100.00 Definitions

“Grievance Hearing Board” is the faculty committee convened for the purpose of affording faculty members the opportunity to present their grievable disputes to a duly constituted committee of their colleagues.

“Grievance Hearing Board Chair” means the faculty member selected by the Faculty Senate Chair to act as the Chair of the Grievance Hearing Board for faculty grievances. The Grievance Hearing Board Chair will serve a term of three years.

“Grievant” means the individual who files a grievance under this policy.

“Respondent(s)” means the individual or individuals against whom a grievance is brought.

“Grievance” is (a) a dispute alleging the violation or misapplication of established rules, regulations, policies or procedures of Montana State University-Bozeman, the Montana University System, or the Board of Regents that pertain to tenured and tenurable faculty, or (b) an allegation of violation or misapplication of policy, procedure, standard or criterion that resulted in a negative substantive retention, tenure, or promotion review. The types of grievances that are covered by this policy are listed in Section 301.00.

200.00 Confidentiality

Confidentiality will be maintained by all parties to the grievance process. No public announcements should be made by any party unless there has been a waiver of the privacy rights of all parties involved.

300.00 Applicability

Grievance procedures apply to tenured and tenurable faculty only.

The grievance rights of nontenured faculty who are members of the AFMSU collective bargaining unit are governed by the collective bargaining agreement.

The grievance rights of other nontenured faculty appointments are contained in the Personnel Policy and Procedures Manual.

Grievance procedures apply to faculty members on tenured and tenurable appointments who also have administrative assignments. Grievance procedures apply to the resolution of disputes concerning such an individual’s faculty role. Resolution of disputes regarding his or her administrative responsibilities should be addressed through the process described in the Personnel Policy and Procedures Manual.

301.00 Types of Disputes Included
These grievance procedures apply to the following:

A. Disputes arising from alleged violation or misapplication of established rules, regulations, policies or procedures of Montana State University, the Montana University System, or the Board of Regents that pertain directly and uniquely to tenured and tenurable faculty.

B. Disputes alleging that an alleged violation or a misapplication of policy, procedure, standard or criterion resulted in a negative substantive retention, tenure or promotion review.

302.00 Types of Disputes Excluded
These grievance procedures do not apply to the following:

A. Disputes involving allegations of violation of the university Research Misconduct Policy. Cases arising under the Research Misconduct Policy are governed by the hearing procedure set forth in that section.


C. Disputes about academic assignments, annual evaluations, annual reviews, and performance ratings. Such disputes will be directed to the department head, the dean of the college, or the Provost for resolution.

D. Termination for cause proceedings. Termination for cause proceedings will be governed by the procedures set forth in Policy 710.2.2 of the Board of Regents Policy and Procedures Manual.

E. Any other disputes concerning allegations of a violation of a policy which has its own hearing or appeal procedures contained in the policy.

400.00 Scope of Grievance and Deadlines for Filing
Grievances involving retention, tenure, or promotion cannot be grieved until the Executive Vice President of Academic Affairs and Provost has communicated his or her recommendation to the faculty member. If the recommendation of the Provost is favorable for the faculty member, the faculty member forfeits the right to grieve reviews that occurred prior to the Executive Vice President of Academic Affairs and Provost. If the recommendation of the Provost and Vice President for Academic Affairs is unfavorable, the faculty member may include a prior review in the grievance.

The faculty member has fourteen (14) days from the date of notification by the Provost to file notice of the intent to grieve with the CHRO. The faculty member will then have an additional twenty (20) days to file the Statement of Grievance.

All other grievances must be filed within thirty (30) days of the incident giving rise to the dispute.

Unless specified otherwise, reference to days refers to calendar days.

401.00 Extension of Deadlines
The deadlines referred to in this policy may be extended, for good cause, by the Chair of the Grievance Hearing Board or designee, upon written notice to all parties.

500.00 Grievance Hearing Board
A Grievance Hearing Board will be appointed for each grievance and will be comprised of tenured faculty appointed as follows:

- Two faculty member appointed by the Chair of Faculty Senate.
- One faculty member appointed by the Provost.

For grievances involving retention, tenure and promotion decisions, only tenured faculty may be appointed. Every attempt will be made to provide male, female, and minority membership on the board.

501.00 Challenge to the Grievance Hearing Board Membership for Cause

Either the grievant or respondent(s) may challenge the members of the Board for cause by submitting a written statement of cause to the Chair of Faculty Senate. The Chair of Faculty Senate may replace a challenged member if the showing of cause is sufficient to suggest the member has a conflict of interest which may affect his or her ability to participate objectively. The decision of the Chair of Faculty Senate as to the membership of the Committee is final. Any replacement members of the Committee are again subject to challenge by either grievant or respondent(s).

