



NEW YORK MEDICAL COLLEGE

A MEMBER OF Touro University

School of Medicine

Faculty Grievance Policy & Procedure

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Supersedes: Not applicable
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I. PURPOSE

The purpose of the Faculty Grievance Policy & Procedure is to provide New York Medical College (NYMC) School of Medicine (SOM) faculty members with a confidential means for the review and mediation of faculty grievance utilizing an established committee of peers with the goal of resolution of faculty grievance at a local and informal level.

II. POLICY

It is the policy of NYMC SOM that an aggrieved member of the faculty be afforded a means by which their grievance may be addressed locally through a peer review process using the Faculty Grievance Committee (FGC) as defined by NYMC SOM Faculty Bylaws. While no formal rules of evidence shall apply to the committee's proceedings, the essential facts underlying decision-making must have a trustworthy basis.

The procedures of the FGC shall in no way be interpreted as a means to circumvent any required reporting and/or investigation of matters relevant to employees of NYMC that are governed by other institutional review policies (e.g. sexual harassment, research misconduct, etc.), the NYMC Employee Handbook, and/or the Faculty Handbook. Such College and/or SOM policies shall stand in effect and take precedence over the committee in circumstances reasonably determined by administration to be NYMC employee-related matters.

III. SCOPE

This policy shall apply to individuals who hold an active SOM faculty appointment in one or more departments of the SOM.

IV. DEFINITIONS, REFERENCES

- A. Confirmed Grievance. The basis for a "Confirmed Grievance" exists if the FGC finds the following conditions all exist:
1. The faculty member has a claim of entitlement from the College to some substantial advantage, benefit or immunity based on College-promulgated policies or past College practice upon which the faculty member has good cause to rely and that are applicable to the class of faculty to which the faculty member belongs.
 2. The faculty member's claim of entitlement has been denied, repudiated, or not acted upon in a reasonable period of time by a person or persons in superior authority without sufficient reason.
 3. The faculty member has reasonably brought the matter before the FGC after taking reasonable steps in good faith to attempt an informal resolution of the grievance first with their immediate supervisor and then with appropriate persons in higher authority.
 4. The substance of the grievance has not been adjudicated by, and is not pending before, a court of law or some other tribunal or agency.

- B. Dean. Refers to the Dean of the School of Medicine or the Dean of the Graduate School of Biomedical Sciences depending upon whether the grievance is based on an action specific to a particular school as determined by the Faculty Grievance Committee.
- C. NYMC Employee Handbook. An institutional document made available to all employed faculty and staff members of the NYMC community that serves as an informational guide and reference regarding NYMC's policies, guidelines and practices pertaining to employees.
- D. NYMC SOM Faculty Bylaws (Bylaws). The Bylaws generally outline the rights, responsibilities, and expectations of faculty members and serve as a foundational document guiding interactions among faculty members, administration, and the institution.

V. PROCEDURES

- A. Procedural Principles. In connection with proceedings by and before the FGC, the following procedural principles shall apply:
 - 1. For good cause as determined in the judgment of its members, the FGC may permit or order one or more adjournments of its meetings or extensions of time limitations provided for herein. Extensions of time will also be provided upon mutual agreement of the parties.
 - 2. No formal rules of evidence shall apply to the Committee's proceedings, but the essential facts underlying its decision must have a trustworthy basis.
 - 3. Because of the often inherently sensitive nature of FGC inquiries into issues such as performance, reputation and credibility, the Committee's proceedings shall be limited to those individuals whose participation is necessary to address the grievance.
 - 4. Without compromising its duties as prescribed herein or its objectivity, the FGC shall encourage and assist in the informal resolution of grievances.
 - 5. Confirmed Grievances shall be accorded a presumption of legitimacy by the Dean and the College Administration, subject to a demonstration of substantial irregularity in the procedures leading to the Committee's findings, palpable error of fact or bad faith.
- B. Submission of Grievance.
 - 1. An aggrieved faculty member shall submit their grievance to the secretary of the FGC in writing. The written grievance shall contain, stated separately, summaries of (1) the facts, and (2) the contentions, upon which the faculty member will rely, and shall be submitted with copies of all exhibits available to the faculty member that he or she deems relevant.
 - 2. The secretary shall cause copies of the grievance to be forwarded to the chair, vice chair, and members of the FGC, and the person responsible for the grievance within fifteen (15) days of its receipt. The aggrieved faculty member shall be given reasonable advance notice of the date of the first meeting at which the grievance will be considered and invited to appear at that meeting. Such meeting shall be held within forty-five (45) days of the submission of the grievance.
- C. First Meetings.
 - 1. At the first meeting at which a grievance is presented, the Committee shall review the grievance and the exhibits submitted therewith and shall permit the aggrieved faculty member to appear in support of the grievance.
 - 2. After considering the grievance and any statements made by the grievant, the Committee shall determine whether sufficient evidence of the conditions for processing of a grievance exists to warrant further proceedings.
 - a. If the Committee determines that sufficient evidence for further proceedings does not exist, it shall inform the grievant in writing and no further proceedings shall be called for.
 - b. If the Committee determines that sufficient evidence for further proceedings does exist, it shall so inform the grievant, the person responsible for the grievance and the Dean in writing

and adjourn further proceedings to a subsequent meeting, which shall be held within forty-five (45) days of the final adjournment of the first meeting.

