

Appendix I

Procedures for Addressing Faculty Academic Grievances

I. General Philosophy Regarding Grievances

Illinois Institute of Technology is committed to the proposition that academic grievances of faculty are deserving of response and appropriate resolution.

II. Scope of this Appendix

A. Academic Grievances Defined

This Appendix is directed only to academic grievances, subject to the exceptions set forth in subsection II.B. below. An academic grievance is one that involves a decision made by, or an action taken by, an academic officer or unit of the university that in some way entails a matter of academic concern. Thus, for example, a matter concerning academic freedom is covered by this Appendix. Likewise, an award or benefit based in whole or part on a faculty member's academic performance, such as eligibility for a university title, a monetary benefit keyed to performance as an academic, or a determination of eligibility for a leave, falls within the scope of this Appendix.¹ By way of contrasting example, a grievance about the correct allocation of university contributions to a faculty member's benefit accounts, or comparable administrative issues, do not constitute academic grievances and thus do not fall within the scope of this Appendix.

B. Academic Grievances Governed by Other Provisions of this Handbook and its Appendices

Grievances concerning salary are addressed in the main text of this Faculty Handbook at Section IX.B., entitled "Appeals for Adjustment in Salary." Grievances concerning termination and suspension are addressed in Appendix J. Grievances concerning scientific misconduct are addressed in Appendix L. While decisions on the merits relating to tenure and promotion cannot be the subjects of grievances, allegations that unfavorable decisions resulted from improper practices can be the subject of grievances pursuant to this Appendix.

C. Right to Pursue a Grievance

Any member of the faculty who believes that he or she has just cause to grieve an academic decision or action affecting him or her may do so pursuant to this Appendix, provided the decision or action being grieved falls within the scope of this Appendix. Faculty members shall have the right to present grievances without prejudice.

¹ By necessity, no definition can be precise enough so as to delineate all circumstances that will be covered and all that will not; thus, the foregoing examples are just that - examples, and are not intended to constitute an exclusive listing of academic matters falling within the scope of this Appendix.

D. Substitution by Another Officer Where Provost is Implicated in a Grievance

If the Provost is material to a grievance by virtue of being the party against whom the grievance is being pursued, or by virtue of his or her being a witness or potential witness in the matter, or for any other reason, the President shall appoint a senior academic administrator to serve in the Provost's stead and to take all the actions and make all the decisions that otherwise would be taken and made by the Provost pursuant to the following sections of this Appendix.

III. Initial Pursuit and Resolution of Grievances

A. Distinguishing Between Academic Unit Grievances and Non-Academic Unit Grievances

There are two ways in which grievances may proceed through the grievance process. In the first instance, a grievance arises that is within the purview of the academic unit head, in the sense that that individual has line authority to address and hopefully resolve the action or decision that has given rise to the grievance. In the second instance, an academic unit head does not have any authority with regard to the decision or action that has given rise to the grievance, and so the grievance is commenced with the Provost.

B. Grievances Within Purview of Academic Unit Head

1. Process When Academic Unit Head is Material to the Grievance

A faculty member who has a grievance that is within the scope of this Appendix and within the purview of her or his academic unit head first shall consult that academic unit head for the purpose of resolving the grievance, if possible. However, if the academic unit head is material to the grievance because he or she is the party whose decision or action gave rise to the grievance or for other reason, the faculty member shall pursue his or her grievance in the first instance with the Provost, in accordance with Section III.C. below.

2. Informal Resolution of Grievance

In the event of a grievance that is within the academic unit head's purview and to which the academic unit head is not material, the academic unit head shall attempt to achieve an informal resolution of the matter. However, if the academic unit head determines that the grievance is one that is properly within the purview of the Provost and thus is not appropriate for resolution by him or her, the grievance shall be referred by the academic unit head to the Provost. In such instance, the grievant shall proceed in accordance with Section III.C.

3. Pursuing Formal Resolution When Informal Resolution Effort Fails

If an informal resolution acceptable to the faculty member is not achieved by the academic unit head within 30 days of the faculty member's initial consultation pursuant to Section III.B.1. with the academic unit head, and the faculty member wishes to pursue the matter, he or she shall file a written statement with the academic unit head no later than 180 days after the occurrence of the decision or action giving rise to the grievance. This statement shall describe in detail the nature of the grievance and shall identify the person, organizational unit, university practice, or regulation as to which the grievance has been lodged. The statement shall include a recitation of such facts and circumstances as the faculty member deems relevant.

