Grievance Procedures and the University Ombudsman

POLICY STATEMENT

Enter Policy Statement Here

REASON FOR POLICY

Enter the Reason for the Policy Here

ENTITIES AFFECTED BY THIS POLICY

- All units of the university

WHO SHOULD READ THIS POLICY

- Those who will be responsible for reading and understanding this policy in order to implement the associated procedures; persons who must understand the policy in order to do their jobs; and people who are affected ultimately by the policy.

WEB ADDRESS FOR THIS POLICY

- This policy: www.policy.cornell.edu/
- University Policy Office: www.policy.cornell.edu
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Draft: April 2, 2012

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RELATED RESOURCES

University Policies and Documentation

External Documentation

University Forms and Systems
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CONTACTS

Direct any general questions about this policy to your college or unit administrative office. If you have questions about specific issues, contact the following offices.

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DEFINITIONS

These definitions apply to terms as they are used in this policy.
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RESPONSIBILITIES

The major responsibilities each party has in connection with this policy are as follows:

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PRINCIPLES

Overview

The university sets minimum standards that are intended to provide appropriate
means by which individuals holding academic appointments at Cornell who believe
themselves to be aggrieved can obtain consideration and, possible, redress of their
grievance. These minimum standards, available on the University Policy Office
website at www.dfa.cornell.edu/treasurer/policyoffice/policies/volumes/humanresources/grievance.cfm, have been implemented to assist the colleges of the
university in establishing their specific grievance procedures.

Each college is responsible for establishing grievance procedures that must be
published and distributed, posted on a college website, or by other means, made
easily accessible to all individuals covered by them. Although specific procedures
may vary from college to college due to the particular circumstances of each, they
must be consistent in their recognition of the interests and responsibilities of the
individual, the college, and the university.

There shall be an Ombudsman for the Cornell University community, whose office
shall be independent of all existing administrative structures of the University and
shall be open to all members of the Cornell community. Its services are independent
of the university administration and are confidential. It is guided by certain ethical
principles, including independence, neutrality and impartiality, confidentiality and
informality. See ombudsman.cornell.edu for details.
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## PROCEDURES

### College-Level Academic Employee Grievance Procedures

A formal grievance procedure may be invoked by academic employees to seek redress of decisions made and/or taken at the unit, college, and/or university level that the academic employee may consider intolerable to the effective execution of his or her responsibilities. Grievable actions may apply to a number of separate or related components of those responsibilities including, but not limited to: reward; academic freedom; work assignment; working conditions; legally prohibited discrimination involving, but not limited to such factors as race, color, creed, religion, national or ethnic origin, sex, sexual orientation, age, or disability; and the existence of, adequacy of, and adherence to equitable grievance procedures.

Anyone contemplating the initiation of an academic grievance can receive information and counseling from the Office of the University Faculty, the office of the dean of the school or college, or the Office of the University Ombudsman.

See Appendix A for Guidelines for Establishing College-level Grievance Procedures.

### Grievances By and Against Graduate Students

The Grievance Procedure for Graduate Students Relating to Graduate Education and Support outlines general provisions and procedural steps for handling most grievances involving graduate students and faculty members, including issues such as academic integrity, remuneration, or joint publication.


### Office of the University Ombudsman

The Office of the University Ombudsman administers the Student-Academic Staff Grievance Procedure and Student-Administrative Staff Grievance Procedure. It also hears complaints from any source within the university community or directed against anyone in the university exercising authority and attempts to assist in obtaining a resolution of the problem. To the extent permitted by law and consistent with other university policies, confidentiality and anonymity will be provided to any grievant who requests such protection. When appropriate, the office investigates and reports finding conclusion without restriction other than to protect the rights of individuals. The office does not exercise powers of decision but may accept the role of arbitrator when requested to do so by parties to a dispute. Their Web address is [ombudsmand.cornell.edu](http://ombudsmand.cornell.edu).

See Appendix B for Guidelines for the Office of the University Ombudsman.
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APPENDIX A: GUIDELINES FOR ESTABLISHING
COLLEGE-LEVEL GRIEVANCE PROCEDURES

A “grievance” is regarded as “an injustice of harm arising from a specific situation involving an act or acts of alleged unfairness which the individual regards as just cause for protest on his or her own behalf (or individuals on their own behalf).” A “grievance” is distinguished from an “appeal,” which petitions for reconsideration of a decision, such as an adverse decision on reappointment, promotion or tenure.

