

**MEMORANDUM OF UNDERSTANDING**

WHEREAS, on December 10, 2010, the Board of Trustees of Bowling Green State University ("BGSU") amended several sections of the BGSU Academic Charter, including deleting Part B-Division I.-Faculty Personnel Policies and Procedures, Section E. Faculty Grievance Procedures;

WHEREAS, on December 10, 2010, BGSU thereafter notified the Bowling Green State University Faculty Association-American Association of University Professors ("BGSU-FA") of the above changes and offered to meet regarding these changes ("BGSU" and "BGSU-FA" are sometimes hereinafter jointly referred to as the "Parties");


WHEREAS, the BGSU-FA accepted BGSU's offer to meet and as a result the Parties met on December 29, 2010 and reached agreement regarding the changes made to Part B-Division I.-Section E.;

NOW, THEREFORE, the Parties agree as follows:

1. The provisions of former Charter section Part B-Division I., Section E. and all other provisions referenced therein for purposes of the grievance procedure shall apply until the earlier of: (i) the Parties reaching a collective bargaining agreement; or (ii) BGSU's lawful implementation of changes, after bargaining with the BGSU-FA and reaching overall impasse regarding all terms and conditions of employment; (iii) or as the Parties may otherwise agree in writing. Those provisions are attached as Exhibit A and are incorporated into this agreement by reference.

2. The BGSU-FA will provide in writing to BGSU its additional concerns regarding the above recent changes to the Academic Charter, and thereafter, the Parties shall continue to bargain over all legally required matters.

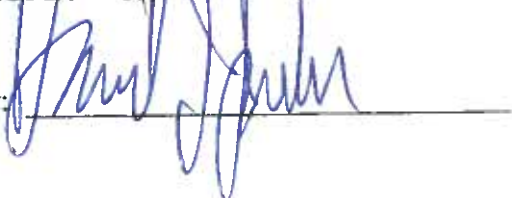
IN WITNESS WHEREOF, the Parties have caused this Memorandum of Agreement to be made effective this 10 day of January, 2011.

  
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Witness

BOWLING GREEN STATE UNIVERSITY

By:   
\_\_\_\_\_  
Carol A. Cartwright, President

BOWLING GREEN STATE UNIVERSITY  
FACULTY ASSOCIATION-AMERICAN  
ASSOCIATION OF UNIVERSITY  
PROFESSORS

By:   
\_\_\_\_\_

  
\_\_\_\_\_  
Witness

## Exhibit A

### SECTION E: FACULTY GRIEVANCE PROCEDURES

The Faculty Personnel and Conciliation Committee (FPCC) is empowered to resolve faculty grievances, by conciliation, Panel of Inquiry, Hearing Board or Direct Appeal to the Provost/Vice-President for Academic Affairs (VPAA). Since the grievance process is adversarial in nature, prospective grievants are encouraged to resolve disputes which might give rise to a formal grievance by whatever appropriate and legal means available prior to initiating grievance proceedings before the FPCC.

#### 1. Powers of FPCC

The FPCC shall:

- a) consider grievances brought by faculty members concerning disputes over salary, retention, rank, tenure, promotion and professional practices, including grievances brought against individual faculty members or administrators as a result of alleged violations of applicable policies, procedures, rules, regulations or laws, relating to the operation of the University;
- b) consider grievances brought by a department Chair, school Director, academic Dean, the Provost/VPAA, or the President against individual faculty members;
- c) consider grievances brought by a faculty member alleging discrimination by reason of race, color, religion, age, national origin, sex, gender, disability or sexual orientation;
- d) consider grievances arising from the implementation of the Financial Exigency Plan;
- e) consider grievances brought by faculty members alleging abuse of authority by a department Chair, school Director, academic Dean or the Provost/VPAA; and
- f) make recommendations geared towards the improvement of university, college, school or departmental policies, procedures, rules or regulations to the Provost/VPAA or other administrators, as a result of procedural deficiencies discovered during the grievance resolution process.

#### 2. Appointment of Facilitator

- a) After the FPCC Chair has been advised in writing by a faculty member of his/her intention to initiate grievance proceedings, the FPCC Executive Committee (FPCC-EC) shall within five class days appoint a facilitator, who may or may not be a current member of the Faculty Personnel Conciliation Committee (FPCC).
- b) The facilitator shall review the FPCC grievance and conciliation process with the prospective grievant, assess and inform the grievant of the relative merits of the prospective grievance, and where appropriate, assist the prospective grievant in the preparation of the grievance petition;
- c) The prospective grievant shall have the option of retaining the facilitator as his/her faculty advisor should the grievance be moved forward by the FPCC-EC to the hearing stage; and

d) The facilitator's role is concluded with the filing of the formal grievance petition at the Faculty Senate Office, or should the grievant choose not to pursue the matter any further.