4. Decision by Academic Unit Head

Within 30 days of the receipt of a written statement of a grievance that falls within the academic unit head's purview, the academic unit head shall render a decision as to the grievance. (However, if the academic unit head at this point determines that the grievance properly is within the purview of the Provost and thus is not appropriate for resolution by him or her, the academic unit shall refer the grievance to the Provost.) The decision by the academic unit head may be based on a determination that some procedural requirement (e.g., a filing deadline) has not been satisfied, or it may be on the merits. No formal procedures are required as to this decision, other than the academic unit head's informing the parties in writing, with the reason(s) set forth, of the decision. (The failure of the academic unit head to respond in writing within 30 days of his or her receipt of the grievance shall be deemed to constitute a constructive adverse decision.)

C. Grievances Within Purview of the Provost ("Direct Grievances")

In the case of a grievance not within the academic unit head's purview, a grievance in which the academic unit head is a material party, as addressed in Subsection III.B.1., and/or a grievance that has been referred to the Provost by the academic unit head, pursuant to subsections III.B.2. or III.B.4., the grievant shall file a written statement of the grievance with the Provost no later than 180 days after the occurrence of the decision or action giving rise to the grievance. (In the case of a grievance that is referred to the Provost by the academic unit head pursuant to subsection III.B.4., the written statement filed with the academic unit head shall be deemed to satisfy the filing requirement set forth in this subsection.) The statement shall describe in detail the nature of the grievance and shall identify the person, organizational unit, university practice, or regulation as to which the grievance has been lodged. The statement shall include a recitation of such facts and circumstances as the faculty member deems relevant.

The Provost shall determine within 10 days of the filing of the grievance whether it falls within his or her purview. If he or she determines that it properly is within the purview of the academic unit head, he or she shall refer the grievance to that individual. (In this instance, the written statement filed with the Provost shall be deemed to be the written statement required to be filed with the academic unit head pursuant to subsection III.B.4.)

1. Summary Disposition by the Provost

If the Provost unequivocally can determine, without pursuing any formal procedures, that some procedural requirement imposed on the grievant (e.g., a filing deadline) has not been satisfied, the grievance process shall terminate, with notice of such determination and the reason(s) for it, being sent to the parties and the Chair of the University Faculty Council Committee on Academic Freedom and Tenure (CAFT). Alternatively, if the Provost unequivocally can determine, without pursuing any formal procedures, that the grievance should be sustained or denied on the merits, he or she shall so rule, with notice and the reason(s) for the ruling being sent to the parties and the Chair of the CAFT. Such summary dispositions shall be rendered within 45 days of the receipt of the grievance.

2. Referral for Investigation

If the Provost is unable to summarily dispose of the grievance, he or she shall refer the grievance for either informal or formal investigation, pursuant to subsections V or VI, subject to the following

limits. If the grievance is one as to which the grievant has a right to a formal hearing, as he or she does regarding grievances alleging abridgements of academic freedom (see subsection IV.A., in the main text of the Faculty Handbook) and grievances alleging violations of IIT's stated policy on equality of opportunity in employment (see subsection IV.B. in the main text of the Faculty Handbook), the Provost shall refer the matter for formal investigation in accordance with Section VI below, without prior referral for informal investigation, unless the grievant is amenable to first participating in an informal investigation. Such referral shall be made within 45 days of receipt of the grievance.

IV. Appeal by Grievant of a Ruling by Either the Academic Unit Head or the Provost

A. Appeal of Academic Unit Head Ruling

No later than 60 days after a grievant has received an actual or constructive adverse decision from his or her academic unit head in accordance with subsection III.B.4., the grievant may appeal that decision by filing a written statement with the Provost setting forth the bases for the appeal and including the written statement of the grievance filed with the academic unit head, the academic unit head's decision, and such other documentation as the grievant deems relevant.

