SON OP: 20.090 Faculty Grievance Policy
(See http://www.ttuhscedu.HSC/OP/op60/op6010.pdf)

PURPOSE: See below.

REVIEW: This section of the handbook shall be reviewed by the Dean and the Faculty Council by September 1st on odd-numbered years.

POLICY/PROCEDURE:

1. Policy

1.1. The purpose of this School of Nursing (SON) Faculty Grievance Policy (Policy) is to provide a means by which formal expressions of disagreement related to administrative decisions involving certain faculty employment actions by supervisors may be resolved. Specifically excluded from this Policy are disagreements involving tenure; promotion; non-reappointment; terminal appointment; faculty dismissal; discrimination under federal or state statutes, civil rights or sexual harassment, misconduct in research, etc., which shall be addressed through other administrative review channels. (See Texas Tech University System Regents’ Rules 01.02.9.c(2)(c) and 03.06, TTUHSC OP 60.10 “Faculty Grievance Procedure”, 51.02 “Non-Discrimination and Anti-Harassment Policy and Complaint Procedure for Violations of Employment and Other Laws”, and 51.03 “Sexual Harassment, Sexual Assault, Sexual Misconduct, and Title IX Policy and Complaint Procedure”.) Further, the Texas Tech University Health Sciences Center (TTUHSC) SON Faculty Grievance Policy does not apply to those matters defined as "peer review" under Texas Occupations Code, Chapter 303, "Nursing Peer Review." Nor does this Policy address issues related to disagreements arising from the TTUHSC SON Nurse Practice Income Plan or other TTUHSC policies and procedures of general applicability. Students and employees may not use this Policy to file a grievance against a faculty. Grievances relating to student grade appeals and other student complaints are addressed in the SON Student Handbook.

1.2. Fundamental to the grievance process is the principle that all parties make a good faith effort to resolve the grievance at the lowest possible administrative level. However, a faculty member has a right to a hearing and an appeal for redress of grievance against a supervisor through the procedures outlined herein below.

1.3. A faculty member may bring a grievance without fear of retaliation. The filing of a grievance, however, will not affect the ability of TTUHSC to pursue disciplinary action involving the faculty member.

1.4. A faculty member holding an administrative position will have access to these grievance procedures with regard only to one’s faculty duties, and will not have access to these procedures with regard to administrative duties. Individuals who (a) do not meet the definition of faculty contained herein, or (b) are administrators complaining of an administrative decision (not involving faculty matters, i.e., teaching, research or practice) shall utilize the TTUHSC non-faculty grievance procedure. (See TTUHSC OP 70.10 "Non-Faculty Employee Complaint Procedures.”)

1.5. Every effort shall be made to follow the time periods suggested in the model procedures outlined
below. Reasonable extensions of response times may be granted by the Dean for university holidays or unusual circumstances at the request of either of the applicable parties at each step of the grievance process.

1.6. Individuals are required to meet all their TTUHSC responsibilities while pursuing a grievance.

1.7. Resignation from or filing a lawsuit against the institution before initiation of a grievance or during the process shall preclude initiation of continuation of the grievance process.

1.8. Where parties to a grievance reside in a location different from Lubbock, grievance hearings will be held in Lubbock and may require travel by the involved persons. The Dean may, in his/her discretion, make a decision to relocate hearing to expedite the proceeding.

2. Definitions

2.1. **Grievance** - A grievance is a formal expression of disagreement between a faculty member and his/her superior, i.e., a program head or other SON supervisor-administrator, which emanates from an administrative decision of the superior regarding an employment matter at TTUHSC.

2.2. **Employment action** - An employment action is action taken or a decision made by the superior in the process of conducting one's administrative duties vis-à-vis the supervisee, such as salary, hours of work, working conditions, disciplinary action, performance evaluation, job assignment, etc. Specifically excluded from employment actions are those matters related to tenure, promotion, non-reappointment, terminal appointment, faculty dismissal, discrimination under federal or state statutes, civil rights or sexual harassment, misconduct in research, etc., which shall be addressed through other administrative review channels. In addition, employment actions do not apply to those matters defined as "peer review" under Texas Occupations Code, Chapter 303, "Nursing Peer Review."

2.3. **Administrator/Administration** – An administrator is defined as an individual serving as Dean, Associate Dean, Assistant Dean, Regional Dean, Director (or Associate Director) of a SON Program.

2.4. **Faculty** - A faculty member is defined as an individual employed by TTUHSC whose duties include teaching, research, and/or practice, and whose rank is Instructor, Assistant Professor, Associate Professor or Professor.

2.5. **Grievant** - The Grievant is the faculty member who has a disagreement with his/her superior. The Grievant may also be referred to as a Party.

2.6. **Respondent** - The Respondent is the SON administrator with whom a faculty has a disagreement that is the subject of a formal grievance. The Respondent may also be referred to as a Party.