### 3. Filing of Grievances

#### a) Standing to Initiate Grievance Proceedings

Any faculty member as that term is defined in B-I.C(2)[a][b] and II.C(1)(2)(3)(4) of the Academic Charter has standing to initiate grievance proceedings before the FPCC, individually or in collaboration with other faculty members, provided that all prospective grievants consent and the collaborative grievance arises out of the same fact situation. For purposes of these guidelines, a faculty member is any full-time or part-time employee of Bowling Green State University who holds the rank of Instructor, Lecturer, Senior Lecturer, Assistant Professor, Associate Professor or Professor on a tenured, probationary or non-tenure track appointment.

#### b) Intent to Initiate a Grievance

The first step in the process is for the prospective grievant or grievants to file a formal letter of "intent to initiate a grievance" with the FPCC Chair within sixty class days after receipt of the formal notification of denial of tenure or promotion or from the date of the alleged infraction, as the case may be. The prospective grievant has sixty additional class days after the initial filing of a "letter of intent to initiate grievance proceedings" to finalize his/her formal grievance petition. If the alleged infraction is of a continuing nature, the one hundred twenty class-day period may be extended for a reasonable period of time by the FPCC-EC at the request of the prospective grievant or grievants.

#### c) Grounds for a grievance shall include any or all of the following:

- (1) failure to observe due process in decisions at the departmental, school, college, or higher administrative level
  - (a) the concept of due process requires that adequate notice be accorded to all parties prior to the adoption and implementation of rules, regulations, policies, or procedures that may have an adverse effect on any or all faculty members, and the decisional authority must adhere to standards of fairness, impartiality, consistency and transparency at all times;
- (2) failure to abide by existing policies, procedures, rules, regulations or laws relating to the operation of the University;
- (3) denial or curtailment of academic freedom;
- (4) inadequate or inequitable consideration of professional competence, qualifications or credentials;
- (5) discrimination by reason of race, color, national origin, religion, sex, gender, age, disability or sexual orientation;

- (6) inadequate cause for termination of any appointment;
- (7) arbitrary termination of any appointment;
- (8) failure to carry out a lawful order from a court of competent jurisdiction or an appropriate government agency; and
- (9) retaliation for:
  - a) initiating grievance proceedings;
  - b) assisting a party to a grievance;
  - c) publicly opposing any illegal, unethical or improper conduct; or
  - d) reporting any illegal, improper or unethical conduct.

d) Content of Grievance Petition

The grievance petition shall include the following:

- (1) A citation of the specific ground or grounds for the grievance and the basis of the FPCC's power and authority to resolve the grievance, including all available supporting evidence sufficient to establish a presumption that grounds for a grievance do in fact exist;
- (2) An identification of the respondent and his/her official position or capacity in the academic unit involved;
- (3) A detailed description of the nature and extent of the alleged infraction and the injury or harm inflicted on the prospective grievant and a chronology of the events leading to the alleged infraction;
- (4) A declaration that all available remedies within the academic department, school, college and the university have been exhausted by the grievant;
- (5) An enumeration of any or all general and specific remedies sought by the grievant should he/she prevail; and
- (6) Where applicable, a copy of the pertinent order from a court of competent jurisdiction or the findings of an appropriate government agency, as the case may be, if the grievant is seeking FPCC assistance in the implementation of such findings or recommendations.

e) Time-Line for Initiating a Grievance

(1) Commencement of Grievance

The grievance process commences with the filing of a formal grievance petition with the FPCC Chair through the Faculty Senate Office. Upon receipt of the formal grievance petition, the FPCC Chair shall convene the FPCC-EC to determine whether the grievance petition is sufficient in form and substance. If the FPCC-EC finds that the grievance petition is sufficient in

form and substance, the FPCC Chair shall direct the administrative secretary of the Faculty Senate to create a case file and assign the case an appropriate number, henceforth, the grievance shall be referred to in all communications and memoranda between and among members of the FPCC-EC and all parties to the grievance by file number only. During the pendency of the grievance, the case files shall remain

confidential at all times and until such time as the files are disposed of by the administrative secretary of the Faculty Senate at the direction of the FPCC Chair.

## (2) Statute of Limitations

The prospective grievant shall send the formal grievance petition to the Chair of FPCC within sixty class days after the filing of a letter of intent to initiate grievance proceedings before the FPCC and not more than one hundred twenty class days after receipt of the official notification of denial of tenure or promotion, or from the date of the alleged infraction, as the case may be.

## 4. General Procedures

### a) Custody and Disposition of Grievance Files

Three sets of files of every grievance are required. One copy shall be kept by the FPCC Chair, one held in the Faculty Senate office, and one sent to the office of the Provost/VPAA. All grievance files must be destroyed upon completion of the grievance process except those in the possession of the grievant and respondent. The grievance files in the possession of the FPCC Chair shall be destroyed one year after completion of the grievance process, while the grievance files in the Faculty Senate Office and the office of the Provost/VPAA shall be destroyed at the end of three years. The Chair of each Hearing Board or each Panel of Inquiry shall be responsible for retrieving grievance files from their respective members and for returning these to the Faculty Senate Office for proper disposal.

