

BYLAW ARTICLE IV. FACULTY GRIEVANCES PROCEDURES

Section A. Purpose

1. To further the aims of IUPUI in teaching/performance, research/scholarly activity/creative work/professional development, and professional/public service, the faculty has established grievance procedures. These grievance procedures serve the full-time tenured and tenure-track faculty and librarians, full-time clinical and scientist/scholar rank faculty, and full-time lecturers of the IUPUI campus, by providing peer evaluation with respect to administrative actions of dismissal, academic freedom, non-reappointment, tenure, promotion, salary adjustment, and the nature or conditions of work. Equity for the individual and the good of the university shall always be considered.
2. The IUPUI Ombudsteam is an elected faculty group designed to be available early on in the course of emerging concerns or potential grievances. It is further designed to provide designated places and persons for faculty to voice concerns and learn about options for channeling criticisms and addressing complaints so that faculty can be fully informed about possible actions and consequences before they make a decision as to what steps, if any, to take next. The IUPUI Ombudsteam serves all IUPUI faculty, including both full- and part-time faculty and librarians who may utilize these grievance procedures and other faculty and librarians who may wish to voice concerns but otherwise lack standing to file a formal grievance pursuant to these procedures.
 - a) The Ombudsteam members are available to serve as impartial consultants for faculty/librarians and administrators who seek confidential informed advice from senior faculty colleagues.
 - b) The Ombudsteam members also are available to help resolve situations informally by the following means:
 - Identifying and evaluating options and possible solutions to respond to concerns
 - Providing coaching, shuttle diplomacy, or informal mediation
 - Making referrals to appropriate resources within and outside the university for additional support
 - With the faculty member or librarian's consent and without serving as an advocate for the individual, making formal inquiries and ensuring concerns are heard with relevant university administrators, offices, and representatives
 - Advocating for fair, objective processes for addressing and resolving concerns and potential grievances
 - Encouraging and facilitating discussions between the parties to the emerging concern or potential grievance
 - Other actions consistent with the International Ombudsman Association Standards of Practice and applicable university policy and law
 - c) At the conclusion of its work, the Ombudsteam shall not compile any report or file containing the specific information of any concern or potential grievance brought to it.
3. A Faculty Board of Review is to consider grievances, via a Formal Hearing, to gather appropriate information, and to consider its findings in light of existing policies and principles of fairness. The Board of Review shall file a written report of its findings and recommendations in a timely and expeditious manner.
4. In each formal grievance case, the Faculty Board of Review acts in an impartial way. It is not an advocate for the faculty member or librarian, nor is it an advocate for the administration. The Board shall determine:
 - a) whether appropriate procedures were followed;
 - b) whether the grievance arose from inadequate consideration of the qualifications of the faculty member or librarian;
 - c) whether presentation of erroneous information substantially affected the decision; and
 - d) whether essential fairness was accommodated throughout the decision-making process.
 - e) The Boards of Review may consider the issues set forth in 4 a-d regarding promotion and/or tenure grievances, but a Board of Review shall not function as a substitute Promotion and Tenure Committee.
5. In those cases in which the Board of Review concludes that the rights of a faculty member or librarian have not been adequately protected, the Board is expected to formulate a recommendation for remediation.

Section B. Submission of Grievances

1. A faculty member or librarian seeking advice about or informal assistance with review of an administrative action may contact:
 - a) the President of the IUPUI Faculty; or,

- b) the Chair or any member of the Ombudsteam.
 - 1) The Ombudsteam roster will be available in the IUPUI Faculty Council Office.
- 2. A faculty member or librarian may consult informally with a member of the Faculty Ombudsteam before filing a formal grievance for a Board of Review.
- 3. A faculty member or librarian may request that a grievance be considered by a Faculty Board of Review without first presenting it to the Faculty Ombudsteam.