The Board of Trustees issued the following guidelines governing the establishment of grievance procedures in the colleges. Copies of grievance procedures (and appeals procedures) of a particular college or the University Library may be obtained from their administrative offices and are available through the Office of the University Ombudsman (ombudsman.cornell.edu).

The following guidelines for college-level academic grievance procedures were adopted by the Faculty Council of Representatives on May 8, 1974 (Records, pp. 4287-94C), and modified by the Executive Committee of the Board of Trustees on March 13, 1975 (Records, pp. 8957 and 8964-69). They have since been updated and are represented in University Policy 6.2.10, Establishment of College-level Academic Employee Grievance Procedures:

Part I - OBJECTIVES

1. The objective of academic grievance procedures is to provide appropriate means whereby an individual holding an academic appointment at Cornell University who believes himself or herself to be aggrieved can obtain consideration and, possibly, redress of his or her grievance.

2. The objective of the Guidelines set forth below is to establish standards for the development and maintenance of specific grievance procedures within the different colleges of the University. Although specific procedures may vary from college to college in accordance with the particular circumstances of each, they should be consistent in their recognition of the interests and responsibilities of the individual, the college, and the University.

3. A system of accepted and understood academic grievance procedures is intended to serve as one of the means by which a community of self-governing academicians exercises its freedom and responsibility.

Part II - DEFINITIONS AND ASSUMPTIONS

1. Definition.* For the purpose of the following regulations and guidelines, a grievance is defined as an injustice of harm arising from a specific situation involving an act or acts of alleged unfairness which the individual regards as just cause for protest on his or her own behalf (or individuals on their own behalf).
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*By action of the Executive Committee of the Board of Trustees on March 13, 1975, p. 8957, such grievance procedures are not applicable to complaints with respect to appointment, reappointment, promotion or any tenure decision.

2. **Nature of Grievable Action.** An academic grievance procedure can be applied to the substantive and/or procedural aspects of any grievance arising out of the academician’s execution of his or her designated responsibilities. Grievable actions might grow out of a number of separate or related aspects of those responsibilities, of which the following are illustrative but by no means limiting: (a) reward; (b) academic freedom; (c) work assignment; (d) working conditions; (e) discrimination by race, creed, sex, or age; and (f) existence of, adequacy of, and adherence to equitable grievance procedures. The frequent interrelationships among these different aspects necessitate one set of academic grievance procedure guidelines and standards adaptable to all aspects rather than separate guidelines and standards for each.

3. **Right to Invoke a Formal Grievance Action.** The individual academician has the right as a condition of his or her appointment to seek through formal grievance procedures involving the judgment of his or her peers a redress of those decisions made and/or those actions taken at the departmental, college, and/or University level that he or she considers intolerable to the effective execution of his or her responsibilities.

4. **Limitation on Right to Invoke a Formal Grievance Action.** The right to invoke a formal grievance action does not extend to abnormal participation in or obstruction of the normal decision making processes. The desire to prevent or to anticipate or to register mere unhappiness over a particular decision or action, does not, in and of itself, justify invoking a grievance procedure. Only when direct negotiations between parties to a dispute have been exhausted and not led to a resolution of a dispute may the individual (or individuals) resort to invoking the academic grievance procedure of his or her college.

**Part III - COVERAGE**

1. Academic grievance procedures are applicable to all employees of the University (except as noted below) who, because of the predominantly academic nature of their responsibilities, hold teaching, research and/or extension appointments; i.e., to those men and women holding appointments as Professor, Associate Professor, Assistant Professor, Visiting Professor (all ranks), Adjunct Professor (all ranks), Clinical Professor, Associate Clinical Professor, Assistant Clinical Professor, Instructor, Senior Lecturer, Lecturer, Senior Research Associate, Research Associate, Senior Extension Associate, or Extension Associate.

2. Academic grievance procedures are not applicable to degree candidates
having appointments as Teaching Assistant, Research Assistant, or Graduate Research Assistant.

3. An individual who, by his or her appointment, is covered by more than one University grievance procedures, may choose the procedure under which he or she wishes to protest a particular grievance. An individual may not, however, invoke more than one grievance procedure for the same grievance.

**Part IV - MINIMUM STANDARDS FOR COLLEGE-LEVEL GRIEVANCE PROCEDURES**

1. Establishment of procedures:
   a. Establishment of grievance procedures applicable to the academicians of the college as defined in Part III.
   b. Publication and distribution of the provisions of the procedures to all individuals covered by them.