### b) Duplication, Collation, Binding and Distribution of all Case-Related Documents

The duplication, collation, binding and distribution of all documents and papers pertinent to a grievance shall be the responsibility of the administrative secretary of the Faculty Senate at no cost to the parties. Receipt of all documents and papers pertinent to a grievance must be signed for and duly acknowledged by the recipient(s) before release.

### c) Standing to Initiate a Grievance

Any faculty member as that term is defined in II.C (1)(2)(3)(4) and B-I.C (2)[a][b] of the Academic Charter, currently employed by Bowling Green State University on a full-time or part-time basis and holding the academic rank of Instructor, Lecturer, Assistant Professor, Associate Professor or Professor, as the case may be, has standing to initiate grievance proceedings before the FPCC. Also eligible to initiate grievance proceedings before the FPCC are administrators, as that term is defined by II.D (1)(2) of the Academic Charter, provided that such administrator concurrently

holds faculty rank. In the event that a faculty member's employment is terminated before the resolution of his/her grievance, such termination does not automatically extinguish the faculty member's standing to pursue the grievance or render the grievance moot, provided that grievance proceedings were initiated while grievant was still employed by Bowling Green State University. In the event that a faculty member is asserting grounds of arbitrary termination of an employment contract, B-I.E.3.c)(6), such termination does not automatically extinguish the faculty member's standing to pursue the grievance or render the grievance moot.

d) Designation and Eligibility of Faculty Advisor

After a formal grievance petition is accepted and found sufficient in form and substance by the FPCC-EC, both grievant and respondent may designate a Faculty Advisor to assist in the preparation and presentation of their respective cases. Only a current faculty member or member of the administrative staff of Bowling Green State University is eligible to serve as a Faculty Advisor. A current FPCC member is ineligible to serve as a faculty advisor unless granted leave to do so by the Provost/VPAA. Emeritus and retired faculty members and members of the administrative staff may also serve as faculty advisors at the discretion of the FPCC-EC.

e) Legal Counsel

Both grievant and respondent may retain legal counsel to assist and advise them in the preparation and presentation of their respective cases. Such legal counsel, however, shall not be allowed to try the case or otherwise actively participate in the proceedings unless such legal counsel is also a faculty member of Bowling Green State University and is acting in a concurrent capacity as Faculty Advisor.

f) Resolution of Procedural Disputes

The grievance process shall be guided by the principles of due process and fairness at all times and the FPCC-EC must ensure that no unfair surprises resulting from the introduction of previously undisclosed evidence or witnesses takes place. The resolution of any or all procedural disputes between the grievant and respondent prior to the commencement of proceedings before the Panel of Inquiry or Hearing Board is the prerogative of the FPCC-EC. Once proceedings before the Hearing Board are underway, however, the Panel of Inquiry Chair or Hearing Board Chair shall be the sole arbiters of any or all procedural questions that may arise. After proceedings before the Provost/VPAA, Panel of Inquiry or Hearing Board have been completed, the FPCC-EC reacquires jurisdiction over any or all unresolved procedural questions arising out of the grievance.

g) Procedures of Provost/VPAA, Panel of Inquiry, and Hearing Board

The direct appeal to the Provost/VPAA, Panel of Inquiry and Hearing Board may establish such rules of procedure as each body deems necessary provided such rules of procedure are in accord with these FPCC guidelines.

h) Access to Proceedings of the Hearing Board

Unless otherwise authorized, proceedings before the Hearing Board are to be conducted in closed session and recorded by a recording device with or without a certified court reporter. A party to the grievance may request, through the Hearing Board Chair, that the services of a certified court reporter be used. In tenure-revocation cases, the services of a certified court reporter paid for by Bowling Green State University are mandatory. If either grievant or respondent, or both, prefer an open-hearing, a request for such a hearing format must be made in writing with the FPCC Chair at least ten class days prior to the scheduled date of the hearing. Denial by the FPCC-EC of the request for an open-hearing may be appealed to the full FPCC, whose decision shall be final.

i) Access to Relevant Documents and Testimony

Both grievant and respondent may request the assistance of the FPCC-EC in the production of documents and in ensuring the appearance and testimony of witnesses before the Provost/VPAA, Panel of Inquiry or Hearing Board, provided such documents and testimony are material to the proceedings. Any dispute on whether or not certain documents shall be made available to the grievant or respondent will be resolved by a panel comprised of the Provost/VPAA (or his/her designee), the FPCC Chair, Chair of the Hearing Board and the Chair of the Panel of Inquiry . If the documents involved are of a sensitive nature and are in the official custody of the university, a formal request for access to such documents under the Ohio Public Records Act or the Federal Freedom of Information Act may be filed with the office of the General Counsel whose decision on whether or not to grant access to such documents shall be final and controlling.

