

EXCERPTED FROM *FACULTY HANDBOOK*:

23. FACULTY GRIEVANCE PROCEDURES FOR DISCRIMINATION

Introduction

The University expects its faculty, staff, and students to interact with each other in ways that minimize the possibility of problems or disputes. One of the most important elements for preventing misunderstandings and hurt feelings is clear, honest, and respectful communication. In any organization, a certain amount of disagreement is healthy, indicating that the environment supports and encourages personal expression. However, even with the best communication, occasional problems are inevitable.

In order to ensure equitable, fair, and timely resolution of problems that may arise, the following informal and formal review procedures have been established. No individual's status with the University shall be adversely affected in any way because he/she utilizes these procedures or participates in a grievance proceeding.

When a problem occurs, reasonable attempts will be made to maintain confidentiality in order to protect the right to privacy of those who are involved, and so that the integrity of the person alleged to have acted inappropriately is not compromised in the event of an unfounded complaint. It is necessary, however, to recognize that in the course of investigating and resolving complaints, some dissemination of information to others may be appropriate and necessary in order to investigate such claims fairly and adequately.

The grievance procedures outlined in this section are intended to address only allegations of discrimination or violations of University procedures or policies; a separate grievance procedure applies to matters involving sexual or other unlawful harassment.

The grievance process is not available, nor is it intended to reassess the substantive merits of administrative decisions or recommendations of faculty committees, unless those decisions or recommendations were reached on the basis of applying impermissible criteria, such as race or sex, or resulted from a failure to follow applicable University procedures or policies. Consequently, an investigator's and/or grievance committee's review is limited to determining whether discrimination or violations of University policies or procedures were involved in the challenged decision or recommendation.

In the case of faculty, for example, a grievance committee will not reconsider the merits of non-discriminatory promotion, contract extension, or termination decisions where the proper procedures were followed and the only point of disagreement raised by the aggrieved faculty member is that his/her qualifications for promotion or retention were misjudged or incorrectly assessed by the PREC or the administration.

For details regarding the appeal process related to PREC recommendations, see "In the Case of PREC Recommendation" in the "Appeal Procedure" section below.

The grievance procedure is not available to persons seeking admission to the University as a student nor to applicants for employment.

Informal Grievance Process

Because problems are generally most easily resolved on an informal basis when they first arise, any individual who believes that he/she has been treated inappropriately is encouraged

to discuss the situation honestly, thoroughly, respectfully, and in a timely manner, with the other person who is involved.

In attempting to deal with the problem informally, the aggrieved individual may seek the advice and assistance of any appropriate campus official. For example, a staff member may wish to speak with his/her supervisor, or a member of the faculty may wish to speak with his/her department chair or the dean of his/her School.

Any member of the University community is encouraged to consult with the Director of Human Resources at 257-1365 (or University extension 1365), who serves as the University's Affirmative Action/Title IX Coordinator, or with the University's Ombudsperson at 485-3282 (or University extension 3282).

Any University official who becomes aware of a situation that involves alleged discrimination should keep a written record relating to the case (e.g., dates and summaries of conversations). He/she should contact the Director of Human Resources to ensure that one University administrator has an overview of all complaints that have been voiced. The University also encourages the offended person to keep a written record relating to his/her attempt to resolve the problem informally. All of this documentation could be helpful in cases where a problem persists despite the informal efforts to resolve it.

Formal Grievance Process

If the problem is not resolved to the satisfaction of the individual, or if he/she does not wish to deal with the problem informally, a formal complaint may be filed by completing the form "Petition to Initiate a Formal Grievance," which is available in Bertrand Hall from Human Resources. This form must be given to the Director of Human Resources within 30 working days of the action/incident being grieved, or the latest in a series of actions/incidents.

The Director of Human Resources shall, within five days of receiving the grievance petition, determine if the matter complained of states a grievable issue that is appropriate for determination by the University's grievance procedures. A negative determination by the Director of Human Resources may be appealed, within 15 days, to the appropriate Vice President (for faculty, the Vice President for Academic Affairs; and for staff, the Vice President for Finance and Administration).