B. The Provost's Response to the Appeal of an Academic Unit Ruling

1. Summary Disposition

If the Provost unequivocally can determine, without pursuing any formal procedures, that some procedural requirement imposed on the grievant (e.g., a filing deadline) has not been satisfied, the grievance process shall terminate, with notice of such determination and the reason(s) for it being sent to the parties and the Chair of the University Faculty Council Committee on Academic Freedom and Tenure (CAFT). Alternatively, if the Provost unequivocally can determine, without pursuing any formal procedures, that on the merits the grievance should be sustained, he or she shall so rule, with notice of such determination and the reason(s) for it being sent to the parties and the Chair of the University Faculty Council Committee on Academic Freedom and Tenure (CAFT). Such summary dispositions shall be rendered within 45 days of receipt by the Provost of the appeal.

2. Referral for Informal or Formal Investigation

If the Provost is unable to dispose of the appeal summarily, he or she may (but need not) refer the appeal to the University Faculty Council's Committee on Academic Freedom and Tenure (CAFT) for an informal investigation, as described below in Section V. If the Provost chooses to forego an informal investigation referral, the matter shall be referred by the Provost for consideration pursuant to the procedures for formal investigation, set forth below in Section VI. In any event, in instances where the right to a formal hearing exists, as it does regarding grievances alleging abridgements of academic freedom (see subsection IV.A., of the body of the Faculty Handbook) and grievances alleging violations of IIT's stated policy on equality of opportunity in employment (see subsection IV.B. of the body of the Faculty Handbook), the Provost shall refer the matter for formal investigation in accordance with Section VI below, without prior referral for informal investigation, unless the grievant is amenable to first participating in an informal investigation. Such referral shall be made within 45 days of receipt by the Provost of the appeal.

C. Appeal of Summary Disposition by the Provost in a Direct Grievance

A grievant may appeal a summary disposition made by the Provost regarding a grievance that in the first instance was decided by the Provost pursuant to Section III.C.1., above, by filing an appeal with the President within 30 days of the grievant's receipt of notice of the Provost's decision. The President shall render a final decision in the matter within six weeks after the appeal has been submitted. The President shall notify the parties and the Provost in writing of the decision, with the reason(s) for the decision set forth in that notification.

V. Informal Investigation of Grievance

A. Investigation by Committee on Academic Freedom and Tenure

Upon receipt of a written referral from the Provost pursuant to subsections III.C.2. or IV.B.2., the University Faculty Council's Committee on Academic Freedom and Tenure (CAFT) shall undertake an informal investigation by making inquiry into the facts pertaining to the grievance referred to it. The CAFT shall receive any statements from the parties concerned that they may wish to submit.

B. Committee Report and Recommendation(s)

During the committee's proceedings, or as a result of them, the committee may conclude that it can recommend a possible resolution acceptable to the parties concerned, although the committee is not empowered to make any agreement that is in any way binding upon the university. In any event, within 60 days after the grievance has been referred to it, the CAFT shall submit to the Provost a written report setting forth the committee's findings and including one of the following recommendations:

- that no further action should be taken;
- that the Provost should attempt to bring the parties together for the purpose of seeking a mediated resolution; or
- that the grievance should be referred for a formal investigation, as described below.

C. The Provost's Response to the CAFT's Recommendation

Within 30 days of the receipt of a recommendation from the CAFT the Provost shall make a decision concerning further disposition.

1. Decision to Proceed No Further

If the Provost decides not to proceed further with the grievance, he or she shall so inform the parties and the CAFT.

2. Decision to Bring the Parties Together to Seek a Mediated Resolution

If the Provost decides that a mediated resolution of the grievance by means of bringing the parties together should be attempted, he or she shall so inform the parties and the CAFT. Such effort shall ensue, provided the parties are amenable to such an effort, but in any event such effort shall not last longer than 60 days, unless the parties consent to an extension of time. At any time during the course of such mediation the mediator may conclude that the effort is futile and terminate the effort. Upon termination of this effort, the Provost shall refer the matter for formal investigation in accordance

with subsection V.C.3. below, or express in writing his or her conclusion that such referral will not be made. Upon doing so, he or she shall so inform the parties and the CAFT.

3. Referral or Non-referral for Formal Investigation

If, either in accordance with the recommendation of the CAFT or on his or her own determination, the Provost refers the grievance for a formal investigation, the Provost shall request the Chair of the University Faculty Council to take the steps necessary to constitute a grievance hearing committee so that the grievance may be heard pursuant to the procedures described below. The Provost shall inform the parties and the CAFT of the referral.