j) Names and Roles of Witnesses

The grievant and respondent shall have the right to testify in their own behalf and to present witnesses in their favor. The names of witnesses shall be provided to the Chair of FPCC who shall make the information available to both parties to the grievance and to the Provost/VPAA, the Panel of Inquiry and the Hearing Board, as the case may be. Taped testimony or sworn statements of witnesses who are unable to testify in person are not allowed unless both parties agree. Unless the proceedings are in open session, no witnesses shall be allowed to remain in the hearing room after completion of their testimonies. Any or all witnesses presented at the hearing are subject to direct- and cross-examination by the grievant and respondent or their respective faculty advisors. Members of the Hearing Board may also ask any or all witnesses questions during the proceedings with the time consumed in the colloquy charged to the Hearing Board's time.

k) Introduction of Evidence and Testimony of Witnesses

In order to preclude unfair surprises, no additional witnesses, whose names were not included in the original submissions, shall be permitted to testify, unless the rule is waived by the FPCC-EC or by a majority vote of the Hearing Board. Sworn statements, opening and closing statements, graphs, charts or other audio-visual materials may be used at the hearing by both grievant and respondent provided such

materials do not include any new previously undisclosed evidence and are approved by the Chair of the Hearing Board at least ten class days prior to the hearing. After proceedings before the Hearing Board have been completed, all audio-visual materials used by both parties, if any, shall be retrieved by the Chair of the Hearing Board and returned to the Faculty Senate Office for appropriate disposal.

l) Burden of Proof and Presumption of Correctness

Unless established otherwise, the decision of the academic department, school, college, administration, committee or board being grieved is presumed correct and in order. The grievant has the burden of proof and must establish, by preponderance of the evidence, that the decision being grieved is incorrect or improper.

m) Official Government Findings or Court Decisions

A court decision or an official finding of an agency of the Federal or State Government to the effect that a Federal or State Law, University rules, regulations, procedures, or policies have been violated shall be considered conclusive evidence of inadequate or inequitable consideration of the professional competence of the grievant.

n) Pursuit of Concurrent Relief before a Court Of Law or an appropriate Federal or State Agency

The FPCC grievance process shall continue regardless of whether the grievant is seeking concurrent relief before a State or Federal Court or an appropriate Federal or State administrative or investigative agency.

o) Extension of Time-Lines in the Grievance Process

The FPCC-EC may extend the time-lines in the grievance process, at the request of either party. If the FPCC-EC denies a request for a time-extension, the losing party may appeal the decision to the full FPCC, whose decision shall be final.

p) Implied Withdrawal of Grievance

The acceptance and signing of an employment contract with Bowling Green State University by the grievant during the pendency of grievance proceedings shall not be construed as an implied withdrawal of the grievance.

q) Dismissal of the Grievance for Cause

The FPCC-EC on its own initiative may dismiss a grievance or find against the respondent for repeated violations of FPCC procedures and for abuse of process. Before the FPCC-EC takes such action, however, it must notify both parties to the grievance that a sanction is imminent.

r) Lines of Appeal



Unless otherwise indicated in these guidelines, all decisions made by the FPCC Chair may be appealed to the FPCC-EC, then to the full FPCC, then to the Provost/VPAA. Appeal to the President may be made only in grievances involving discrimination by reason of race, color, sex, gender, national origin, age, religion, disability or sexual orientation. Decisions on tenure-revocation cases may be appealed to the Board of Trustees of Bowling Green State University.

## 5. Review of Grievance Petition

### a) Sufficiency in Form and Substance

The grievance petition shall be reviewed by the FPCC-EC within five class days after its receipt at the Faculty Senate Office to determine whether or not the grievance petition is sufficient in form and substance and comports with all pertinent sections of B-I.E of the Academic Charter.

### b) Identifying a Respondent or Respondents

If the grievance petition fails to specify a respondent (or respondents), the FPCC-EC shall determine the appropriate respondent on the basis of the charges and evidence and in accordance with the following guidelines:

- (1) If the grievance results from departmental decision or recommendation, the department Chair at the time of the adverse decision is the respondent;
- (2) If the grievance results from a school's decision or recommendation, the school Director at the time of the adverse decision is the respondent;
- (3) If the grievance results from a reversal or substantive modification of a departmental decision, by an academic dean, the academic dean at the time of the adverse decision is the respondent;
- (4) If the grievance results from a reversal or substantive modification by the Provost/Vice-President for Academic Affairs, of an academic dean's recommendation, the Provost/Vice-President for Academic Affairs at the time of the adverse decision is the respondent;
- (5) Where applicable and with the prior approval of the FPCC-EC, a grievant may implead one or more additional respondents.

### c) Giving Due Course to or Dismissal of Grievance

Within ten class days after receipt of the formal grievance petition at the Faculty Senate Office, the FPCC-EC shall meet to determine whether or not the grievance petition is sufficient in form and substance and comports with all the procedural requirements outlined in B-I.E of the Academic Charter. If the FPCC-EC finds the grievance petition sufficient in form and substance, a case file and case number will be created by the administrative secretary of the Faculty Senate at the direction of the FPCC Chair. If the FPCC-EC finds that the grievance petition is not sufficient in form and substance, it may dismiss the grievance outright or send it back to the grievant for

appropriate modifications or revisions and refile as soon as infirmities in the original grievance petition have been cured.