2. Committee Organization and Structure:
   a. Designation by appointment or election of responsibility for handling grievances to either an existing committee or committees or especially created committee or committees.
   b. Adequate notice to all college academicians of such assignment and provisions concerning the assignment.
   c. Charge to the committee(s) regarding responsibilities, mandate, discretion, limitations, etc., for the handling of grievances under the established procedures.
   d. Adequate representation on the committee(s) of the various components of those with academic appointments by e.g., rank and/or discipline and/or department and/or nature of appointment.
   e. Exclusion from participation as a committee member any individual who is a directly affected party to the particular grievance at issue.

3. Committee Responsibility: Understanding by the academicians of the college that the purpose of the committee handling grievances is to resolve them either by helping the parties reach a decision acceptable to both or by rendering a recommendation.

4. Operation of Procedures:
   a. Arrangements which require attempts to settle individual grievances by direct negotiation between parties concerned before application of grievance procedures.
   b. Explicit procedures for (1) submitting a grievance in writing to a designated party; (2) referring to the appropriate committee; (3) establishing essential facts and unresolved issues; (4) arranging for
adequate documentation; (5) establishing time schedule for handling particular grievances; and (6) communicating both recommendations and ultimate decisions.

c. Right of the committee handling the grievance to decide (1) whether or not direct negotiation remedies have in fact been exhausted; and (2) whether or not facts warrant consideration on the substantive and/or procedural aspects of the issue, a detailed investigation, hearings, recommendations and decisions.

d. Provisions assuring equitable and expeditious handling of individual grievances.

e. Submission by the appropriate committee of written report to the dean of the college, setting forth findings and recommendations.

f. Requirement of written notice from the dean to the principals of the grievance, the University Provost, and the Dean of the Faculty of his acceptance or rejection of the Committee’s recommendations with reasons therefore.

5. Confidentiaity:

a. Provisions for maintaining strict confidence with regard to all matters relevant to individual grievances on a criterion of need-to-know.

b. Provision for summary notice within the college of the case, the issue, and the resolution at the request of a party to the issue and with the concurrence of the committee.

6. Review: Procedure for permitting one of the parties to a grievance of a decision made in accordance with college-level grievance procedure to ask for a University-level review of that decision in accordance with the procedures of the Faculty Committee on Academic Freedom and Responsibility.

Part V - EFFECT OF GRIEVANCE PROCEEDING

Any grievance proceeding contemplated herein shall be advisory to the respective deans and the President and Trustees of the University. While a prior academic personnel action may be reversed, modified, or affected as a consequence of the proceeding, the proceeding itself shall not effect that change.

Part VI - GRIEVANCE EXPENSES

Any necessary expense of the hearing shall be borne by the University with the exception that if the individual wishes to retain a representative or counsel, he shall bear the expense of such representation. If the employee is represented by another individual of the University, the representative will be allowed reasonable time to
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APPENDIX A: GUIDELINES FOR ESTABLISHING COLLEGE-LEVEL
GRIEVANCE PROCEDURES, continued

perform his function without loss of pay.

Part VII--IMPLEMENTATION

1. The Dean of the Faculty shall publish and distribute, in such manner as he
deems appropriate, copies of this legislation to academic personnel of the
colleges as well as to deans and department heads.

2. Consistent with the relevant procedures of the respective colleges, members
of the faculty are urged to:

   a. initiate establishment of college-level procedures in conformity with
      the foregoing standards and guidelines, if none exist.

   b. initiate review of college-level procedures if they exist; and, if
      necessary, institute such modification as may be necessary to bring
      them into conformity with the foregoing standards and guidelines.

3. The Committee on the Professional and Economic Status of the Faculty shall,
as may be requested:

   a. consult with and advise academic and administrative officers and
      members of the college faculties on the establishment and
      maintenance of college-level grievance procedures consistent with
      the foregoing standards and guidelines.

   b. certify as to the adequacy of college-level grievance procedures in
      terms of the foregoing standards and guidelines.”

End of Legislation
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APPENDIX B: GUIDELINES FOR THE OFFICE OF UNIVERSITY OMBUDSMAN

◆Note: The original sources for these Guidelines are the Kahn memorandum of August 26, 1969, used to constitute the office, the Cornell University Senate Guidelines (SA 70), adopted April 22, 1971, and the Charter of the University Assembly, dated January 8, 1981. Copies of the original documents are available from the Office of the University Ombudsman.