If, notwithstanding the CAFT's recommendation that a grievance be referred for a formal investigation, the Provost in his or her discretion determines not to make such referral, he or she shall so inform the parties and the CAFT. In those instances where the grievant does not have a right to a formal investigation, a right noted above in subsection IV.B.2., the grievant can seek such investigation by appealing the Provost's decision to refuse to refer the matter for formal investigation. The grievant shall do so by filing a written statement with the President within seven days of receipt of the Provost's decision, not counting the day of receipt. The President shall reach a final decision in the matter within six weeks after the appeal has been submitted. The President shall notify the parties, the Provost, and the CAFT of that decision in writing, with the reason(s) for the decision stated in such notification.

4. Mandatory Referral for Formal Investigation

Whether or not the CAFT recommends, after an informal investigation, that a matter should be referred for formal investigation, and even if, after an informal investigation, the Provost does not wish to refer a matter for formal investigation, such matter shall be referred for formal investigation in those instances where the grievant has a right to a hearing, as noted in subsection IV.B.2., and the grievant requests such formal investigation. If the Provost does not refer such grievance within 30 days of his or her receipt of a request to do so made by the grievant, the grievance shall be filed by the grievant with the Chair of the University Faculty Council. The Chair then shall take the steps necessary to constitute a grievance hearing committee so that the grievance may be heard under the procedures described below. The Chair shall notify the Provost that such action has been taken.

VI. Formal Investigation of Grievances

A. Identification of Grievance Hearing Committee Faculty Members

All faculty members holding ranks defined in this Faculty Handbook as Category I and Category II ranks shall be members of the pool of potential members of grievance hearing committees (GHC). The officers of the University Faculty Council (UFC) shall order by lot potential GHC members from the general pool of eligible faculty. The Chair, or his or her designee, shall contact pool members in the order selected. Each such potential GHC member who is contacted shall be told the identities of the parties involved in the grievance and shall be informed of the general nature of the grievance. Each potential GHC member so contacted shall be afforded an opportunity to request excusal from service on the committee. If the Chair, or his or her designee, assents, the faculty member shall be excused. If the Chair, or his or her designee, does not assent, the faculty member shall not be excused. However, the faculty member's request to be excused shall be disclosed to the parties at the meeting held in accordance with the

following paragraph (i.e., Section VI.C.). The Chair, or his or her designee, shall continue the selection process until 12 potential GHC members have been identified.

B. Selection of Grievance Hearing Committee Faculty Members

The Chair of the UFC, or his or her designee, shall call and preside over a meeting of the parties and their advocates, if any, to select from the 12 previously selected potential GHC members the five who will actually serve. Each of the 12 individuals shall be called separately, in random order, to appear before the parties and their advocates. Each individual may be questioned to determine bias, partiality, and/or knowledge regarding the grievance. The Chair, or his or her designee, may rule questions out of order if such questions are deemed irrelevant to the foregoing issues of bias, partiality, and knowledge. Each party shall be permitted three peremptory challenges; a challenged individual shall be required to withdraw. Once five acceptable faculty members are selected, the process shall end. However, no more than two faculty members selected for the GHC shall hold their primary appointments in the same college, school, or institute and at least three shall be tenured.

C. Selection of Administration Members of the Hearing Committee

The Provost shall appoint to the GHC two members of administrative rank, neither of whom has been named in the grievance. One administrative member shall be a person employed in the college or school, in which the grievant holds his or her primary appointment. The other administrative member shall be employed in a college, school, or institute other than the one in which the grievant holds his or her primary appointment. In the event no administrator from the college, school, or institute in which the grievant holds his or her primary appointment is available, an administrator from another college, school, or institute shall be appointed. The grievant shall have a right to exercise one peremptory challenge as to these administrative appointees. If such a challenge is made the Provost shall appoint another administrative member in accordance with the foregoing guidelines.

D. Chair of the Committee

The GHC shall nominate a chair from among its membership. Upon receipt of the nomination the Provost either shall appoint the person nominated or shall request the committee to submit a new nominee. He or she shall state in writing the reason(s) for such request.

E. The Hearing

1. Representation

Each party may be represented by an advocate (or advocates). The advocate may be an attorney and may be a member of the faculty or of the administration of the university. A representative of the university must be (and an advocate for the grievant may be) present at all meetings in which the grievant appears and testifies.