The grounds for dismissal of a grievance are:

- (1) repeated filings based upon the same fact-situation;
- (2) if the grievance petition is filed after one hundred twenty class days from the date of the denial of tenure-promotion or of the alleged infraction, as the case may be;
- (3) if the alleged infraction is beyond the scope of the FPCC's authority and jurisdiction and the FPCC is barred by law or applicable university policy from assuming jurisdiction over the grievance;
- (4) abuse of process by seeking repeated continuances to unduly and unreasonably extend the proceedings;
- (5) insufficiency of evidence to support the allegations in the grievance petition grievant may appeal that decision to the full FPCC, within ten class days after being notified of the FPCC-EC'S decision. The decision of the full FPCC on the appeal shall be final.

d) Entitlement to a Copy of Grievance Petition

Within five class days after the FPCC-EC has found the grievance petition sufficient in form and substance the FPCC Chair shall direct the administrative secretary of the Faculty Senate to furnish the respondent (or respondents) with a copy of the grievance petition. A copy of the grievance petition shall also be furnished to the office of the Provost/VPAA, the grievant's department chair, school director or academic dean, if none of them are named as a respondent in the grievance, and to the Office of Equity and Diversity if the petition involves discrimination by reason of race, color, religion, national origin, sex, gender, age, disability or sexual orientation

6. The Conciliation Process

a) Role of FPCC Chair

Within five class days of the acceptance of the grievance petition by the FPCC-EC, the FPCC Chair shall:

(1) Appoint a Conciliator

The FPCC Chair shall appoint a conciliator from among the current membership of FPCC to attempt to bring about an amicable settlement of the dispute. The conciliator must hold an academic rank equal to or higher than that of the grievant.

(2) Challenge to the Appointment of Conciliator

Within five class days after the appointment of a conciliator by the FPCC Chair, both parties to the grievance may challenge the appointment for good cause. In order to prevail, the challenger must sufficiently establish that the conciliator is personally biased, is unqualified, or is involved in a potential or actual conflict of interest. The FPCC-EC shall decide each challenge on the merits and if warranted, a new conciliator acceptable to both parties shall be appointed by the FPCC Chair.

b) Role of Conciliator

The conciliator shall meet individually or collectively with the grievant and respondent. The purpose of the meeting(s) shall be to assist the parties in reaching a voluntary and amicable resolution of the grievance. The meeting(s) shall be informal and confidential. The conciliator is not a finder of fact and does not have the authority to rule on the truth or falsity of either party's allegations or to decide who is right or wrong.

c) Report of Conciliator

Within fifteen class days after meeting with both parties to the grievance the conciliator shall report in writing to the FPCC Chair whether or not conciliation has been achieved. At the request of the conciliator, the original fifteen class-day period may be extended by the FPCC Chair for another fifteen class days if successful conciliation appears possible. At the expiration of the conciliation period, any or all materials pertaining to the grievance in the possession of the conciliator shall be returned to the Faculty Senate Office for proper disposal at the direction of the FPCC Chair.

7. Pre-Hearing Motions and Other Procedural Disputes

a) Answer by Respondent and Motion to Dismiss

Within ten class days after formal notification by the FPCC Chair that conciliation has failed, the respondent must file a written answer with the Faculty Senate Office explaining why conciliation failed. The FPCC Chair shall furnish the grievant a copy of the respondent's answer within five class days. The Director of Equity and Diversity shall also be furnished a copy if the grievance involves discrimination by reason of race, color, national origin, age, sex, gender, religion, disability or sexual orientation. As part of his/her written answer, respondent may move to dismiss the grievance. If a motion to dismiss is made by respondent, the FPCC-EC shall meet, within five class days, with all the parties present to consider the motion. If the FPCC-EC denies the motion to dismiss, the respondent may appeal its ruling to the full FPCC whose decision shall be final.

b) Choice of Grievance-Resolution Method

Within ten class days after being advised by the FPCC Chair that conciliation has failed, the grievant must formally inform the FPCC Chair what method of grievance-resolution he/she wishes to avail of.

c) Method of Grievance-Resolution

The grievant may choose from the following methods of grievance -resolution:

(1) Direct appeal to the Provost/VPAA

(2) Panel of Inquiry

(3) Hearing Board

8. Direct Appeal to Provost/VPAA

a) Jurisdiction Over Grievance

The Provost/VPAA or his/her designee shall inform the grievant if he/she is willing to assume jurisdiction over the grievance. If the Provost/VPAA declines to assume jurisdiction, the grievant must choose between the Panel of Inquiry or Hearing Board method.