Section C. Composition and Election of Ombudsteam

- 1. The Ombudsteam shall consist of five members of the IUPUI faculty and librarians nominated by the Executive Committee and elected by the IUPUI Faculty Council at its May meeting. Non-tenure-track faculty and members of the IUPUI Senior Academy who have served as faculty or librarians are also eligible for election. The President of the IUPUI Faculty serves as a member ex officio.
- 2. In offering nominations for election to the Ombudsteam, the Executive Committee should give consideration to representation across the academic units of IUPUI.
 - a) At least three members of the Ombudsteam shall be tenured full or emeritus professors.
 - b) At least four members should have served on the IUPUI or a Unit Promotion and Tenure Committee; Academic Affairs Committee; Faculty Affairs Committee; Diversity, Equity, and Inclusion Committee; on a Faculty Board of Review; or as President of the IUPUI Faculty.
- 3. Ombudsteam members shall hold office beginning July 1, for staggered terms of three years.
- 4. Ombudsteam members shall be representative of different schools. No two members shall be from the same school.
- 5. The members of the Ombudsteam shall elect their own chairperson, who should be a tenured full Professor or Librarian.
- 6. No faculty member serving on the Ombudsteam may serve concurrently on a Faculty Board of Review or as the Grievant's representative before a Faculty Board of Review.

Section D. Procedures of the Ombudsteam

- 1. When an Ombudsteam member has been contacted by a faculty member/librarian or an administrator seeking advice, that member will:
 - a) meet with the Individual to discuss the case; and
 - b) inform the Individual concerning the types of further assistance the Ombudsteam members can provide and other resources available on campus.
- 2. The Ombudsteam members who are contacted by or designated to assist the faculty member/librarian or administrator shall keep all information shared by the individual in confidence.
- 3. The faculty member or librarian may terminate the assistance of the Ombudsteam at any time.
- 4. The meetings of the Ombudsteam and the process of assistance employed by the Ombudsteam members should be informal, neutral, impartial, and confidential consistent with the International Ombudsman Association Standards of Practice as permitted by applicable university policy and law.
- 5. The full Ombudsteam should meet regularly to review its methods and update facilitation techniques.
- 6. Reports:
 - a) The Ombudsteam shall not report case-related or summary data that include any specifics of individual cases.
 - b) The Ombudsteam shall prepare an annual summary of its work for the Executive Committee of the IUPUI Faculty Council. This report shall include only the number of cases, the categories of the concerns and potential grievances, the number or cases in which the Ombudsteam was successful in resolving concerns and potential grievances, and the number of cases in which the individual withdrew the request for assistance prior to the Ombudsteam completing its work.
- 7. A faculty member requesting the assistance of the Ombudsteam may also utilize assistance offered by other faculty or other organizations, except that an attorney representing the faculty member or librarian or the Administration may not participate in any process facilitated by the Ombudsteam.

Section E. Composition and Election of Faculty Boards of Review

1. Each Faculty Board of Review shall consist of five members appointed by the Executive Committee of the IUPUI Faculty Council from a group of 20 faculty members and librarians elected by the Faculty Council.
 - a) Members should be appointed to a Board of Review as needed on a rotating basis.
 - b) No more than two members of a Board may be from the same academic unit.
 - c) No more than four members should hold the same academic rank.
 - d) At least four of the members shall be tenured.
 - e) No person with the authority and responsibility to sign an administrative document concerning the title, pay, or working conditions of a faculty member or librarian may serve on a Board of Review.
2. At its January meeting, the Faculty Council shall elect members to serve on the Boards of Review from a slate of eligible faculty members and librarians presented by the IUPUI Nominating Committee.
 - a) The number of nominees should be at least half again as many as the number of positions to be elected.
 - b) If there is a tie vote that affects the election of a member, an individual vote of the Council involving only the tied nominees shall be taken.
 - c) If during the course of the year the Executive Committee determines that there is a need for additional Board members, the nomination and election process may be repeated.
3. Faculty members and librarians elected to be members of Boards of Review shall hold office beginning February 1 for staggered terms of two years. Members should complete the review of any case that they have begun to consider, even if their terms have expired. (If a member leaves after the Formal Hearing has begun, that member shall not be replaced. The Board shall continue with four members and may continue with only three members with the consent of the parties concerned.)
4. An orientation session for all elected members shall be provided annually by the President of the IUPUI Faculty or his/her designee. An IUPUI Faculty Board of Review Current Practices Manual, approved by the Executive Committee of the IUPUI Faculty Council and the Chief Academic Officer, will be provided.
5. Faculty members or librarians elected to be members of Boards of Review shall be eligible for re-election, except that no person may serve more than two terms consecutively.
6. In the event legal actions are brought against faculty members or librarians in connection with or as a result of their membership on a Board of Review, the Trustee's Liability Insurance Policy, resolution of May 22, 1971, shall apply.

