

# Indiana University Kokomo Faculty Grievance and Review Procedures

Approved by the Faculty, (date)

## I: Procedure for the Establishment of a Case

1. Complaints against the Faculty Member, hereinafter known as Petitioner, shall be initiated by the Complainant within a reasonable period of time after the alleged offense. Administration has an affirmative duty to inform the Petitioner that they have the right to appeal administrative action through the Board of Review. Failure to give the Petitioner this information will extend the time limit in which the faculty member is required to file his or her case.
2. The appeal of a case to the Board of Review shall be initiated by the Petitioner or their legal counsel within a ninety (90) day period following the challenged action.
3. A Petitioner wishing to present a case to the Board of Review shall submit a written notice to the Board, with copies to the appropriate Dean or Division Chairperson, the Vice Chancellor for Academic Affairs, and the Chancellor. The written document shall, when appropriate, cite the alleged procedural irregularity or argument to support the lack of reasonableness of the action and state the Petitioner's evidence as to the existence of a case. Serious efforts made to resolve the issue at the appropriate level, whether formal or informal, shall be cited in detail. The document should contain a clear statement that the case has failed to be resolved at the appropriate level.
4. The chairperson of the Board shall request a written Response from the appropriate party (Dean, Division Chairperson, Vice Chancellor or Chancellor). Said Response shall include a review of procedures with sources, dates, and the reasons leading to the decision. The Response should be submitted within fourteen (14) days of the request.
5. The Petitioner will be allowed to review said Response and file a Reply within fourteen (14) days. This Reply is not required and should only address new information not previously addressed in the initial grievance. All documents submitted to the Board of Review shall be made available to all parties.
6. Within thirty (30) days of receipt of the Grievance, Response and Reply, the Board of Review shall, on the basis of the evidence submitted or gathered, decide whether sufficient justification for an appeal exists by a vote of at least three members of the Board. Notice of the date of the initiation of the formal study of the case, or its rejection, shall be sent to all parties concerned, within seven (7) days of the decision. If the case is rejected, the Board will give the reasons for the rejection in the Notice.
7. The calculation of time as stated above includes weekends, holidays and days that the campus is closed. If however, a document is due on a weekend, holiday or a date the campus is closed, the document will automatically be due on the next regular business day for the campus.

**Commented [CRD1]:** This paragraph introduces definitional language (complainant, petitioner), and creates a requirement that a complainant has a "reasonable" amount of time to complain against a faculty member. Administration must inform a faculty member of the complaint and his/her rights promptly. The terminology replaces old terminology throughout (e.g. "petitioner" instead of "faculty member").

**Commented [CRD2]:** Adds "legal counsel" and extends time limit from 60 to 90 days.

**Commented [CRD3]:** Updates language to our campus's accurate titles.

**Commented [CRD4]:** Extended from 10 to 14.

**Commented [CRD5]:** The petitioner gets a chance to "respond to the response." All parties can review all documents.

**Commented [CRD6]:** Creates a time limit.

- 39 8. Extensions of time – The deadlines above may be extended at the discretion of the Board  
40 of Review.
- 41 9. The Petitioner’s representative or faculty resource person shall be included in all aspects  
42 of the establishment and review, excluding the right to vote.
- 43 10. If a negotiated settlement is possible, the Chair of the Board may attempt to negotiate the  
44 case with the parties or the Board may appoint an ombudsman acceptable to both parties  
45 at dispute. The ombudsman shall conduct his or her deliberations consistent with the  
46 timetable established by the Board of Review.
- 47 11. If negotiations fail, then the Board of Review may call for a formal hearing of the matter.
- 48 12. The Petitioner shall have the right to withdraw the appeal at any time prior to the  
49 beginning of a formal hearing of the case. Once a formal hearing has begun, the appeal  
50 may be withdrawn only by the mutual consent of the parties and the Board.
- 51 13. If a case is filed against the Chancellor of Indiana University Kokomo, the Chancellor  
52 will be recused from the case and the role of the Chancellor will then be filled by the  
53 Chancellor’s immediate supervisor within the administrative hierarchy of Indiana  
54 University.