b) Submission of Written Evidence and List of Witnesses

If the Provost/VPAA decides to assume jurisdiction over the grievance, the grievant and respondent shall provide the office of the Provost/VPAA a list of witnesses as well as any or all written evidence within fifteen class days after being informed of the Provost decision. The FPCC Chair shall furnish all parties to the grievance a copy of the list of witnesses and inventory of evidence within five class days. Each party to the grievance may also submit rebuttal evidence within five class days after receipt of the opposing party's written evidence. If rebuttal evidence is filed by one or both of the parties to the grievance, the Chair of FPCC shall make the information available to both sides, within five class days. No new evidence may be submitted and no new witnesses may be added to the previous list of witnesses without prior permission from the Provost/VPAA. All written evidence from the parties, including rebuttal evidence if any, received at the Faculty Senate Office in a timely manner shall be forwarded to the office of the Provost/VPAA by the Chair of FPCC within five class days.

c) Proceedings Before the Provost/VPAA

Within twenty class days after receipt of all evidence and lists of witnesses, the VPAA/Provost or his/her designee shall render a decision after a thorough and impartial examination of the evidence and interview of the witnesses.

d) Report of Findings and Recommendations

After a decision has been reached, the Provost/VPAA or his/her designee shall issue a report of findings and recommendations and within ten class days file the signed original copy of the report with the Faculty Senate Office. The FPCC Chair shall provide certified true copies of the report to both grievant and respondent, and to the Director of Equity and Diversity if the grievance involves discrimination by reason of race, color, religion, national origin, sex, gender, age, disability or sexual orientation.

## 9. Panel of Inquiry

### a) Selection of Panel of Inquiry

Within five class days after the Panel of Inquiry method is selected by the grievant, the FPCC-EC shall designate three individuals from the current membership of the FPCC to constitute the panel. All members of the Panel of Inquiry shall hold an academic rank equal to or higher than the grievant's and if serving in a Panel of Inquiry for the first time, shall complete an FPCC training session on Panel of Inquiry procedures before assuming their duties. The FPCC-EC may appoint a non-FPCC member to the panel in the event that not enough current FPCC members are available. The panel shall elect a Chair from among themselves before the proceedings get underway.

### b) Challenge of Panel of Inquiry Members

Within five class days after the members of the Panel of Inquiry have been appointed by the FPCC Chair, the grievant and respondent may challenge any or all panel members for good cause. In order to prevail, the grievant or respondent shall establish by preponderance of the evidence that the panel member or members in question is or are not qualified, is or are personally biased or involved in a potential or actual conflict of interest. The FPCC-EC shall rule on each challenge on the merits and if warranted, a replacement or replacements shall be appointed by the FPCC Chair.

### c) Submission of Written Evidence and Lists of Witnesses

Within fifteen class days after the grievant has selected the Panel of Inquiry method the grievant and respondent shall submit a list of witnesses and any or all written evidence class days after receipt of both lists, the administrative secretary of the Faculty Senate at the direction of the FPCC Chair shall provide copies to all parties. Both grievant and respondent shall have five class days to submit rebuttal evidence, if any, to the Faculty Senate office, which shall be responsible for providing copies to both parties. After the deadline for the submission of original and rebuttal evidence and witness lists has lapsed, the Faculty Senate Office, which shall be responsible for providing copies to both parties. After the deadline for the submission of original and rebuttal evidence and witness lists has lapsed, the Faculty Senate Office shall have ten class days to furnish the office of the Provost/VPAA and of the Panel of Inquiry, with copies of the documents. No new evidence or list of witnesses will be accepted by the Faculty Senate Office after the fifteen class-day deadline unless duly authorized by the FPCC-EC

### d) Proceedings before the Panel of Inquiry

Within ten class days after receipt of all written and rebuttal evidence, the Panel of Inquiry shall interview the parties and their witnesses in closed session and examine the written original and rebuttal evidence. The Panel of Inquiry has the option to interview other witnesses and examine other written evidence on its own initiative if it believes that doing so would result in a fair and equitable resolution of the grievance. After all the witnesses have been interviewed, the original and rebuttal

evidence presented and both grievant and respondent have been dismissed, the Panel of Inquiry shall begin its deliberations. All decisions shall be made by a simple majority vote, with the Chair of the Panel of Inquiry, being responsible for writing the majority report if he/she voted with the majority. If the Chair is the lone dissenting vote he/she may choose to write a minority report, in which case, the panel's report of findings and recommendations shall be written by the most senior member of the panel.

e) Report of Findings and Recommendations

The Panel of Inquiry shall issue a report of its findings and recommendations and send it to the office of the Provost/VPAA within ten class days after completing its work. A copy of the report shall be made available to the grievant, respondent, FPCC Chair and the Director of Equity and Diversity if the grievance involves discrimination by reason of race, color, religion, national origin, sex, gender, age, disability or sexual orientation. A copy of the report shall also be retained at the Faculty Senate Office as part of the case file.