Section F. Procedures for Beginning a Formal Board of Review Hearing

1. A faculty member or librarian desiring a formal review of administrative action shall submit to the President of the Faculty a specific written request for review stating:
 - a) the category or categories of the grievance actions involved (dismissal, academic freedom, non-reappointment, tenure, promotion, salary adjustment, and/or nature and conditions of work);
 - b) the nature of the grievance in a concise summary of the grievance scenario;
 - c) the steps taken to have the grievance redressed prior to contacting the President; and
 - d) the redress of the grievance sought.
2. The Chief Academic Officer of IUPUI shall immediately be informed of the request. If discrimination or sexual harassment is alleged in the complaint, a copy of the complaint shall also be sent to the IUPUI Office of Equal Opportunity.
 - a) The determination of whether discrimination or sexual harassment has occurred is in the purview of the Director of the Office of Equal Opportunity. The Board of Review shall not render an opinion concerning the existence of discrimination or sexual harassment.
 - b) The Board of Review can proceed, however, with a formal hearing concerning the conditions of work, essential fairness of treatment, and other aspects of the grievance generally in the purview of Boards of Review. A simultaneous investigation of charges of discrimination or sexual harassment by the Director of the Office of Equal Opportunity shall not delay the Board of Review process.
 - c) A faculty member or librarian may not file a Board of Review grievance against the Director of the Office of Equal Opportunity. Rather, any faculty or librarian complaint concerning the Office of Equal Opportunity may

be brought to the Executive Committee of the IUPUI Faculty Council, which shall gather appropriate information and advise the Chancellor.

3. If the Chief Academic Officer of IUPUI is unable to resolve the problem to the satisfaction of the faculty member or librarian within two weeks, the President of the Faculty shall submit the grievance to the Faculty Council Executive Committee to determine that:
 - a) administrative reviews have been completed;
 - b) the complaint was brought within one year, for good cause; and
 - c) the complaint falls within the purview of a Faculty Board of Review.
4. If the conditions of Section F.3 have been met, the Executive Committee of the IUPUI Faculty Council shall constitute a Board of Review to consider the grievance (See Section E). In the motion approving the appointment of a Board of Review, the Executive Committee shall specify a reasonable time period during which the hearing should be conducted and the final report issued. The time period should allow for the timing during the academic year, but should not generally exceed six months.
5. Disqualification
 - a) A potential member of a Board of Review who is a member of a department (or a school which is not departmentalized) from which a case arises is disqualified from considering that case.
 - b) A member of a Board who believes that he/she may not be impartial shall disqualify himself or herself, and a replacement shall be appointed by the Executive Committee provided that the formal hearing has not yet been initiated.
6. The Grievant may withdraw a complaint at any time. If the complaint is withdrawn prior to the appointment of a Board of Review, the grievant has up to one year to ask for the complaint to be reopened. If the complaint is withdrawn after the appointment of a Board of Review, it is up to that board to determine at that time whether a future request by the grievant to reopen the case will be considered. If so, the grievant will have up to one year from the date of the appointment of the Board of Review to ask for the complaint to be reopened.
7. Among other things, Boards may be asked to review cases of Dismissal and Non-Reappointment
 - a) Dismissal shall mean the involuntary termination of a tenured faculty member's or librarian's appointment prior to retirement or resignation, or the termination of the appointment of a non-tenured faculty member or a librarian prior to the expiration of his or her term of appointment. Dismissal shall be deemed legitimate only by reasons of:
 - 1) incompetence,
 - 2) serious personal professional misconduct, or
 - 3) extraordinary financial exigencies of the University.
 - b) Non-reappointment shall mean the involuntary termination of a non-tenured faculty member or librarian at the time of the expiration of his or her term of appointment.