**Commented [CRD7]:** 7 and 8 clarify time limits and give the Board discretion over those.

**Commented [CRD8]:** This point was added language to clarify the role of the resource person.

**Commented [CRD9]:** This point was added.

**Commented [CRD10]:** This point was added.

## 55 II: Procedure for the Conduct of Reviews

- 56 1. During the review of a case, before making any decisions, the Board of Review may, in  
57 its discretion:
- 58 a. obtain additional data from any party concerned,  
59 b. interview either party separately,  
60 c. interview witnesses suggested by either party,  
61 d. conduct an informal review session with both parties, with cross-examination  
62 permitted and  
63 e. request additional meetings with either party for further clarification.
- 64 2. Any additional information received as described in Section II.1.(a-e) above, shall be  
65 distributed to all parties.
- 66 3. After reviewing the documents filed by the parties, and additional evidence collected, the  
67 Board will vote to determine whether to accept or reject the case.
- 68 4. If a decision to reject the case is not reached after the initial study, the Board may  
69 continue with the informal review of the case, to include attempt to settle the case or the  
70 aggrieved Petitioner may request and receive a formal hearing. At a formal hearing the  
71 following procedures shall apply:

**Commented [CRD11]:** The following subpoints have been renumbered from the Constitution version.

- 72 a. The Board may, with the consent of the parties, hold joint pre-hearing meetings  
73 with the parties in order to (a) simplify the issues, (b) effect stipulations of facts,  
74 (c) provide for the exchange of documentary or other information, and (d) achieve  
75 such other appropriate objectives as will make the hearing fair, effective, and  
76 expeditious.
- 77 b. Service of notice of hearing will be in writing at least twenty (20) days prior to the  
78 hearing.
- 79 c. The Board, in consultation with the Petitioner, will exercise its judgment as to  
80 whether the hearing should be public or private. Strong deference shall be given  
81 to the desires of the Petitioner.
- 82 d. During the proceedings, the Petitioner will be permitted to have a representative  
83 or resource person of his or her own choosing to assist in the proceedings.
- 84 e. An audio recording of the hearing or hearings will be taken and a copy will be  
85 made available to the parties upon request.
- 86 f. The Board will grant continuances to enable either party to investigate evidence  
87 as to which a valid claim of surprise is made.
- 88 g. The Petitioner will be afforded an opportunity to obtain necessary witnesses and  
89 documentary or other evidence. The administration will cooperate with the Board  
90 in securing witnesses and making available documentary or other evidence.
- 91 h. The Petitioner and the administration will have the right to confront and cross-  
92 examine all witnesses. Where a witness cannot or will not appear, but the Board  
93 determines that the interests of justice require admission of his or her statements,  
94 the Board will identify the witness, disclose his or her statements, and if possible  
95 provide for interrogatories.
- 96 i. The Board will not be bound by strict rules of legal evidence, and may admit any  
97 evidence which is of probative value in determining the issues involved. Every  
98 possible effort will be made to obtain the most reliable evidence available.
- 99 j. The findings of fact and the decision of the Board will be based solely on the  
100 hearing record.
- 101 k. The chairperson of the Board shall keep the detailed accounts of the case, whether  
102 it is handled through settlement or hearing. These files shall be kept for at least  
103 five (5) years in a file cabinet that is maintained by the Faculty Senate President.  
104 A copy of the final report of each case shall be retained in the file and in the office  
105 of the Vice Chancellor for Academic Affairs. Future Boards of Review may refer  
106 back to previous cases for reference but cases by the Board of Review do not  
107 create controlling precedent for future Boards.

**Commented [CRD12]:** The Board has ultimate authority here.

**Commented [CRD13]:** Added "resource person."

**Commented [CRD14]:** The Constitution specified the BOR chair.

**Commented [CRD15]:** Added.

108 5. While a case is pending before the Board of Review, no adverse action may be taken  
109 against the Petitioner regarding the underlying appealed matter, except in the case of  
110 Dismissal. In such a case, the procedures found in Section IV of this document apply.

Commented [CRD16]: This paragraph was added.

### 111 III: Procedures for Reporting Recommendations and Appealing Decisions

112 1. The report of the Board shall be sent to the Chancellor, with copies to all parties deemed  
113 appropriate by the Board. The report should describe the general nature of the grievance,  
114 summarize the evidence presented, and state the findings of the Board. Upon the basis of  
115 facts found by the Board and its stated interpretations of University policies, the Board  
116 shall state its conclusions and recommendations.

117 2. The Chancellor shall advise the parties concerned, in writing, of his or her decision and  
118 the reasons for said decision within thirty (30) days of receipt of the Board's  
119 recommendations. In the event that the Chancellor has recused him or herself, the  
120 Chancellor's immediate superior shall perform this duty.

Commented [CRD17]: Adds a time limit.

Commented [CRD18]: This is necessary given the earlier language about the Chancellor's recusal in Section I.13.

121 3. Consistent with the University Faculty Council Constitution Article V.4., a further appeal  
122 may be made to the Chancellor's immediate superior, the President of the university and  
123 the Board of Trustees, who shall review the record and notify in writing the concerned  
124 faculty member and the campus provost or chancellor of their decision, with a copy to the  
125 Board of Review.

Commented [CRD19]: This paragraph is added.