10 Proceedings before the Hearing Board

a) Members of the Hearing Board

Within ten class days after the grievant has selected the Hearing Board method of grievance-resolution, the FPCC-EC shall constitute a Hearing Board of five members and two alternates. The Chair and Vice-Chair of the Hearing Board shall be current members of the FPCC while the three regular members and two alternates shall be chosen in a random lottery from the tenured faculty of Bowling Green State University. The lottery shall be conducted by the administrative secretary of the Faculty Senate at the direction of the FPCC Chair. All members of the Hearing Board must hold an academic rank equal to or higher than the grievant and, if serving in a Hearing Board for the first time, shall complete a training session on FPCC Hearing Board procedures before assuming their duties. The parties' department chairs, school directors, academic deans, and other department or school colleagues are ineligible to serve, as are the grievance. Faculty Members who have been parties to a grievance before the FPCC within one academic year of the scheduled hearing date shall also be ineligible to serve. If no current member of the FPCC is available to serve as Chair and Vice-Chair, of the Hearing Board, respectively, the FPCC-EC may appoint a non-FPCC member to the position or positions, as the case may be.

b) Challenge of Hearing Board Members

Within five class days after the membership of the Hearing Board has been announced by the FPCC Chair, the grievant or respondent may challenge any or all of the members and alternates for good cause. In order to establish good cause, the grievant or respondent shall prove that the Hearing Board member or alternate in question is not qualified, personally biased or is involved in a potential or actual conflict of interest. The FPCC-EC shall rule on each challenge on the merits and if warranted, appoint a new Hearing Board member or members, as the case may be.

c) Submission of Written Evidence and List of Witnesses

Within fifteen class days after the grievant has chosen the Hearing Board method of grievance-resolution and all parties to the grievance have been notified, the grievant and respondent shall provide the Faculty Senate Office with their written evidence and a list of witnesses they intend to call at the hearing. The administrative secretary of the Faculty Senate, at the direction of the FPCC Chair, shall furnish all parties to the grievance a copy of the grievant's and respondent's list of witnesses and written evidence within five class days. Both grievant and respondent are entitled to introduce rebuttal evidence within five class days after receipt of the opposing party's written evidence. Any or all rebuttal evidence and additional lists of witnesses submitted to the Faculty Senate Office shall be made available to both parties within five class days by the administrative secretary of the Faculty Senate at the direction of the FPCC Chair. Within ten class days after receipt of all original and rebuttal evidence and lists of witnesses, the office of the Provost/VPAA and all members of the Hearing Board shall each be furnished a copy. No new evidence or list of witnesses may be submitted beyond this point unless previously authorized by the FPCC-EC. If either party to the grievance intends to make opening and closing statements at the hearing or use charts, graphs or other audio-visual materials in the presentation of their respective cases, he/she must so advise the Chair of the Hearing Board at least ten class days before the scheduled hearing. The Chair of the Hearing Board shall make all audio-visual materials to be used at the hearing available to all parties within five class days.

d) Setting a Hearing Date

Within twenty class days after all written evidence and rebuttal evidence have been provided to all the parties, the Chair of the Hearing Board shall set a specific hearing date and notify all the parties involved accordingly. The proceedings before the Hearing Board shall be recorded by an electronic device to be operated by the Vice-Chair of the Hearing Board and a certified court recorder. The FPCC Chair may grant permission to the parties to listen to the audio-recording of the proceedings at the Faculty Senate office under the supervision of the administrative secretary of the Faculty Senate. Upon request, certified true copies of the audio-recording may be made available to the parties at their own expense. If either party wishes to have the proceedings recorded by a certified court recorder, a request for such services shall be conveyed to the FPCC Chair at least ten class days before the scheduled hearing date. If the request is granted, the FPCC Chair shall direct the administrative secretary of the Faculty Senate to make the necessary arrangements to engage the services of a certified court recorder. The cost of such services shall be paid for by Bowling Green State University and transcripts of the proceedings may be obtained by either party to the grievance at his/her own expense.

e) Conduct of Hearing and Role of Hearing Board Chair

The Chair of the Hearing Board shall preside over the proceedings, rule on procedural questions raised by either side and conduct the hearing fairly and objectively, making sure that both parties to the grievance and their witnesses are afforded equal

opportunity to present their respective cases. After all written evidence has been presented, all witnesses have given their testimonies and the grievant and respondent have been dismissed from the hearing room, the Hearing Board shall deliberate on the case outcome. Only members of the Hearing Board may be present during the deliberations which shall continue until the Hearing Board has come to a decision on the issue or issues raised in the grievance. All decisions shall be arrived at by a simple majority vote. The Chair of the Hearing Board shall be responsible for writing the Hearing Board's report of findings and recommendations if he/she voted with the majority. If the Hearing Board Chair voted with the minority, he/she shall designate the most senior Hearing Board member who voted with the majority to write the Hearing Board's majority report. Should the minority wish to file a minority report, the Hearing Board Chair shall be responsible for writing such report.

f) Report of Findings and Recommendations

Within ten class days after the conclusion of the hearing, the Hearing Board shall send its report of findings and recommendations to the Provost/VPAA or the President of the University as the case may be. If the respondent is the Provost/VPAA, the decisional authority is the President of the University and the Hearing Board's report of findings and recommendations shall be sent to the Office of the President. Copies of the Hearing Board's report of findings and recommendations shall also be sent to the FPCC Chair, Faculty Senate Office and the Director of Equity and Diversity if the grievance involves discrimination by reason of race, color, religion, national origin, sex, gender, age, disability or sexual orientation.