Once it has been determined that the complaint is grievable, the Director of Human Resources gives the petition to the appropriate Vice President. If it is a Vice President against whom the grievance is being filed, or if a Vice President is a party to the issue at hand, the Director of Human Resources will make a determination as to the most appropriate University official to investigate the particular charges involved.

If good cause exists, a person seeking to file a formal grievance may obtain an extension from the Director of Human Resources. Any request for extension should be made in writing, giving the specific reasons why an extension is necessary. In general, a person wishing to file a grievance is encouraged to do so as early as possible if an informal means of resolution has not been achieved.

It is the responsibility of the appropriate Vice President, with the advice and assistance of the Director of Human Resources, to notify the alleged offender that a grievance has been filed against him/her, and then to investigate the case thoroughly. This will generally involve an

interview with the grievant, separate interview(s) with the individual(s) whose action is being grieved, and if appropriate, interviews with witnesses and/or a joint meeting between the involved parties. It is also the Vice President's responsibility to provide copies of all relevant written materials to each of the involved parties.

The Vice President's role in this process is to review the facts of the case, taking University policies and procedures into account to assess whether the grievant has been treated reasonably and fairly and to assist the concerned parties in seeking to reach a mutually acceptable solution.

Remedial action commensurate with the severity of the offense will be initiated. For a serious offense, this could include dismissal from the University for a student, or termination of employment for a faculty or staff member. Appropriate action will also be taken to deter any future problems of the same or a related nature, and/or to remedy any loss to the grievant.

The Vice President's decision in the case, including a description of the nature of any corrective or remedial action taken, shall be submitted in writing to each involved party (with a copy to the Director of Human Resources) within 20 working days of the receipt of the initial written petition.

Appeal Procedure

The appeal procedure is available to University employees who are not satisfied with the outcome of the review by the appropriate Vice President. A written request for further review must be submitted to the Director of Human Resources within five working days of the receipt of the written decision of the Vice President. Review findings that relate to perceived unfairness in grading or discipline short of dismissal cannot be appealed, unless allegations of unlawful discrimination are involved.

The Director of Human Resources will arrange for a hearing to be conducted by a three-member hearing committee. The chair of this committee, the Grievance Officer, shall be selected by the grievant from a list containing senior members of the staff who have been chosen jointly by the Director of Human Resources and the Vice President for Finance and Administration, as well as faculty members who have completed at least three years of full-time service at the University. A listed person may abstain from participating in a particular case if a possible conflict of interest is perceived to exist.

The other two members of the Hearing Committee must be from the Dominican University community; one will be selected by the Vice President who rendered the initial decision on the case, and the other will be chosen by the two committee members already selected.

The Hearing Committee will convene within 20 working days after the appeal is filed. The committee will review all available documentation on the case and will interview both the grievant and the individual(s) whose action is being grieved. Witnesses may also be interviewed as appropriate. The Hearing Committee will then convene at least one meeting at which both parties will be present. During the hearing, all evidence which the grievant wishes to present should be brought forth; the evidence may be in the form of oral testimony, written statements, and/or documents. The individual whose action is being grieved also will have the opportunity to present relevant evidence in any of these forms.

The goal of the grievance procedure is to achieve a resolution of disputed matters in the least adversarial manner. In addition, the procedure has been structured to avoid the formality, cost, and delays that are typically encountered in the judicial forum. For that reason, the University is generally not represented by counsel at grievance proceedings and persons filing grievances are likewise encouraged to communicate their grievances directly without the use of attorneys, agents, or other intermediaries.

Complete minutes of the hearing will be kept by the Grievance Officer; a cassette tape is acceptable. All minutes will be treated as confidential unless the grievant institutes litigation against the University, in which case a copy of the minutes or tape will be made available to attorneys representing a party and having the authority to obtain the minutes or tape.

The Hearing Committee shall complete its investigation within 30 working days of first convening. Then, within ten working days of the conclusion of the hearing, the Grievance Officer shall submit a written summary of the case and the committee's findings, as well as the committee's recommendations for disposition of the case, to the President (with copies to the appropriate Vice President, the Director of Human Resources, and the grievant).