126 4. The Board of Review shall report to the Faculty Senate each September on the number  
127 and the general nature of the cases handled and whether the Board decided in favor of the  
128 grievant. Unless there was a public hearing, the confidentiality of the grievant shall be  
129 maintained.

Commented [CRD20]: Previously "outgoing Board."

Commented [CRD21]: Added language.

### 130 IV: Dismissal Procedure

131 1. Dismissal shall mean the involuntary termination of a tenured faculty member prior to  
132 retirement or resignation, the termination of a non-tenured faculty member prior to the  
133 expiration of his or her term of appointment, or the involuntary termination of an  
134 administrator's position prior to the expiration of his or her term of appointment.  
135 Dismissal shall occur only for reason of (a) incompetence, (b) serious personal or  
136 professional misconduct, or (c) extraordinary financial exigencies of the University.

Commented [CRD22]: Added language about administrative appointments.

137 2. Adequate cause for a dismissal will be related, directly and substantially, to the fitness of  
138 the faculty member in his or her professional capacity as a teacher, researcher, or in the  
139 case of an administrator related to his or her administrative duties alone. Dismissal will  
140 not be used to restrain faculty members in their exercises of academic freedom or other  
141 legal rights. Substantial evidence shall be presented by the university showing an attempt  
142 to correct the faculty member/administrator's deficit prior to moving for Dismissal.

Commented [CRD23]: Added language about evidence and an attempt to fix problems before dismissal.

143 3. Dismissal of a faculty member with tenure, or with a special or probationary appointment  
144 before the end of the specified term, will be preceded by: (a) documentation of the  
145 attempt by the university to correct the deficit, (b) discussions between the faculty

Commented [CRD24]: Added point (1).

146 member and appropriate administrative officers looking toward a mutual settlement; (c)  
147 inquiry by the Board of Review; and (d) a statement of charges, framed with reasonable  
148 particularity by the Chancellor or the Chancellor's designated representative.

**Commented [CRD25]:** Changed from "informal inquiry." Can be formal or informal.

149 4. Prior to the Dismissal action taking place, the individual concerned shall have a right to a  
150 formal hearing by the Board of Review provided for in Section II of this document.

**Commented [CRD26]:** Wording changed from "4. A dismissal will be preceded by a statement of reasons, and the individual concerned shall have a right to a formal hearing by the Board of Review provided for in Article V.4(b)."

151 5. Pending a final decision by the Board of Review, the faculty member shall be suspended,  
152 or assigned to other duties in lieu of suspension, only if immediate harm to her or himself  
153 or others is threatened by continuance. Before suspending a faculty member, pending an  
154 ultimate determination of the case through a formal hearing, the administration shall  
155 consult with the Faculty Affairs Committee concerning the propriety, the length, and any  
156 other conditions of the suspension. Salary will continue during the period of the  
157 suspension.

158 6. Service of notice of hearing with specific charges in writing shall be made at least twenty  
159 (20) days prior to the hearing. The faculty member may waive a hearing or may respond  
160 to the charges in writing at any time before the hearing. If the faculty member denies the  
161 charges or asserts that the charges do not support a finding of adequate cause, the Board  
162 of Review will evaluate all available evidence and base its recommendation upon the  
163 evidence in the record.

164 7. The burden of proof that adequate cause exists rests with the institution and shall be  
165 satisfied only by substantial evidence in the record considered as a whole. In a hearing  
166 concerning charges of incompetence, the testimony shall include that of qualified faculty  
167 members from this or other institutions of higher education.

168 8. If the administration believes that the conduct of a faculty member, although not  
169 constituting adequate cause for dismissal, is sufficiently grave to justify imposition of a  
170 severe sanction, such as a suspension for a stated period, the administration may institute  
171 a proceeding to impose such as severe sanction. The procedures outlined in Section II of  
172 this document shall govern such a proceeding.

173 9. If the aggrieved faculty member is not satisfied with the decision at this level, consistent  
174 with the University Faculty Council Constitution Article V.4., further appeal may be  
175 made to the Chancellor's immediate superior, the President of the university and the  
176 Board of Trustees, who shall review the record and notify in writing the concerned  
177 faculty member and the campus provost or chancellor of its decision, with a copy to the  
178 Board of Review.

**Commented [CRD27]:** This paragraph was added.

179 10. If the administration believes that the conduct of a faculty member justifies imposition of  
180 a minor sanction, such as a reprimand, it shall notify the faculty member of the basis for  
181 the proposed sanction and shall provide him or her with an opportunity to persuade the  
182 administration that the proposed sanction should not be imposed. A faculty member who  
183 believes that a sanction has been incorrectly or unjustly imposed under this paragraph  
184 may grieve the action under the procedures outlined in Sections II, III, and IV of this  
185 document.