbitration, and are not formally judicial in character. [Part I, II, and III of the Guidelines spell out the objectives, definitions and assumptions, and coverage of college-level grievance procedures. Two points deserve further elaboration:

a). First, where a grievance involves substantive judgments of a purely academic nature, the grievance-arbitrating committees shall restrict themselves to reviewing only the procedural aspects of the case, and shall not substitute their judgment for that of the appropriate academic body (e.g., Department Faculty working in due consultation, or Ad-Hoc Committee served by academic referees).

b). Second, as noted, the right to invoke a formal grievance action shall not serve to obstruct the normal administrative processes. An act, alleged to be unfair, must in fact have occurred and efforts at direct negotiation between the parties to the dispute must have been pursued exhaustively without having produced a resolution before resorting to these procedures.

### Who May Grieve

Certain academicians (see the "Definitions" section) have, as a condition of their appointment, the right to invoke a formal grievance action. The action may seek, through these formal grievance procedures, and involving the judgment their peers, to redress decisions made and/or actions taken at the departmental or sectional, college,



and/or University level that they consider intolerable to the effective execution of their responsibilities.

The Academician grievance procedures are not applicable to degree candidates having appointments such as Teaching Assistant, Research Assistant, Extension Assistant, or Graduate Research Assistant. For the applicable procedure, contact the Office of the University Ombudsman at (607) 255-4321.

**Caution:** Grievance procedures may be invoked only when direct discussion between the academic and any other parties to the dispute have been exhausted and left unresolved. The desire to prevent or to anticipate or to register mere unhappiness over a particular decision or action, does not alone justify invoking a grievance procedure.

When there is coverage by more than one university grievance procedure, the academic filing the formal grievance may choose the 'College' specific grievance procedure to protest a particular action. If the grievance includes Cornell University Library employees, the Cornell University Library Grievance Procedures should be applied. No more than one grievance procedure may be used for the same grievance.

### **What Actions are Grievable**

The academician grievance procedure can be applied to the substantive and/or procedural aspects of any grievance arising out the execution of designated responsibilities. Grievable action may apply to a number of separate or related components of those responsibilities, including but not limited to:

- (1) reward
- (2) academic freedom
- (3) work assignment
- (4) working conditions
- (5) existence of, adequacy of, and adherence to equitable grievance procedures

If the nature of the grievance involves issues of harassment or other forms of discrimination (i.e. including race color, creed, religion, national or ethnic origin, marital status, parenthood, sex, sexual orientation, age, disability, gender identity, gender expression and veteran status the Office of Workforce Diversity Equity and Life Quality must be contacted at (607) 255-3976.

**Note:** The right to initiate a formal grievance action does not extend to circumventing or impairing the normal decision making process.

### **Grievance Expenses**

Any necessary expense of the hearing shall be borne by the College with the exception that if the individual wishes to retain a representative or counsel, he shall bear the expense of such representative or counsel. If the individual is represented by another individual of the college, the representative shall be allowed reasonable time to perform his function without loss of pay.

### **Submitting a Grievance**

If an academician has a grievance, and has made all reasonable efforts to exhaust all venues of personal negotiations, at levels up to and including the College Dean, s/he shall, if s/he wishes to pursue the matter, submit a written statement of grievance to the Chairperson of the College's Grievance Committee (see "Contacts", p. 3 of this document), delineating the specific nature of the complaint, outlining the efforts to resolve it, and declaring the remedies sought.

### **Protection from Bad Faith Grievances**

In the interest of providing protection from bad faith grievances, if during the committee's initial investigation, it is revealed that the complaint is malicious, or knowingly false, or fundamentally frivolous, the grievance shall/will be dismissed and any further proceedings shall/will be promptly terminated.

### **Protection from Retaliation from the Complainant and Witnesses**

Federal and state law and University policy prohibit any form of retaliation against a person or persons who file a grievance. It is the responsibility of the committee to state clearly to the Respondent that any form of retaliation against the Complainant for having filed the grievance is expressly prohibited and will result in serious sanctions.

This protection from retaliation similarly applies to persons who participate as witnesses in the investigative process or adjudicatory proceedings.

### **Grievance Committee**

A three-member Grievance Committee, serving overlapping three-year terms, shall be elected according to standard College procedures from among the academicians of the College (as defined in the Guidelines, Part III, paragraph 1). The chairperson of this committee (hereinafter referred to simply as the Chairperson) shall be designated from among the Committee members by the Dean of the College.

