

# OREGON INSTITUTE OF TECHNOLOGY

## Grievance Procedure for Faculty OIT-21-321

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### **Purpose:**

The purpose of this grievance procedure is to provide for open communication, which promotes the equitable resolution of employment disputes. This procedure will be construed to protect the substantive rights of interested persons to meet appropriate due process standards and to assure that Oregon Institute of Technology complies with all applicable laws and regulations.

### **Scope:**

This grievance procedure shall apply to all unclassified academic employees with faculty rank, as described by the OAR 580-021-0050. The terms and conditions of this procedure will not lessen any employee rights under existing institutional grievance procedures. Grievances based upon alleged illegal discrimination are subject to the procedures set forth in OAR 580-042-0050. Administrative staff employees with grievances related to discrimination are referred to Grievance Procedure for Administrative Staff, OIT 20-320.

### **Definitions:**

For the purposes of this grievance procedure:

- a. "Grievance" means a complaint by an academic employee that the employee was wronged in connection with compensation, tenure, promotion or other conditions of employment or the employee's rights were denied as to reappointment.
- b. "Other conditions of employment" shall include, but not necessarily be limited to, violations of academic freedom, discriminatory employment practices, nondiscriminatory employment practices and laws, rules, policies and procedures under which Oregon Institute of Technology operates. However, challenges to disciplinary actions or procedures shall be raised under OAR 580-021-0320. Please note that, while sexual harassment is a form of unlawful discrimination, complaints regarding such harassment will be investigated and administered according to the timelines and procedures set forth in the Policy on Sexual Harassment (OIT 21-325).
- c. "Days" mean calendar days unless expressly designated otherwise.

### **Informal Resolution process:**

Before filing a formal grievance, faculty should first try to resolve the situation informally with their immediate supervisor, and/or dean, and then the provost. *The grievant must initiate informal proceedings no more than sixty (60) days after the grievant could reasonably have known about the situation grieved.* The grievant must receive an answer in writing to such informal requests from immediate supervisor, dean or provost within 15 days.

### **Formal Resolution Process:**

If informal requests are unsuccessful, the grievant may file a formal written grievance with the provost. *This formal grievance must be filed within fifteen (15) days of receipt of*

*the answer to the informal grievance.* The provost will review the grievance and provide a written reply and decision within 21 days from receipt of the formal grievance.

The grievant may then appeal the decision to Faculty Appeals Committee of the Faculty Senate, or may appeal directly to the president without a hearing by the Faculty Appeals Committee within 7 days from receipt of provost's decision. The charge of the Faculty Appeals Committee is to investigate the process which led to the decision, not the decision itself. The Faculty Appeals Committee will not re-weigh the evidence considered by the decision maker and will not set aside their decision on the basis that the appellant believes that the weight of the evidence favored a different result. Issues that will be considered include but are not limited to:

1. Was the grievant denied any rights, including due process or other procedural rights, afforded to him or her during the grievance process?
2. Did the university meet the applicable deadlines during the grievance process?
3. Was any important evidence unavailable to the grievant or the decision makers? Did the absence of such evidence materially affect the decision made or was its absence harmless error?
4. Was the decision in conflict with applicable rules or laws?

If the grievant chooses to appeal the decision to the Faculty Appeals Committee, the procedure is as follows:

1. Grievant submits a written formal complaint.
2. The Faculty Appeals Committee, as described in the Senate Charter, convenes. It decides how to constitute itself, giving consideration to the information provided by the grievant. It then sets dates for both a preliminary hearing and a formal hearing. The formal hearing must take place within 30 days of receipt of the written formal complaint.
3. The preliminary hearing is held no later than 10 days prior to the formal hearing.
  - a. The committee determines if the grievance meets the definition of a grievable complaint as defined in the relevant OARs. If not, the committee prepares a report to that effect and forwards it to the president.
  - b. If the committee decides the grievance meets the definition, it then determines the admissibility of all documents and exhibits. Five days prior to the formal hearing, admissible documents are distributed to committee members.
4. The formal hearing consists of the following structure:

- a. Brief opening statements by grievant (or representative) and by the person/entity (or representative) whose decision is being grieved; parties may be represented by legal counsel.
  - b. Presentation of witnesses by person/entity against whom the grievance is filed and opportunity for questioning by grievant (or representative) and by the committee.
  - c. Presentation of witnesses by grievant and opportunity for questioning by person/entity (or representative) whose decision is being grieved and by the committee.
  - d. Rebuttal witnesses are heard for both sides.
  - e. Summation by both parties, the grievant going last.
  - f. An audio recording of the hearing is maintained. All documents and exhibits must be in writing. Exhibits must be marked to identify the person offering them. The exhibits shall be preserved by Oregon Tech as part of the record of the proceedings. Both parties shall have access to a complete record of the hearing.
  - g. The chair of the committee conducts the meetings, and may continue the hearing with recesses and set reasonable time limits for oral presentations.
  - h. The hearing may be open to the public at the option of the grievant to the extent allowed by law.
5. The committee submits its findings and recommendations, based only on the evidence presented at the hearing, to the president within 10 days of the conclusion of the formal hearing. In the event the Faculty Appeals Committee finds what it believes to be a policy or procedure that could use revision it is encouraged to request the Faculty Senate to review that policy or procedure for future use.
  6. In the event a decision is not made at any level within the designated time limit, the grievant may submit the grievance to the next step.
  7. The president, or a designee of the president, reviews the provost's report and the Faculty Appeals Committee's report (if any). The president then issues a written decision, copied to the grievant. The grievant must receive a decision within 180 days of filing the formal grievance with the provost.

**The Timeline:**

<p>The grievant initiates informal proceeding with immediate supervisor or dean and then provost</p>	<p>within 60 days after the grievant could reasonably have known about the situation grieved</p>
<p>The immediate supervisor or dean or provost give an answer</p>	<p>within 15 days of initiating the grievance</p>
<p>The grievant files a written formal grievance with provost</p>	<p>within 15 days of receipt of the answer to the informal grievance</p>
<p>The provost will review the grievance and provide a written reply and decision</p>	<p>within 21 days from receipt of a formal grievance</p>
<p>The grievant appeals the decision in writing</p> <ul style="list-style-type: none"> <li>• to Faculty Appeals Committee of the Faculty Senate,</li> </ul> <p>or</p> <ul style="list-style-type: none"> <li>• the President</li> </ul>	<p>within 7 days from receipt of provost's decision.</p>
<p>If the grievant chooses to appeal the decision to the Faculty Appeals Committee, such committee</p> <ul style="list-style-type: none"> <li>• holds the preliminary hearing</li> <li>• if necessary, holds the formal hearing</li> <li>• submits its findings and recommendations to the president</li> </ul>	<ul style="list-style-type: none"> <li>• no later than 10 days prior to the formal hearing</li> <li>• within 30 days of receipt of the written formal complaint</li> <li>• within 10 days of the conclusion of the formal hearing</li> </ul>
<p>The president, or a designee of the president, issues a written decision, copied to the grievant</p>	<p>within 180 days of filing the formal grievance with the provost</p>

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Recommended by:

Faculty Senate – April 1, 2014  
President’s Council – May 22, 2014

Approved:   
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Christopher G. Maples, President

Date: May 29, 2014