The grievant may respond in writing to the report of the Grievance Officer within 15 working days of the receipt of the Grievance Officer's report. Such response shall be submitted to the President, with copies to the Grievance Officer, the appropriate Vice President, and the Director of Human Resources.

The President or his/her designee will render a decision in the matter within 15 working days of the receipt of the grievant's response. Copies of the final decision, including notice of any corrective action taken, will be provided to all parties. The decision of the President or his/her designee shall be final in all respects.

In the Case of PREC Recommendations

A faculty member who is dissatisfied with a PREC recommendation that is not grievable (on the grounds of Discrimination) may request a special review by a random selection of two members of the PREC (names blindly drawn from a container) and the Vice President for Academic Affairs. A dissatisfied faculty member may request this appeal in writing to the Director of Human Resources within 10 working days of receiving the written PREC recommendation. The written appeal should explain the reasons for the dissatisfaction over the PREC recommendation. The faculty member will have the opportunity to meet with the three person Appeals Panel to explain his/her disagreement related to the PREC recommendation. The panel will deliberate the issues raised. The Vice President for Academic Affairs will consider the deliberations in his/her recommendation to the President.

If the faculty member remains unsatisfied with the final recommendation of the VPAA, the faculty member may appeal in writing to the President.

Time Frames

The University's grievance procedures reflect Dominican's commitment to resolving problems in an expeditious manner. Every reasonable attempt will be made to adhere to the time frames specified, but there may be occasions when it will be necessary to make exceptions. Such occasions could relate to the circumstances and complexity of the matter, the time demands and schedules of the parties involved, or the time of year that a grievance is filed (e.g., many faculty members and students are not available during semester breaks or

over the summer months). It is the goal of the University to balance the need for an expeditious resolution of problems with the need to make a full and completely accurate investigation of the matter under review. If it is deemed necessary to alter the time frames specified in the policy, all parties will be notified of the amended schedule.

Other Resources

Individuals should be aware that they also have the right to file complaints relating to prohibited discrimination in employment with either the Federal Equal Employment Opportunity Commission or the California Department of Fair Employment and Housing; complaints relating to discrimination on the basis of race, national origin, sex, or disability may be brought to the attention of the Office for Civil Rights in the U.S. Department of Education.

Such claims should be filed promptly. An individual may also have the right to pursue further legal remedies, including a prohibition on further discrimination, damages, and attorneys' fees in court, if the matter has not been resolved.

Any member of the University community may seek assistance from the Director of Human Resources regarding how to contact the state and federal agencies with a claim of discrimination.

24. HARASSMENT POLICY

Policy and Definition

Dominican University is firmly committed to being a community in which faculty, staff, and students operate with integrity and high ethical values based upon mutual trust, respect, and honest communication. It is therefore important that individuals consistently treat each other with both consideration and respect.

University policy prohibits harassment based on race, color, religion, creed, gender, sexual orientation, marital status, age, national origin, ancestry, veteran's status, disability, medical condition, or any other basis that is protected by federal or state law. Some of the laws that govern these prohibitions include Title IX of the Education Amendments of 1972, Titles VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, The Age Discrimination in Employment Act of 1967, the Americans With Disabilities Act, and the California Fair Employment and Housing Act.

Sexual harassment is a very specific kind of disrespectful behavior, one that may be viewed as gender-based discrimination. Prohibited forms of sexual harassment include but are not limited to the following kinds of behaviors:

- A. Verbal conduct such as epithets, derogatory jokes or comments, slurs, unwanted sexual advances or invitations;
- B. Visual conduct such as derogatory or sexually-oriented posters, photography, cartoons, drawings, or gestures;
- C. Physical conduct such as assault, unwanted touching, or blocking/interfering with normal movement or activities;
- D. Making submission to sexual advances or requests for sexual favors a term or condition of any aspect of an individual's education or employment; and

- E. Creating a working or educational environment that could be perceived by a reasonable person as intimidating, hostile, or abusive.

Dominican's policy prohibiting harassment applies to all individuals involved in University operations, applicants for admission or employment, and any persons doing business with or for the University.