D. Subsequent Meetings.

1. In preparing for a subsequent meeting on a grievance the committee shall:
 - a. Determine, based on the grievant's evidence and other factors deemed relevant, those persons who should be invited to appear at the subsequent meeting to give evidence in connection with the grievance and those documents and items of information that should be requested from appropriate persons for use in connection therewith, and;
 - b. Upon reasonable notice in writing, invite those persons who, in the Committee's judgment, can give evidence most material to the grievance issues to appear at the subsequent meeting or to submit a written statement on such issues for the consideration of the Committee thereat, and request from the appropriate persons, subject to a claim of confidentiality, copies of those documents and items of information deemed by the Committee necessary to its efforts to reach a determination on the grievance issues.
 - c. If members of NYMC administration are requested to appear at a subsequent meeting, or if documents or items of information are requested from members or departments of NYMC administration, the Committee shall provide the Dean copies of the written grievance and all exhibits submitted to the Committee.
2. At the subsequent meeting, the Committee shall permit those persons invited, as well as others who appear and are able to provide relevant and material information, to state their positions regarding the grievance issues and to submit such documentary evidence as the Committee may deem appropriate. The Committee shall also consider at such meetings all documents and items of information supplied at its request relating to the grievance issues and may direct questions to the persons appearing before it.

E. Decision. After the Committee's receipt, review, and consideration of evidence sufficient in its judgment for a fair determination, the Committee shall, within thirty (30) days, render a decision on the grievance:

1. If the decision is adverse to the grievant, the aggrieved faculty member, the Dean and the person responsible for the grievance shall simultaneously be informed in writing and the reasons for the decision, stated separately as to facts and conclusions, shall be summarized after which there shall be no cause for further proceedings.
2. If the decision is in favor of the grievant, the aggrieved faculty member, the Dean, and the person responsible for the grievance shall simultaneously be informed in writing that the grievance is deemed a Confirmed Grievance as well as the reasons for the decision, stated separately as to facts and conclusions.

F. Adjustment of Grievances.

1. Upon the Dean's receipt of a Confirmed Grievance from the Committee, the Dean shall cause inquiry to be made of the person or persons responsible for the grievance and of those with the authority to affect its satisfaction, and shall, within thirty (30) days cause the Committee and the grievant to be advised in writing of whether and how the Confirmed Grievance will be adjusted.
2. If the Dean's response to the Committee and the grievant is that the confirmed grievance will be adjusted and the adjustment is accepted by the grievant, there shall be no cause for further proceedings.
3. If the Dean's response to the Committee is that the Confirmed Grievance will not be adjusted, the reasons shall be stated in writing to the Faculty Grievance Committee and the grievant.

G. Appeal to the Chancellor/CEO of the College.

1. If the Dean's response to the grievant and the Committee is that a Confirmed Grievance will not be adjusted, or if the adjustment proposed by the Dean is not satisfactory to the grievant, the aggrieved

faculty member may, within fifteen (15) days after receipt of the Dean's response, appeal in writing to the NYMC Chancellor/CEO. In appealing to the Chancellor/CEO the grievant shall outline, in writing, how the Dean's response differed from the recommendations of the FGC. The grievant shall also inform the Committee, in writing, of an appeal to the Chancellor/CEO.

2. The Chancellor/CEO shall respond within thirty (30) days from receipt of the appeal, in writing, to the grievant and the FGC.
3. If the response is that the Confirmed Grievance will be adjusted and the adjustment is accepted by the grievant, there shall be no further cause for action.

H. Mediation.

1. If the Chancellor/CEO's response to the grievant and the Committee is that the Confirmed Grievance will not be adjusted or if the proposed adjustment is not satisfactory to the grievant, the grievant may, within fifteen (15) days of receipt of the Chancellor/CEO's response, make a request in writing to the president of the Faculty Senate that a mediation panel be formed.
2. Within fifteen (15) days of written receipt of a request for mediation, the president of the Faculty Senate shall jointly with the Chancellor/CEO, choose, by lottery, from the Panel of Mediators three (3) faculty to serve as mediators.
3. The grievant and the Chancellor/CEO may challenge one (1) mediator each. If a challenge occurs, the challenged mediator will be replaced by another faculty member chosen by lottery from the Panel of Mediators.
4. The mediators shall attempt to work with all involved parties to achieve a good faith resolution of the Confirmed Grievance. Should a good faith resolution be reached, the mediators shall notify, in writing, the Chancellor/CEO, president of the Faculty Senate, the Dean, the grievant and the FGC of the parameters of the resolution.
5. If after thirty (30) days the mediators have been unable to achieve a mediated settlement, they shall so notify, in writing, the Chancellor/CEO, the president of the Faculty Senate, the Dean, the grievant and the FGC. They shall also notify the aforementioned parties that they are preparing a recommendation to be issued fifteen (15) days from the time of this notice.
6. The recommendation shall be provided, in writing, to the Chancellor/CEO, president of the Faculty Senate, the Dean, the grievant and the FGC. The parameters of the recommendation shall not exceed and may be less than those set forth in the initial FGC recommendation.
7. Following receipt, the Chancellor/CEO shall confer with the Dean regarding the mediators' recommendation. The Chancellor/CEO shall thereafter determine whether the recommendation will be adopted or not. The Chancellor/CEO will inform the Dean, the grievant, the FGC and the president of the Faculty Senate within thirty (30) days after its receipt whether or not the recommendation will be adopted.

VI. EFFECTIVE DATE

This policy is effective immediately upon approval of NYMC SOM Faculty Bylaws.

Any future revision of this policy and procedure shall be taken into consideration by the Dean of the SOM in consultation with the Executive Committee of the Faculty Senate. Such policy changes shall become effective with a majority vote of the Dean's Executive Committee and the Dean's approval.

VII. POLICY MANAGEMENT

Executive Stakeholder: Dean of the SOM

Oversight Office: Office of Faculty and Academic Affairs