11. Content of Reports of Grievance Resolution Bodies

a) Findings of Fact and Proposed Remedies

(1) The report of findings and recommendations of the Provost/VPAA, Panel of Inquiry or Hearing Board, as the case may be, shall include specific findings of fact and a determination as to the veracity of specific and general allegations raised by either side in the grievance.

(2) The report of findings and recommendations by the Provost/VPAA, Panel of Inquiry or Hearing Board, as the case may be, shall include clear and unambiguous recommendations as to what action or actions should be undertaken by the appropriate decisional authority to redress the grievance or grievances raised by the prevailing side in the grievance.

b) Finding of Procedural Deficiencies

The report of findings and recommendations by the Provost/VPAA, Panel of Inquiry or Hearing Board, as the case may be, shall specifically identify deficiencies, if any, in the procedures and policies of an academic department, school, college, board or committee and refer these to the Provost/VPAA or other appropriate decisional authorities and the FPCC Chair. If certain policies and procedures employed by an academic department, school, college, administration, committee or board are found to be defective and warrant changes to the Academic Charter a request for such



amendments must be sent to the Chair of the Faculty Senate and the Senate Executive Committee (SEC) for appropriate action in accordance with XIII.A and XIII.B of the Academic Charter.

c) Possible Charter Violations

The Provost/VPAA, Panel of Inquiry, or Hearing Board shall officially refer all possible violations of the Academic Charter to the Chair of the Faculty Senate and SEC for appropriate action as set forth in XIII.D of the Academic Charter.

12. Appeal OF Findings and Recommendations

a) Decisions of the Panel of Inquiry and Hearing Board may be appealed by the losing party in accordance with the following guidelines:

(1) Review of Grievant or Respondent

Within five class days after receipt of an official copy of the report of findings and recommendations of the Provost/VPAA, Panel of Inquiry or Hearing Board, as the case may be, the losing party may file an appeal with the FPCC-EC. If the FPCC-EC gives due course to the appeal and finds in favor of the appellant, the FPCC-EC shall direct the Provost/VPAA, Panel of Inquiry or Hearing Board, as the case may be, to correct the errors identified in the appeal

(2) Grounds for Appeal

In order to prevail, the appellant must establish that the procedures employed by the Panel of Inquiry or Hearing Board, as the case may be, were so inherently flawed and defective that it precluded a fair and equitable resolution of the case. Within five class days after the appellate review, the FPCC-EC shall render a decision either upholding the appeal or affirming the findings and recommendations of the Panel of Inquiry or Hearing Board. If the appellee is the Provost/VPAA, the proper forum for the appeal shall be the office of the President of the University. The decision of the FPCC-EC or President on the appeal shall be final.

b) The Provost/VPAA as Decisional Authority

Within twenty class days after the time period for appeals has passed, the Provost/VPAA shall issue a formal written response to the findings and recommendations of the Panel of Inquiry or Hearing Board. In his/her official response, the Provost/VPAA shall indicate whether or not he/she is in agreement or disagreement with the findings and recommendations of the Panel of Inquiry or Hearing Board. If the Provost/VPAA differs from the findings and recommendations of the Panel of Inquiry or Hearing Board, he/she must provide a thorough and detailed rationale for his/her decision. A copy of the Panel of Inquiry or Hearing Board, as the case may be, the Faculty Senate Office and the Director of Equity and Diversity if the grievance involves discrimination due to by reason of race, color, national origin, religion, sex, gender, age disability and sexual orientation.

c) Role of the President and the Board of Trustees

(1) Where the Respondent is the Provost/VPAA

If the respondent in the grievance is the Provost/VPAA, the report of findings and recommendations of the Panel of Inquiry or Hearing Board shall be sent to the President of the University for his/her decision.

(2) Appeal to the President

Within five class days after receipt of the Provost official decision, the losing party may appeal the decision to the President of the University if the grievance involves tenure-revocation or discrimination by reason of race, color, sex, gender, national origin, age, religion, disability or sexual orientation. The University President's decision on the appeal shall be final, except in tenure-revocation cases where the grievant may appeal to the University's Board of Trustees.

(3) Appeal to the Board of Trustees

In tenure-revocation cases, the grievant may appeal to the Board of Trustees of Bowling Green State University. If the Board of Trustees gives due course to the appeal, a majority of the disinterested members of the board must be present during the proceedings and a simple majority of those present and voting is required to arrive at a decision. The decision of the University Board of Trustees shall be final.