The University has appointed the Director of Human Resources as the individual who serves as Dominican's Title IX/Affirmative Action Coordinator. In this role, he/she is the campus's primary resource on issues relating to perceived harassment. Any member of the University community who would like advice or assistance in dealing with any incident or action that is perceived as harassing, should feel free to contact the Director in Bertrand Hall, 257-1365 (or University extension 1365).

The University has also put in place a set of grievance procedures that specify exactly what steps should be taken to resolve a problem of perceived harassment. An individual who has a problem of this nature is first encouraged to try to deal with it on an informal basis; if this approach doesn't lead to a satisfactory resolution (or if the individual prefers to omit this step), a formal grievance may be filed.

Retaliation Prohibited

No individual shall be penalized in any way for having reported or threatened to report harassment, nor for cooperating or participating in an investigation of a complaint. Retaliation against any member of the University community who makes a complaint of harassment, or otherwise participates in an investigation or proceeding, is prohibited and may result in disciplinary action that includes termination of employment or expulsion from the University.

Grievance Procedures for Allegations of Sexual or Other Unlawful Harassment

Introduction

The University expects its faculty, staff, and students to interact with each other in ways that minimize the possibility of problems or disputes. One of the most important elements for preventing misunderstandings and hurt feelings is clear, honest, and respectful communication. In any organization, a certain amount of disagreement is healthy, indicating that the environment supports and encourages personal expression. However, even with the best communication, occasional problems are inevitable.

In order to ensure equitable, fair, and timely resolution of problems that may arise, the following informal and formal review procedures have been established. No individual's status with the University shall be adversely affected in any way because he/she utilizes these procedures or participates in a grievance proceeding.

When a problem occurs, reasonable attempts will be made to maintain confidentiality in order to protect the right to privacy of those who are involved, and so that the integrity of the person alleged to have acted inappropriately is not compromised in the event of an unfounded complaint. It is necessary, however, to recognize that in the course of investigating and resolving complaints, some dissemination of information to others may be appropriate and necessary in order to fairly and adequately investigate such claims.

The grievance procedures outlined in this section are intended to address only allegations of sexual or other unlawful harassment.

Informal Grievance Process

Because problems are generally most easily resolved on an informal basis when they first arise, any individual who believes that he/she has been treated inappropriately is encouraged to discuss the situation honestly, thoroughly, respectfully, and in a timely manner, with the other person who is involved.

In attempting to deal with the problem informally, the aggrieved individual may seek the advice and assistance of any appropriate campus official. For example, a staff member may wish to speak with his/her supervisor; or a member of the faculty may wish to speak with his/her department chair or the dean of his/her School.

Any member of the University community is encouraged to consult with the Director of Human Resources at 257-1365 (or University extension 1365), who serves as the University's Affirmative Action/Title IX Coordinator, or with the University's Ombudsperson at 485-3282 (or University extension 3282).

Any University official who becomes aware of a situation that involves alleged sexual or other unlawful harassment should keep a written record relating to the case (e.g., dates and summaries of conversations). He/she should also contact the Director of Human Resources to ensure that one University administrator has an overview of all complaints that have been voiced. The University also encourages the offended person to keep a written record relating to his/her attempt to resolve the problem informally. All of this documentation could be helpful in cases where a problem persists despite the informal efforts to resolve it.

It is important to note that in cases involving alleged sexual or unlawful harassment, the University is legally obligated to conduct a thorough and timely investigation to its conclusion, even if the complainant requests that an investigation not be conducted or that an investigation be discontinued.

Formal Grievance Process

If the problem is not resolved to the satisfaction of the individual, or if he/she does not wish to deal with the problem informally, a formal complaint may be filed by completing the form "Petition to Initiate a Formal Grievance," which is available in Bertrand Hall from Human Resources. This petition (see *Appendix O*) must be given to the Director of Human Resources within 30 working days of the action/incident being grieved, or the latest in a series of actions/incidents.

If good cause exists, a person seeking to file a formal grievance can obtain an extension from the Director of Human Resources. Any request for extension should be made in writing, giving the specific reasons why an extension is necessary. In general, a person wishing to file a grievance is encouraged to do so as early as possible if an informal means of resolution has not been achieved.