2.7. **Grievance Hearing Panel** - The Grievance Hearing Panel is a body of five (5) faculty members from the SON who serve for two-year staggered terms. But, no administrator serving at the program level or higher may serve on the Panel. The chair of the Grievance Hearing Panel shall select three (3) eligible faculty members from the Panel, one of whom shall be tenured and another who shall hold the rank of Assistant Professor or higher, to serve as members of the Faculty Grievance Hearing Committee whose job it will be to hear and consider the grievance brought by a SON faculty against his/her superior. Members-of the Grievance Hearing Panel shall serve one two-year term but will be eligible to again serve, provided a two-year interval has occurred. However, a member may be re-elected for a consecutive term should unusual circumstances necessitate such action.

2.8. **Faculty Grievance Hearing Committee** - The Faculty Grievance Hearing Committee (Hearing Committee) is a body of three (3) SON faculty members, each of whom is able to serve objectively in hearing and considering the formal grievance of a faculty member against his/her superior. Should a Hearing Committee member have a conflict of interest, or otherwise be unable to serve, the Hearing Committee member shall recuse him/herself. In that event, the Dean, the Parties, and the Chair of the Grievance Hearing Panel shall be notified in writing, whereupon the Grievance Hearing Panel shall select an alternate Hearing Committee member to serve.

2.9. The Hearing Committee is advisory in nature to the Dean. Members shall serve one two-year term but will be eligible to again serve provided a two-year interval has occurred. However, a member may be re-elected for a consecutive term only when unusual circumstances necessitate.

3. **Grievance Procedures** - Grievance procedures related to discrimination, sexual harassment, sexual assault, sexual misconduct and Title IX complaints are not addressed by these procedures outlined.
below. Instead, faculty should refer to procedures outlined in HSC OP 51.02 “Non-Discrimination and Anti-Harassment Policy and Complaint Procedure for Violations of Employment and Other Laws”, and HSC OP 51.03 “Sexual Harassment, Sexual Assault, Sexual Misconduct, and Title IX Policy and Complaint Procedure”

3.1. General. A grievance, defined as a formal expression of disagreement related to an employment action, should be filed only after an attempt has been made to resolve the disagreement through an informal meeting of the Parties concerned. If the faculty member believes that his/her concerns have not been resolved as a result of the informal meeting with the person with whom the disagreement exists, he/she has the option to file a formal written grievance which must be addressed in a manner that includes, at a minimum, the steps outlined below.

3.2. Step One, Informal Resolution/Grievance. Within fifteen (15) business days of the initial informal meeting and communication, the faculty member (Grievant) shall then in writing submit the grievance to his/her immediate superior and include any supporting evidence and a proposed resolution to his/her immediate superior. The immediate superior (Respondent) shall respond in writing to the faculty member within five (5) business days of receiving the written grievance. Once the grievance has been submitted in writing, it cannot be changed except with the written approval of all parties.

3.3. Step Two, Informal Resolution/Grievance – Additional Supervisory Levels. If the grievance is not resolved informally to the Grievant’s satisfaction, the process shall be repeated at each appropriate supervisory level up to and including the Department Chair. In each case, within five (5) business days, the faculty member shall submit: (a) the original written grievance; (b) the written responses of Respondent(s) to whom it was previously submitted; and, (c) an explanation why the Grievant finds the response(s) unsatisfactory. At each supervisory level, the Respondent shall reply in writing within five (5) business days of receipt of the grievance.

3.4. Step Three, Grievance Hearing. If the grievance is not resolved within the supervisory structure of the SON Policy, i.e., informal meeting(s), the Grievant may submit to the Dean a written request for a Grievance Hearing within five (5) business days of receiving the Respondent’s decision. As in previous steps, the appeal must set forth in writing the reason(s) the decision(s) made thus far are unsatisfactory and specify the outcome being sought.

3.4.1. The Dean shall convene a Grievance Hearing Panel (Panel). Eligible members are faculty who hold the rank of Assistant Professor or higher. From the Panel, a Faculty Grievance Hearing Committee (Hearing Committee) comprised of three (3) members will be named by the chair to consider the grievance. One Hearing Committee member shall be selected by the Grievant, one selected by the Respondent, and the third member, a tenured faculty, will be selected by the other two (2) members. (In the event a tenured faculty is not available to serve, a tenure track member at the rank of Assistant Professor or higher may serve.) The three members shall designate one person to serve as chair of the Hearing Committee, who shall be responsible for contacting the parties, making arrangements for the Hearing, notifying the Grievant and Respondent of any matters regarding the Hearing, conducting the Hearing, and transmitting the Hearing Committee’s recommendations to the Dean.