The Grievance Committee shall, during this pre-grievance stage, encourage further direct negotiation between the parties wherever possible, which may include a written reply to the Complainant's allegations by the Respondent (s).

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Also at this stage, the Committee shall/will determine if a grievance fails to meet the standards set forth in University Policy 6.2.10, and therefore does not initiate a grievance action. In these instances, the Committee will provide a written report detailing the basis for its decision to the Complainant, the Respondent (s) and the Dean forthwith.

Failing an informal resolution, the committee shall decide whether a grievance action is to be initiated within 5 working days of receiving the written grievance.

### **Select Committee**

Upon initiation of a grievance action a Select Committee shall be formed within three working days as follows: each of the two principals in the case designates one member; these two members jointly select a third member from within the University, who shall serve as chairperson. All committee members shall themselves be academicians as defined in the Guidelines, and at least one shall be a member of the College of Engineering. In the event the two designated members are unable to agree upon a third member within two working days, the Grievance Committee shall assist in the selection of the third member.

Upon its formation, the Select Committee shall transmit copies of the statement of grievance and of the written reply, if one exists, to all persons involved in the case. It shall invite these persons to submit further written responses within five working days. The Committee shall commence its deliberations within ten working days of its formation and shall report its finding in not more than fourteen days after its formation.

- (a) The primary aim shall be to clarify the issues underlying the grievance and to help the contending parties reach a decision acceptable on all sides.
- (b) The committee shall determine the facts of the case by using all available documentation, supplemented as it deems necessary by interviews, hearings, and any other appropriate forum. It shall have authority to establish and to limit its own procedures; however, each party to an action shall have the right to representation by an advisor or counselor of his or her own choosing. The Committee shall keep notes of all its proceedings and there shall be no undue delay in its procedures.

### **Grievance Resolution and Notification**

Failing an accommodation, the Committee shall render a recommendation for action to the Dean of the College, or to the Provost if the Dean himself/herself is a party to the action no later than 30 working days from the date of submission of the written grievance by the complainant to the chairperson of the Grievance Committee. Such recommendations shall be advisory. While prior academic personnel action may be



reversed, modified, or affected as a consequence of the proceeding, the proceeding itself shall not effect that change.

Strict **confidentiality** shall be maintained with regard to all matters relevant to an individual grievance. However, the College must provide for summary notice of the case, the issue, and the resolution at the request of a party to the issue and with the concurrence of the committee. At the termination of the grievance proceedings, the Select Committee is dissolved and all the records are to be immediately transferred to the office of the College Dean. These records will be confidentially maintained for a period not to exceed seven years.

The Dean of the College (or the Provost, as applicable) shall promptly notify the Complainant (s) and the Respondent (s), in writing, stating the Select Committee's recommendation, the Dean's determination and the instructions for implementing the recommendations. The Dean's (or the Provost) determination must include the reasons for acceptance or rejection of the committee's recommendation. This document shall be forwarded to the Dean of the Faculty and to the Provost.

### **Appeal**

A party to a grievance action may appeal the recommendation of the Grievance Committee or of the Select Committee, or the implementation of their recommendations, by submitting a written appeal to the Dean of the Faculty, who shall initiate action as governed by the applicable rules for appeals under the legislation of the University Faculty.

### **Conformance with University Policy**

Decisions made under these academic grievance procedures must conform to existing College and University policies. Such decisions may lead to the establishment of new policies, but they may not, in and of themselves, constitute new policies.

# GRIEVANCE PROCEDURES FOR ACADEMIC PERSONNEL COLLEGE OF ENGINEERING

The following procedures are formulated in accordance with the Guidelines approved by the Executive Committee of the Board of Trustees, 13 March 1975. It should be emphasized at the outset, however, that they represent primarily a mechanism for arbitration, and are not formally judicial in character.

Parts I, II, and III of the Guidelines spell out the objectives, definitions and assumptions, and coverage of college-level grievance procedures. Two points deserve further elaboration. First, where a grievance involves substantive judgments of a purely academic nature, the grievance arbitrating committees shall restrict themselves to reviewing only the procedural aspects of the case, and shall not substitute their judgment for that of the appropriate academic body (e.g., Department Faculty working in due consultation, or Ad Hoc Committee served by academic referees). Second, as noted, the right to invoke a formal grievance action shall not serve to obstruct the normal administrative processes. An act, alleged to be unfair, must in fact have occurred and efforts at direct negotiation between the parties to the dispute must have been pursued exhaustively without having produced a resolution before resorting to these procedures.