Following the filing of a formal complaint, a formal investigation will begin. The Director of Human Resources, or a special investigator selected by the Director of Human Resources, will conduct a thorough and prompt investigation and will notify the alleged offender that a grievance has been filed against him/her. The investigation will generally involve an

interview with the grievant, separate interview(s) with the individual(s) whose action is being grieved, and if appropriate, interviews with witnesses and/or a joint meeting between the involved parties.

Within 60 working days of the filing of the formal complaint, the investigator will issue findings and a recommendation to the appropriate Vice President for a decision in the matter (for faculty, this would be the Vice President for Academic Affairs; and for staff, the Vice President for Finance and Administration). If it is a Vice President against whom the grievance has been filed, the Director of Human Resources will make a determination as to the most appropriate University official to have responsibility for making a decision about the case.

Remedial action commensurate with the severity of the offense will be initiated. For a serious offense, this could include dismissal from the University for a student, or termination of employment for a faculty or staff member. Appropriate action will also be taken to deter any future problems of the same or a related nature, and/or to remedy any loss to the grievant.

The Vice President's decision in the case, including a description of the nature of any corrective or remedial action taken, shall be submitted in writing to each involved party (with a copy to the Director of Human Resources) within 20 working days of the receipt of the findings and recommendations of the investigator.

Appeal Procedure

The appeal procedure is available to staff members, full-time faculty members, or students who are not satisfied with the outcome of the decision by the appropriate Vice President. A written request for further review must be submitted to the Director of Human Resources within five working days of the receipt of the written decision of the Vice President.

Within five working days after the appeal is filed, the findings and recommendations of the investigator and the decision of the Vice President will be sent to the President. The President or his/her designee will review the findings, recommendations, and decision and may review other facts relating to the grievance.

The President or his/her designee will render a decision in the matter within 15 working days of the receipt of the findings and recommendations of the investigator and the decision of the Vice President. Copies of the final decision, including notice of any corrective action taken, will be provided to all parties. The decision of the President or his/her designee shall be final in all respects and not be subject to review under any other grievance procedure in effect at the University.

Time Frames

The University's grievance procedures reflect Dominican's commitment to resolving problems in an expeditious manner. Every reasonable attempt will be made to adhere to the time frames specified, but there may be occasions when it will be necessary to make exceptions. Such occasions could relate to the circumstances and complexity of the matter, the time demands and schedules of the parties involved, or the time of year that a grievance is filed (e.g., many faculty members and students are not available during semester breaks or over the summer months). It is the goal of the University to balance the need for an expeditious resolution of problems with the need to make a full and completely accurate

investigation of the matter under review. If it is deemed necessary to alter the time frames specified in the policy, all parties will be notified of the amended schedule.

Other Resources

Individuals should be aware that they also have the right to file complaints relating to prohibited harassment in employment with either the Federal Equal Employment Opportunity Commission or the California Department of Fair Employment and Housing; complaints relating to discrimination on the basis of sex may be brought to the attention of the Office for Civil Rights in the U.S. Department of Education.

Such claims should be filed promptly and will be fully investigated by the agency with which they are filed. An individual may also have the right to pursue further legal remedies, including a prohibition on further harassment, damages, and attorneys' fees in court, if the matter has not been resolved.

Any member of the University community may seek assistance from the Director of Human Resources regarding how to contact the state and federal agencies with a claim of harassment.

APPENDIX O
FORMAL GRIEVANCE PETITION

Dominican University
Petition to Initiate a Formal Grievance

This petition must be submitted to the appropriate Vice President (for faculty, the Vice President for Academic Affairs; for staff, the Vice President for Finance and Administration; for students, the Vice President for Student Affairs and Enrollment Management) within 30 working days of the action/incident being grieved, or the latest in a series of actions/incidents.

Person initiating petition: _____ Date: _____

Status: Faculty Staff Student
Department: _____ Daytime Phone: _____

Department:
Person whose action is being grieved: _____

Status: Faculty Staff Student

Date(s) of action(s) being grieved:

Description of action(s) being grieved:

Desired remedy:

History of efforts to obtain satisfaction:

(Attach additional sheets if necessary)