Section G. Board of Review Meetings and Reports

1. Before the first meeting
 - a) Upon notice that a Board of Review will be convened, the Chief Academic Officer of IUPUI shall have the appropriate administrator promptly furnish a written statement of the reasons for the action which led to the grievance. This document should be a concise narrative that provides pertinent background information and that addresses all of the points made in the Grievant's written request for review of administrative action.
 - b) The Grievant may provide for the Board of Review a written response to this statement of reasons.
 - c) In setting the date for a Formal Hearing, sufficient time must be allowed for the Grievant and other parties involved to prepare their case.
2. General Considerations
 - a) The Faculty Council Office will provide logistical support for the Boards of Review.
 - b) The Board of Review proceeding does not delay the timing of administrative actions related to other policies and procedures.
 - c) Throughout the Board of Review process, the Grievant and the Administration should communicate only with the Chair of the Board and not with the other members of the Board.
 - d) The Board may consult concerning clarification of legal matters at any time with the members of the Law School faculty who have been designated as the IUPUI Board of Review consultants by the School of Law Executive Committee.

3. The President shall call the initial meeting of the Board of Review. At the first meeting;
 - a) the President shall respond to procedural questions;
 - b) the President shall present the Grievant's written statement, the Administration's written response, and the Grievant's written response to that (if any); and
 - c) the presiding officer of each Board shall be elected by the Board's members from among its members.
4. At formal hearings before the Board of Review,
 - a) The Grievant shall be required to appear in person, video conferencing or other forms of electronic participation should not be used.
 - b) Both parties shall have the right to counsel or a representative of their choice. If external or University legal counsel are present, they shall offer private advice to their clients but may not speak during the hearing unless special permission to do so is granted by the Chair of the Board of Review. If the Grievant wishes to have another faculty member or librarian present as a representative, that person may speak during the hearing to help the Grievant present his/her case effectively, as long as the Chair of the Board deems that the representative's participation is not disruptive to the Board of Review process.
 - c) The faculty member or librarian and the administrative parties shall be permitted to present witnesses and other evidence relevant to the case, and to hear and question all witnesses who are called to appear before the Board. So that the hearing is not unreasonably delayed, a witness may reply in writing to questions drafted by the board if the witness is unable to attend the hearing. Witnesses shall not be present in a hearing during the presentation of other witnesses unless all parties concur.
 - d) The faculty member or librarian making the complaint is responsible for stating the grounds upon which he or she bases the complaint.
 - e) The hearing may also include observers, but observers will not be permitted to attend the hearing of the Board of Review if either the Grievant or the University Administration objects.
5. The Board of Review may request and secure further information from the Grievant and/or the university administration when it feels this is necessary to render a proper decision. The Chief Academic Officer (or Chancellor) Administration and Grievant shall make available to the Board of Review all materials relevant to the decision against which the faculty member or librarian had complained, provided that:
 - a) confidential faculty records of other faculty members and librarians shall not be made available to the Board of Review; and
 - b) all further information obtained by the Board shall be shared with the parties to the grievance.
6. An electronic record of the hearing shall be prepared at the University's expense through the Office of Academic Affairs. The tape will be available to the Board during their deliberations. It also will be made available for confidential listening in the Office of Academic Affairs on request to either party in the dispute. Copies of the tape may not be made for either party in the dispute. Upon completion of the Board's review, this tape, along with the Board's written documentation and correspondence, shall be kept in the Office of Academic Affairs; provided that if the Board reviewed any letters of recommendation that had been obtained under pledge of confidentiality, such letters shall be returned to the original confidential file and shall not be part of the Board's stored materials. Four years after the completion of the Board of Review, the material shall be destroyed.
7. Board recommendations.
 - a) Upon completion of the Formal Hearing and submission of additional written materials, the Board of Review shall meet in executive session to assess:
 - 1) whether a reasonable case has been made by the Administration to support the decision complained of by the aggrieved faculty member or librarian;
 - 2) whether essential fairness was accommodated in observing the formalities and in following the procedures; and
 - 3) whether the challenged actions are inconsistent with the policies of Indiana University or the policies of the school or division involved.
 The Board shall render a decision within two weeks.
 - b) If the Grievant withdraws the grievance, the Board of Review process shall cease and no Board of Review report shall be compiled.
 - c) If the Grievant voluntarily leaves the University (not because of dismissal or non-reappointment) during the period of time in which the Board is considering the grievance, the Board of Review may choose to continue its work when doing so appears to be in the best interest of the University. If the Board chooses not to continue, it shall report the decision and reasons to those listed Section G, Subsection 9, paragraph b. If the Board continues, it shall submit a Final Report as specified in Section G, Subsection 9.