600.00 Appointment of the Chair

The Chair of the Grievance Hearing Board will be appointed by Chair of Faculty Senate from among the tenured faculty.

601.00 Administrative Support

Administrative support for the Chair will be provided by a representative of Human Resources appointed by the Chief Human Resource Officer (CHRO).

602.00 External Hearing Officer. In exceptionally complicated cases, the Chair may request the CHRO to provide recommendations of persons who could serve as an External Hearing Officer (EHO) to assist with the case. The Chair will make the final decision regarding the use of an EHO and may delegate responsibilities for pre-hearing conference and other procedural duties to the EHO. The External Hearing Officer will be a non-voting member of the Board.

700.00 Initiation of Grievance Procedures

The grievant initiates the process by filing a written statement of grievance with the CHRO who will forward to the Chair of the Grievance Hearing Board. The Chair or designee will distribute the statement to all respondents named therein. The statement will contain, at least, the following information:

A. the date(s) of the grievable incident(s),
B. the name(s) of the respondent(s),
C. a complete statement describing the grievable incident including all facts upon which the grievance is based,
D. the specific rule(s), regulation(s), criterion (a), standard(s), policy(ies), or procedure(s), including the specific section numbers of these policies, which are alleged to have been violated,
E. the signature of the grievant.

701.00 Acceptance or Rejection of Request for Grievance Hearing
The Chair of the Grievance Hearing Board will determine whether or not the grievable incident is within the purview of the grievance process (see Sections 300.00-302.00) and accept or reject the request for a grievance hearing. The grievant will be notified of the decision.

If the request is rejected, the grievance process is terminated. The faculty member may appeal the decision to the Chair of Faculty Senate, whose determination will be final.

If the request is accepted, the Chair of the Grievance Hearing Board or designee will forward the Statement of Grievance to the respondent(s).

702.00 Respondent's Reply to Statement of Grievance

Individuals named as respondents will have seven (7) days from receipt of the Statement of Grievance to submit a written response to the Chair of the Grievance Hearing Board.

Once a grievance procedure has been initiated, no participant in the process may discuss the merits of the case with any decision maker in the process, including the President. All communications to and from the Chair of the Grievance Hearing Board will be copied and sent to all parties.

800.00 Pre-Hearing Conference

The Chair of the Grievance Hearing Board or designee will schedule a pre-hearing conference to be conducted within twenty-one (21) days of receipt of the Statement of Grievance. These proceedings may be discontinued at any point by withdrawal of the grievance by the grievant or mutual written consent of both the grievant and the respondent(s).

801.00 Advisors at the Pre-Hearing Conference

The grievant and respondent(s) may have the assistance of an advisor at the pre-hearing conference. However, the parties are responsible for representing themselves and, therefore, advisors are not permitted to participate directly (i.e., address the Chair or other parties) in the pre-hearing conference. The grievant will provide notification if he or she will use an attorney as an advisor five (5) days prior to the pre-hearing conference. Upon receipt of notice of an attorney advisor, MSU representatives will have legal counsel present.

802.00 Purposes of Pre-Hearing Conference

The purposes of the pre-hearing conference are to:

A. Narrow and define the issue(s) to be considered at the hearing.

B. Identify and list any/all witnesses for the hearing.

No witnesses may be called at the grievance hearing who have not been identified at the pre-hearing conference. Limitations on the number of witnesses for the hearing may be established for the parties by the Chair during the pre-hearing conference.

C. Identify and list any/all documents to be submitted at the hearing. No documents may be submitted at the grievance hearing which were not identified at and exchanged as a result of the pre-hearing conference.

D. Provide for a pre-hearing exchange (between all parties) of any documents or other information to be submitted at the hearing. This exchange will occur at least five (5) days prior to the hearing.

E. Set a time and place for the hearing. The hearing will be held within twenty-one (21) days of the pre-hearing conference.
900.00 Responsibilities of the Grievant and Respondents

A. The grievant must submit the Statement of Grievance to initiate the process, and must fully participate in the pre-hearing conference, or face dismissal of the grievance. If the grievant fails to cooperate with the process or participate in the pre-hearing conference, the Chair may dismiss the case.

B. Respondents must reply to the Statement of Grievance within seven (7) days and participate fully in the pre-hearing conference. If the respondent(s) fail to cooperate with the process or participate in the pre-hearing conference, the Chair may order the Grievance Hearing Board to hear the case and reach a decision based on the available evidence.