2. Pre-Hearing Matters

a. Establishing Procedural Ground Rules

The Chair of the GHC shall convene a meeting of the committee for the purpose of establishing procedures to be followed at the hearing. The parties shall have an opportunity to appear at this meeting and to address any issues concerning procedures.

b. Scheduling the Hearing

In consultation with the parties the GHC Chair shall establish a date and time for the grievance to be heard.

c. Submission of Pre-Hearing Statements

The GHC may request the submission of written statements by the parties prior to the hearing.

3. Conduct of the Hearing

At the hearing each party or his or her advocate shall be afforded an opportunity to make an opening statement as to the facts and circumstances surrounding the grievance. Each party, as well as the committee itself, may present documents and call individuals to give testimony to the committee. Each party may question witnesses. However, at its sole discretion the committee may require that questioning be done through the chair of the committee. Committee members may question participants directly.

After the hearing the GHC shall review the testimony and the evidence presented to it and shall arrive at a conclusion, based on its best understanding of the facts and based on a preponderance of the evidence standard. The committee shall submit a written report to the Provost within 30 days of the close of the hearing, with a copy of such report being sent to each parties. The report shall include the committee's conclusion(s); further, it shall list those findings of fact upon which the committee based its conclusion(s), and it may include recommendations regarding disposition of the grievance and the appropriate remedy or remedies.

4. Action by the Provost

The Provost may request a meeting with the GHC to discuss the report. This meeting may be held outside the presence of the parties and/or their advocates.

Whether or not such a meeting is held, the Provost shall consider the committee's report, as well as such other documents and statements as he or she deems relevant, provided the grievant is apprised of such documents and statements, and provided further that the grievant is afforded an opportunity to submit to the Provost relevant supplementary and/or rebuttal material regarding those documents and statements considered by the Provost. The Provost then shall determine the disposition of the grievance. His or her decision shall be communicated to the parties, the GHC, and appropriate officers of the university within six weeks after the committee submitted its report. This decision shall be set forth in writing, with the reason(s) for the decision set forth.

F. Appeal of the Provost's Decision

The grievant may appeal the Provost's decision within seven days of receipt of the decision, not counting the day of receipt, to the President. The President shall render a final decision in the matter within six weeks after the date of the appeal. An appeal regarding the remedy provided by the Provost is addressed in Section VII, below.

VII. Remedies

There is no feasible way to detail the myriad remedies that may be afforded grievants who prevail, given that the facts of each winning grievance will be distinctive. A remedy should be devised that to the extent possible undoes the harm the grievant suffered.

A grievant should have an opportunity to suggest to the CAFT, the grievance hearing committee, the Provost, and/or the President, as the case may be, his or her proposal as to an appropriate remedy. A prevailing grievant who is dissatisfied with the remedy afforded him or her may appeal the decision regarding remedy within seven days of receipt of the decision, not counting the day of receipt, to the President of the university. The President shall render a final decision in the matter within six weeks after the date of the appeal.

VIII. General Rules

A. Expenses

The university shall not be responsible for any expenses incurred by any faculty member who pursues a grievance.

B. Time Limitations

The time limitations established herein are binding on all parties and shall not be altered without the written consent of all parties.

C. Confidentiality and Privacy

Hearings shall be closed to the public. All deliberations of the CAFT and the grievance hearing committee shall be confidential and all members of the committees are expected to maintain and protect the confidentiality of the deliberations.

D. Recording of Hearing

An audio recording of all hearing sessions shall be made and a copy thereof shall be provided at no expense to the faculty member if he or she so requests. The grievant may at his or her own expense arrange for the presence of a court reporter to record the proceedings at the grievance hearing stage. Similarly, the university may arrange for a court reporter at its expense and if a transcript of the proceedings is prepared will provide a copy of that transcript to the faculty member.

E. Stay of Other Grievances

All grievances arising out of the same facts and circumstances that form the basis for the suspension or termination proceeding shall be held in abeyance until the conclusion of that proceeding.

F. Indemnification

A grievance hearing committee member acting within the scope of his or her duties shall be indemnified if any lawsuit is brought against the member relating to his or her service on the grievance hearing committee.