8. The final report.
 - a) The Board must make a Final Report that includes:
 - 1) the nature of the grievance and redress sought,
 - 2) a summary of the findings of the Board,
 - 3) conclusions of the Board based upon the findings,
 - 4) recommendations of the Board based upon the conclusions, and
 - 5) signatures of the Board members.
 - b) Copies of the Final Report must be communicated to:
 - 1) the Chancellor of IUPUI;
 - 2) the Grievant;
 - 3) the appropriate School administrative officer;
 - 4) the President of the Faculty;
 - 5) the Chief Academic Officer;
 - 6) the Office of Academic Affairs; and
 - 7) each member of the Faculty Board of Review.
9. Unit Recommendation Report.
 - a) Upon completion of the Final Report, the Board may prepare a Unit Recommendation Report recommending changes in the operation of the academic unit that could benefit the prevention of future grievances.
 - b) A Unit Recommendation Report shall be communicated to the dean of the academic unit, the faculty president of the academic unit, and the Chancellor of IUPUI.
10. Administrative response.
 - a) Any review by the University Administration of the final report of the Board of Review shall be limited to information that has been presented to the Board of Review, and shall remain within the confines of sections A.4 and G.7.a of the present article, as will any determination by the Administration to agree or disagree with the recommendations of the Board.
 - b) Should the Administration in its review chance upon any information that affects in any way the decision-forming process but that was not previously communicated to the Board of Review, this new information must be shared promptly with all parties to the grievance. The President of the IUPUI Faculty Council, upon consultation with the Board of Review, shall then determine whether the new information warrants a reexamination of the grievance.
 - c) In cases where any such information cannot be legally disclosed to all parties, the Administration shall promptly inform all parties to the grievance of its existence, identify it under a general nondisclosure category, and clarify the extent to which that information influences its final decision.
 - d) The Chancellor of IUPUI shall report the Administration's final decision within four weeks after receiving the report of the Board of Review. Copies of this report shall be sent to all parties that received the final report of the Board of Review in accordance with section G.8.b of the present article.
 - e) If a recommendation of the Board of Review is not followed by the Administration, the Chancellor's report shall state in detail the reason(s) that the Administration disagrees with said recommendation, pointing out divergent interpretations of facts or erroneous representations of procedural handlings.
 - f) If the Administration fails to state its reasons against the Board of Review's recommendations, the President of the IUPUI faculty shall
 1. inform in writing all parties that received the final report of the Board of Review of the fact, and
 2. include it in his or her report for the May meeting of the IUPUI Faculty Council as described in section G.12 of the present article.
 - g) Should the Administration agree with the findings and recommendations of the Board of Review but form in the end a decision not in harmony with the latter, the Administration shall clarify the extent to which its final decision was shaped by reasons foreign to the Review.
11. Further appeal by the Grievant may be made to the President of the University and the Board of Trustees.
12. A copy of each final Faculty Board of Review Report and the Chancellor's response shall be kept in confidence in the Office of Academic Affairs.
13. The President of the IUPUI Faculty shall prepare a report for the May meeting of the IUPUI Faculty Council on Faculty boards of Review activity for the year. The report shall include no confidential information related to any case but shall include:

- a) the number of cases brought to the Faculty Boards of Review in each of the following categories: dismissal, academic freedom, non-reappointment, tenure, promotion, salary adjustment, and the nature or conditions of work; and
- b) in each category for each Board of Review:
 1. the number of cases in which the findings and recommendations of the Board supported the position of the grievant,
 2. the number of cases in which the findings and recommendations did not fully support the grievant,
 3. the number of cases in which the recommendations of the Board were sustained by appropriate and sufficiently documented Administrative action,
 4. the number of cases and the extent to which the recommendations of the Board were denied by the Administration and, within the latter,
 5. the number of cases that involved violations by the Administration of section 9 of the present article, and the general character of those violations.

Section H. Confidentiality

1. The activities of the Boards and the Faculty Ombudsteam shall be carried out in confidence.
2. Confidential material shall be treated in accord with the Indiana University Policy ACA-27 "Access to and Maintenance of Academic Employee Records."
3. Public statements concerning the details of any case are to be avoided by the principals involved, including Board members, Faculty Ombudsteam members, the Grievant, or other faculty member or librarian raising a concern or potential grievance, witnesses, observers, and administrative officials, prior to and during the hearing, and to the extent practicable at all times thereafter.