1. There shall be an Ombudsman for the Cornell University community, whose office shall be independent of all existing administrative structures of the University and the office shall have the following functions:
   a. To investigate, at the request of members of the community, or upon its own motion, any grievances that may arise against the University or against anyone in the University exercising authority;
   b. To bring its findings and recommendations to the attention of those in authority by the most expeditious means possible, and to the community at large to the extent this seems appropriate to the office;
   c. To serve as a general information center about all situations and University procedures concerning which grievances may arise – specifically, to advise members of the community about where to turn and what procedures to follow in order to pursue whatever business or complaint they may have;
   d. To direct, during emergencies or at the request of the President, such additional, and special information and ‘rumor clinic’ services as the Ombudsman believes appropriate and within the resources and competence of the office.

2. It shall be the special concern of the Ombudsman to:
   a. Make decisions affecting members of the community with reasonable promptness and press others to do the same;
   b. Be satisfied that all members of the community receive ‘due process.’ The Ombudsman shall also be satisfied not only about the adequacy of procedures used to reach decisions, but that criteria and rules on which decisions of the type in question are based are, in fact, appropriate;
   c. Discover, and bring to the attention of those in authority and, if necessary, the entire community, any gaps and inadequacies in existing University procedures. The Ombudsman shall make recommendations and press through publicity, to the extent that it seems necessary, for the formulation of new procedures and the improvement of inadequate ones.
d. Honor all reasonable requests for information pertinent to the functions and purposes of the office and look actively for the answers to all such inquiries and provide them to the inquiring parties and, where it seemed desirable, to the community at large.

3. The Ombudsman shall have access to such official files and information as s/he feels is required to fulfill his/her functions. Any requests for information from the Ombudsman must receive the highest priority from every member of the community. The Ombudsman shall also have efficient means for communicating with the University community whenever s/he sees fit.

4. While the Ombudsman is authorized to function in the widest possible context and with a minimum of constraints:
   a. The Ombudsman shall, of course, exercise no powers that are beyond the legal authority of the University, although s/he may make recommendations concerning the authority of the University or its constituent parts;
   b. The Ombudsman shall not make University policy or replace established legislative or judicial procedures, although s/he may investigate any and all of these, raise questions about them, and make such recommendations as s/he feels proper for their improvement and efficient functioning;
   c. The Ombudsman shall use information from individual personal and personnel records only when s/he has written permission from the affected parties for releasing the information;
   d. While the Ombudsman has wide latitude in making public his/her findings and recommendations, s/he must respect the requests of complainants that their anonymity be preserved.

5. Operations of the office:
   a. It shall keep suitable records of complaints, findings and recommendations. In order to protect the anonymity of the complainants and the confidentiality of the complaint, these shall be accessible only to members of the staff of the Office of the Ombudsman. At the end of a particular Ombudsman’s term, that Ombudsman shall decide which records shall remain for his/her successor, which shall be committed to the University Archives, and which shall be destroyed. In addition, that Ombudsman shall describe the conditions under which persons shall have access to the various records stored in the Archives.
   b. While the Ombudsman may make exceptions at his/her discretion with respect to matters of major importance, the office will normally
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function in terms of first come, first served.

c. The Ombudsman shall make an annual report to the University community and such special reports as s/he may deem useful from time to time. The Ombudsman shall respond to all legitimate requests for information on the work of the office from duly constituted bodies and officials of the University.

6. The Ombudsman shall be appointed by the President with the concurrence of the University Assembly. Candidates for the office shall be identified by a Search Committee which must include at least one faculty member, one student and one employee appointed by the University Assembly, to join with four persons appointed by the President. The Ombudsman shall be appointed for a term of two years and, upon the recommendation of the President with the concurrence of the University Assembly, this appointment may be extended for a maximum period of two years without the need for a search.

7. The Office of the Ombudsman must be independent of all University authority. The Office is ultimately accountable for its operation to the community.

8. The Office shall consist, at a minimum, of the Ombudsman and a full-time assistant, and whatever additional staff is deemed necessary. The Office budget will be subject to the normal University financial and audit procedures.

Any change in, or amendment to, these articles may be initiated by any member of the community who shall make appeal for such change to the Ombudsman. The Ombudsman shall annually submit these, with recommendations, to the President and the University Assembly.
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