901.00 Grievance Hearing Board Responsibilities

The Board is responsible for rendering its judgment on the merits of the grievance outlined in section 1003.00. The Board can rule on whether rules, regulations, policies or procedures have been violated or misapplied (during, for example, a promotion and tenure review), but cannot reverse the resulting decision. The Board may recommend to the President that the process be corrected and reinitiated from the point of infraction. The Board is not a review committee for retention, promotion and tenure decisions, and cannot reverse a decision. The Board can, after a negative decision in this area, hear the case and make a ruling as to whether or not the decision was based on a correct application of the applicable criteria and standards.

1000.00 The Grievance Hearing

The Chair of the Grievance Hearing Board or designee will preside at the grievance hearing and will make all decisions regarding evidentiary and procedural questions. The Chair will not vote nor render a decision on the merits of the case.

The grievance hearing is not a judicial process; it is a review process. Therefore the proceedings will not be governed by the rules of evidence or the rules of civil procedure used in civil court cases.

1001.00 Conduct of the Grievance Hearing

The hearing will be conducted according to the following procedures.

A. The grievant and respondent(s) may have the assistance of an advisor at the hearing. The grieving parties are responsible for representing themselves and, therefore, advisors are not permitted to participate directly (i.e., address the Chair, Board, or other parties) in the hearing. The Grievant will provide notification if he or she will use an attorney advisor at least five days before the hearing. Upon receipt of notice of an attorney advisor, MSU representatives will have legal counsel present.

B. Each party will have the opportunity to make opening statements.

C. The grievant will present his or her case first.

D. All parties will be given a reasonable opportunity to present their cases, including presenting testimony of witnesses and documentary evidence. However, the Chair (or designee) may preclude the presentation of duplicative, irrelevant or unnecessary evidence. (The Chair may have established limitations on the numbers of witnesses for the parties at the pre-hearing conference.)

E. Each party will have the opportunity to cross-examine the other party’s witnesses.

F. Every reasonable effort will be made to elicit and consider reliable evidence. In extraordinary cases, sworn statements may be admitted in lieu of testimony. The decision of the Chair or designee on questions of admissibility of evidence will be final.
G. The Chair or designee may grant adjournments to enable either party to investigate evidence as to which a valid claim of surprise is made.

H. The parties may make closing arguments.

I. The Chair or designee will arrange for an audio recording of the proceedings to be made. That recording and all other evidence will be retained for the record by the HR representative pending the Report of the Grievance Hearing Board.

J. The grievant or the university may request that a stenographic record of the hearing or transcript of the audio recording be made, providing the requesting party pays the associated costs.

1002.00 Record of the Grievance Hearing

The record of the grievance hearing will consist of the audio recording of the hearing, all evidence or exhibits presented at the hearing, all communications to or from the Chair in reference to the hearing, and any other graphic, written, or recorded information relevant to the Grievance Hearing and its procedures.

1003.00 Decision of the Grievance Hearing Board

The Grievance Hearing Board will determine:

1. whether a misapplication of established rules, regulations, policies or procedures of Montana State University-Bozeman, the Montana University System, or the Board of Regents has occurred; or

2. whether any misapplication of policy, procedure, standard or criterion resulted in a negative substantive retention, tenure or promotion review; and

3. whether the misapplication or violation adversely affected the grievant’s ability to receive fair consideration of his or her formal review or, in other cases, whether the misapplication or violation adversely affected the grievant related to some aspect of his or her employment.

1004.00 Report of the Grievance Hearing Board

The Report of the Grievance Hearing Board will include the findings of fact on each issue presented and make recommendations regarding appropriate action(s) to be taken. The Report will be sent to the CHRO within fourteen (14) days of the hearing. The CHRO or designee will forward the Report and the record of the hearing to the President within five (5) days of the receipt of the report and will send copies of the Report to all parties.

2000.00 Responsibilities of the President

Upon receipt of the Report of the Grievance Hearing Board, the President will have fourteen (14) days to issue the decision of the University. The President will inform the Chair of the Grievance Hearing Board, the grievant and the university administrators involved in the grievance hearing procedure of the decision.

3000.00 Grievant's Right to Appeal

[MUS Policies and Procedures Manual, Section 203.5.2]

The President's decision may be appealed to the Commissioner of Higher Education and to the Board of Regents in accordance with its appeals policy.

4000.00 Disposition of the Record

Following the President's decision, the record of the proceedings will be placed in a locked file in the Human Resources Department offices, to be held for a period of three years. The Grievance Hearing Board assembled for the case will be dismissed and this action will terminate the grievance hearing process.