## PROCEDURES

I. Grievance Committee. A three-member Grievance Committee, serving overlapping three-year terms, shall be elected according to standard College procedures from among the academicians of the College (as defined in the Guidelines, Part III, paragraph 1). The chairperson of this committee (hereinafter referred to simply as the Chairperson) shall be designated from among the Committee members by the Dean of the College.

II. Submitting a Grievance. If an academician has a grievance, and has made all reasonable efforts to exhaust all avenues of personal negotiations, at levels up to and including the College Dean, he/she shall, if he/she wishes to pursue the matter, submit a written statement of grievance to the Chairperson, delineating the specific nature of the complaint, outlining the efforts to resolve it, and declaring the remedies sought. The Grievance Committee shall encourage further direct negotiation between the parties wherever possible, which may include a written reply to the academician's statement of grievance, by the party against whom the complaint is directed. Failing a resolution, the

Committee shall decide whether a grievance action is to be initiated. it shall also determine, in cases of ambiguity, who is to be considered the principal party against whom the grievance is properly directed. If the Committee decides a grievance fails to exist, and therefore does not initiate a grievance action, it shall communicate in writing the basis for its decision to the principals and the Dean forthwith. In the event the grievance alleges a violation related to Cornell's policy forbidding sexual harassment, the Office of Equal Opportunity will be notified to assist in the investigation and, where appropriate, any subsequent action.

III. Select Committee. Upon initiation of a grievance action a Select Committee shall be formed as follows: each of the two principals in the case designates one member; these two members jointly select a third member from within the University, who shall serve as chairperson. All committee members shall themselves be academicians as defined in the Guidelines, and at least one shall be a member of the College of Engineering. In the event the two designated members are unable to agree upon a third member within seven days, the Grievance Committee shall assist in the selection of the third member.

Upon its formation, the Select Committee shall transmit copies of the statement of grievance and of the written reply, if one exists, to all persons involved in the case. It shall invite these persons to submit further written responses within seven days. The Committee shall commence its deliberations within fourteen days of its formation and shall report its finding in not more than twenty eight days after its formation.

#### IV. Select Committee Aims and Procedures.

- (a) The primary aim shall be to clarify the issues underlying the grievance and to help the contending parties reach a decision acceptable on all sides.
- (b) The Committee shall determine the facts of the case by using all available documentation, supplemented as it deems necessary by interviews, hearings, and depositions. It shall have authority to establish and to limit its own procedures; however, each party to an action shall have the right to representation by an advisor or counselor of his or her own choosing. The Committee shall keep minutes of all its proceedings and there shall be no undue delay in its procedures.

(c) Failing an accommodation, the Committee shall render a recommendation for action to the Dean of the College, or to the Provost if the Dean himself/herself is a party to the action. Such recommendations shall be advisory. While prior academic personnel action may be reversed, modified, or affected as a consequence of the proceeding, the proceeding itself shall not effect that change.

(d) Strict confidentiality shall be maintained with regard to all matters relevant to an individual grievance. At the request of a party to the issue, and with the concurrence of the other parties, the Committee may publish a summary notice of the case, the issue, and its resolution, with omission of personal references as it deems appropriate.

(e) At the termination of the case the Select Committee is dissolved and its records are transferred to the office of the College Dean for safekeeping.

(f) The Dean of the College (or the Provost, as applicable) shall promptly notify all parties to the case, in writing, stating the Select Committee's recommendation and his/her decisions implementing it. A similar notification shall be sent to the Dean of the Faculty and to the Provost. If the College Dean (or the Provost) decides not to comply with the Committee's recommendation, he/she shall fully state his/her reasons.

V. Appeal. A party to a grievance action may appeal the recommendation of the Grievance Committee or of the Select Committee, or the implementation of their recommendations, by submitting a written appeal to the Dean of the Faculty, who shall initiate action as governed by the applicable rules for appeals under the legislation of the University Faculty.

VI. Conformance with University Policy. Decisions made under these academic grievance procedures must conform to existing College and University policies. Such decisions may lead to the establishment of new policies, but they may not, in and of themselves, constitute new policies.