



Ohio Administrative Code

Rule 3335-5-05 Procedures concerning faculty complaints about promotion, tenure and renewal decisions.

Effective: October 11, 2023

(A) Definitions and construction.

(1) Complaints concerning promotion, tenure, or renewal decisions may be made to the committee on academic freedom and responsibility by any member of faculty as defined in rule 3335-5-19 of the Administrative Code

(2) In all formal proceedings under this rule, the burden of going forward and the burden of establishing proof shall be on the complainant.

(3) "Improper evaluation," as used in this rule, shall mean:

(a) That a decision affecting the complainant was based upon an inadequate consideration of the pertinent facts by the individual(s) making the decision, or

(b) That such decision was based upon reasons or considerations that infringe a constitutional right of the complainant.

(4) In considering complaints alleging an improper evaluation under this rule, the review should consider only whether those individual(s) making the decision followed the appropriate procedures, considered the important evidence material to a fair determination, and acted in a responsible manner. When reviewing complaints, neither the committee on academic freedom and responsibility nor the faculty hearing panel shall substitute its judgment on the merits of the individual's performance for that of the academic unit.

(5) If a complaint is dismissed by either the committee on academic freedom and responsibility or a hearing panel pursuant to this rule, no appeal may be taken by the complainant.

(6) All records of the proceedings under this rule shall be kept in the office of the executive vice



president and provost and shall not be open to public inspection without the written permission of the complainant and the executive vice president and provost.

(B) The committee on academic freedom and responsibility.

(1) Complaints alleging improper evaluation shall be presented in writing to the faculty members of the committee on academic freedom and responsibility (hereinafter "committee") and to the executive vice president and provost within thirty days (whenever practical) after a faculty member has been notified of the decision the faculty member wishes to challenge.

(2) Upon receipt of a written complaint alleging improper evaluation, the committee shall have sixty days to review the complaint, and evidence relating to it (including evidence on behalf of the academic unit) to determine whether reasonable and adequate grounds exist for asserting improper evaluation.

(3) By means of informal procedures, the committee shall review the complaint, and evidence relating to it (including evidence on behalf of the academic unit) to determine whether reasonable and adequate grounds exist for asserting improper evaluation.

(4) If the committee determines that no reasonable and adequate grounds exist for asserting improper evaluation, it shall dismiss the complaint and forward all files on the matter to the executive vice president and provost.

(5) If the committee determines that reasonable and adequate grounds may exist for asserting improper evaluation, it shall forward the complaint and all additional materials gathered during examination of the complaint to the faculty hearing committee and to the complainant, established pursuant to rule 3335-5-48.9 of the Administrative Code.

(6) If the committee is unable to reach a decision in the allotted sixty days, the complaint shall be forwarded to the faculty hearing committee.

(C) The faculty hearing committee.



- (1) Upon receipt of a complaint alleging improper evaluation, the chair of the faculty hearing committee shall meet with the complainant to discuss the issues in the complaint and to inform the complainant about the procedures to be followed in the hearing.
- (2) Within thirty days of receipt of a complaint, pursuant to paragraph (B)(6) of this rule, the faculty hearing committee shall select a hearing panel according to the method provided in rule 3335-5-48.10 of the Administrative Code, to conduct proceedings in order to determine whether there is validity in the complaint. The hearing panel shall make every effort to conclude the hearing within sixty days, and the chair of the faculty hearing committee shall make every effort to submit the written report of the hearing to the executive vice president and provost within thirty days.
- (3) Actions being challenged under this rule shall be responded to by the executive vice president and provost or designee.
- (4) In matters involving allegations under paragraph (A)(3)(b) of this rule, the hearing panel shall conduct its proceedings in a collegial manner in accordance with the following guidelines:
 - (a) The complaint shall be set forth in writing and a copy furnished to the party or parties that are alleged to have committed the infringement.
 - (b) The hearing panel may restrict the attendance of persons at the proceedings, provided that the complainant shall not be denied the right to have one observer of their choosing present at all times.
 - (c) Both complainant and respondent shall have the right to be accompanied and advised by any person of their choice, to present witnesses and evidence on their own behalf, and to examine witnesses and evidence.
 - (d) The hearing panel shall receive such testimony and other evidence as it deems to be material and relevant to the issues before it.
 - (e) An electronic recording shall be kept of all proceedings at a hearing panel. The recording shall be conveyed by the chair of the faculty hearing committee to the office of the executive vice president and provost.



- (5) In matters involving complaints under paragraph (A)(3)(a) of this rule, the hearing panel shall conduct an investigatory proceeding in accord with the following guidelines:
- (a) The proceeding shall not be adversarial in nature. The proceeding is an investigation leading to a report on whether or not adequate consideration was accorded.
 - (b) The complainant should be given opportunity to address the hearing panel in writing and in person, and offer any evidence substantiating the claim.
 - (c) If the complainant appears before the hearing panel, the complainant may bring an advisor. No formal transcript of the proceedings need be kept.
 - (d) The hearing panel shall request an oral or written report on the procedures followed and the evidence considered in reaching the decision that led to the complaint. The person or group who makes the decision may be called upon to demonstrate that all important and material evidence was considered.
- (6) At the conclusion of a hearing, the hearing panel shall:
- (a) Makes separate findings of fact with respect to each substantive issue raised at the hearing.
 - (b) Dismisses the complaint if it determines that there has been no improper evaluation.
 - (c) When it has found that an improper evaluation has been made, makes a recommendation as to steps that could be taken to assure a new, fair, and impartial hearing.
 - (d) Shall be submitted to the dean of the college in which the complainant is a member and to the executive vice president and provost. The executive vice president and provost, in consultation with the hearing panel and the chair of the faculty hearing committee, shall take such steps as may be deemed necessary to assure a new fair, and impartial evaluation. A copy of the hearing panel's findings shall also be sent to the president.



(7) If a decision is remanded under paragraph (C)(6)(c) of this rule, it shall be reconsidered promptly. Within thirty days of the receipt of the hearing panel's decision, the executive vice president and provost shall respond in writing to the hearing panel and the president, stating what action has been taken and the reasons therefor.

(8) A copy of all findings and recommendations of a hearing panel shall be provided to the complainant.

(D) The president.

(1) Upon receipt of a report under paragraph (C)(7) of this rule, the president shall review the matter and take whatever action the president deems appropriate.

(2) All decisions of the president under this rule shall be provided in writing to the hearing panel and the complainant.