3.4.2. The purpose of the Hearing shall be to investigate and evaluate the grievance and provide a written, advisory recommendation to the Dean, whose decision will be final, unless it is alleged that a procedural violation occurred. The Grievant and Respondent shall have five (5) business days to submit to the chair of the Panel copies of all supporting documents and a list of witnesses, if any, to determine if a hearing is warranted. The documents and witness list from each party will be transmitted to the other party. If appropriate, the Panel may permit additional documents or witnesses for rebuttal purposes. All submitted materials and testimony are to be treated as confidential.

3.4.3. A Hearing is not warranted if the Hearing Committee determines that (a) the grievance is outside the scope of this Policy, or (b) reasonable and good faith efforts have not been made to resolve the matter informally. Should the Hearing Committee determine that no Hearing is warranted, the Committee shall promptly provide notice and a brief written explanation of this decision to the Grievant, the Respondent and the Dean.

3.4.4. The Hearing Committee shall establish the procedure for the Hearing, allowing the
Grievant and Respondent to present their respective positions in a fair, non-adversarial manner. The Hearing shall be closed except for those persons whose attendance is required. Any request for an exception must be submitted in writing to the chair of the Panel, who shall render a final written decision. Legal rules of evidence and procedure do not apply to the Hearing procedure. Should the Committee deem it necessary, the members may seek independent pro bono legal advice from a faculty member at the TTU School of Law. The Grievant may be accompanied to the Hearing by a representative not authorized to strike in the State of Texas, or an attorney, but must notify the chair of the Hearing Committee within five (5) business days of referral for Grievance Hearing regarding the attendance of a representative. An attorney from the Office of General Counsel will represent the SON/Respondent if the Grievant has a representative. A representative or attorney for the respective Parties may attend in an advisory capacity only and may not participate in the Hearing. All meetings of the Hearing Committee will be memorialized through minutes, marked “Confidential,” and the Hearing will be audio recorded. A copy of the recording of the Hearing will be made available to either Party, if requested in writing. However, post-Hearing, deliberations by the Hearing Committee members shall not be audio recorded or memorialized in writing. Neither party nor any witnesses are permitted to make any independent record of the proceedings.

3.4.5. The Chair of the Hearing Committee shall arrange for a Hearing to be held within fifteen (15) business days of receiving the request for a Grievance Hearing. From the date of notification by the chair, the Parties will have five (5) business days to submit to the chair of the Hearing Committee, and each other, copies of all supporting documents, including the written decisions of previous bodies who have considered this matter, but NOT the report of the mediators. All submitted materials and testimony are to be treated as confidential. Within that same time frame, the Parties will submit to the chair of the Hearing Committee, and to each other, a list of voluntary witnesses, all of whom may be questioned by both Parties, as well as the members of the Hearing Committee. It is the responsibility of each Party to obtain the permission, and ensure the presence, of any witness(es) he/she calls. Should the Committee itself deem necessary, it may seek to call additional, relevant witnesses who shall likewise be subject to questioning by the respective Parties.

3.4.6. At the conclusion of the Hearing, the Parties will be excused, and the Hearing Committee shall have five (5) business days within which to complete deliberations and submit to the Dean and the Parties a written majority recommendation prepared by the Chair. Any Panel member may transmit a minority opinion in writing to the Dean with the same time period. Any minority opinions submitted will become part of the permanent record of the grievance proceedings to the same extent as the majority recommendation.

4. **Step Four, Dean's Review.** Within ten (10) business days of receiving the Panel's recommendation, the Dean shall make a decision after reviewing the recommendations and documents presented. The Dean shall provide his/her decision to the Grievant, Respondent, and the chair of the Grievance Panel. The decision of the Dean is final, unless it is alleged that a procedural violation materially affected the outcome of the grievance. Documents relating to the grievance shall be retained in the Office of the Dean in accordance with HSC OP 10.09, "Records Retention," Attachment A.

5. **Step Five, President's Review for Procedural Violation.** If either party alleges that a procedural violation has occurred, then he/she may appeal in writing to the President. The appeal must (1) be submitted within ten (10) business days of receiving the Dean’s decision, (2) be in writing, and (3) clearly set forth the procedural violation that is alleged. The President only will consider whether a procedural violation has occurred that substantially affected the outcome of the case. The President shall review this allegation and, within fifteen (15) business days, make a final decision that will be transmitted to the Grievant, the Respondent, the chair of the Grievance Panel, and the Dean. The decision of the President is final.

6. **Resolution.** The Parties may agree to a resolution of the grievance at any time from initiation of the grievance proceedings procedures until the final decision of the Dean, or President’s final decision, if applicable. Resolution of the grievance shall be reduced to writing and be signed by the Grievant, Respondent, Dean and, if applicable, the most senior TTUHSC administrator who participated in the grievance review. A complete, permanent record of the grievance shall be
maintained in the Dean's office in accordance with the [HSC Records Retention Policy, HSC OP 10.09].

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