

## SB-ACA-17 Faculty Board of Review

### Policy Statement

1. The Faculty Board of Review is independent. No university official may interfere with, seek to influence, or advise it to halt its proceedings except as provided in this policy.
2. Faculty Boards of Review are available to all academic appointees as follows:
  - a. All appointees may bring complaints that university officials have infringed on their academic freedom.
  - b. Any full-time academic appointee may bring a complaint that university officials have taken adverse action against them on matters within the scope of their defined academic responsibilities, including matters related dismissal, disciplinary sanction, the tenure or promotion process, compensation, assignment of duties, and working conditions.
  - c. Visiting, part-time, temporary and adjunct academic appointees may bring a complaint that university officials have taken adverse action against them during their term of appointment concerning matters within the scope of their academic responsibilities. The decision not to appoint or reappoint an individual is not grievable unless the decision violates the terms of their appointment or a separate university or unit policy.
3. A complaint shall be brought on the home campus of the grievant.
4. An individual remains eligible to initiate or continue a Board of Review proceeding after voluntary or involuntary separation from the university, provided it is otherwise within the time frame for doing so and the terms of any separation agreement.
5. A Board is not a court of law that renders a judgment. It makes recommendations to university officials concerning the resolution of grievances by academic appointees, but is not an advocate for the grievant or the respondent. It acts impartially in light of existing university policies, traditional academic principles, and fairness.
6. A member of the Board shall serve as Board Coordinator. The Board Coordinator has responsibility to receive and distribute complaints and responses, arrange times and locations of hearings, record proceedings, establish group email lists for the Board, maintain files and records, distribute reports and perform other administrative tasks. The Board Coordinator shall be responsible for notifying the administrative superior of a university official who does not cooperate in the process or comply with this policy's time limits. The Office of Academic Affairs shall provide administrative staff support for the Board of Review.
7. For complaints concerning the denial of tenure, promotion, or reappointment, the Board does not control the decision-making process and shall only review appeals after the Chancellor has made a decision. It is understood that decisions subsequent to the Chancellor's also may be subject to a grievance. The Board is limited to a review of:
  - a. Whether appropriate policies and procedures were followed;
  - b. Whether adequate consideration was given to the qualifications of the academic appointee;

- c. Whether information was improperly considered or excluded that substantially affected the decision; and
- d. Whether essential fairness was accommodated throughout the decision-making process.

To the extent that these issues may involve judgments about the academic value of the grievant's contribution to the discipline, the Board may not consider the merits of the underlying decision.

### **Reason for this policy**

This policy is written to fulfill the requirements of ACA-17 Faculty Board of Review Uniformed Standards

### **Procedures**

#### **1. General Procedures**

- a. A Faculty Board of Review conducts two kinds of proceedings. It reviews complaints brought by academic appointees concerning adverse actions by university officials, and it hears appeals by academic appointees concerning sanctions imposed under university or campus misconduct policies.
- b. The Faculty Board of Review shall consist of five individuals and three alternates who shall be tenure-eligible or non-tenure-track academic appointees on long-term appointments, and who shall be elected by the Academic Senate. No Senate member with less than three years of full-time experience with Indiana University may serve on the Board. The members shall hold office for staggered terms of two years. Members and alternates shall complete the review of any case which they have begun to consider. At least two years shall elapse between terms of office of regular members of the committee. In the event of a vacancy on the board, a replacement to fill the unexpired term shall be nominated by the Executive Committee. As the first order of business at the next Academic Senate meeting, further nominations will be accepted from the floor and an election shall take place immediately on the close of the nominations. The Board shall assume its duties on July 1 following the election. A position becomes vacant on the death or resignation of an elected member or on a member's incapacity to serve.
- c. A majority of the Board and its chair shall be tenured.
- d. An academic appointee with a fifty percent or more administrative appointment is not eligible to serve on a Faculty Board of Review.
- e. All Board proceedings other than deliberations shall be recorded, preserved, and available to members of the Board, all parties and university officials, consistent with university policies on access to academic appointee records. (see ACA-27 Access to and Maintenance of Academic Employee Records).

f. A Board's findings and recommendations are to be communicated without undue publicity and the Board should strive to maintain confidentiality. Reports normally should not be shared with individuals other than the parties and senior university officials.

h. A party may have an advisor, who may be an attorney or any other person.

i. Members of a Faculty Board of Review shall recuse themselves from considering a complaint at any stage of the process if they are members of the complainant's academic unit, if they have advised or assisted the complainant or respondent, or if there is any other association with the complainant or respondent which will make (or create the appearance of making) them unable to serve impartially. If a member recuse themselves, the Academic Senate Executive Committee will choose a replacement from the alternates. Prior to the formal hearing the grievant may object to the Committee membership on the grounds of Conflict of Interest. If such an objection is raised the Board will decide on its merits.

j. Proceedings should be conducted with the participation of the full membership of a Board of Review unless the parties' consent to adding an alternate member or proceeding with fewer than the full membership.

k. Should the faculty member wish to withdraw the appeal, this may be done at any time prior to the beginning of the formal hearing of the case. Once the formal hearing has begun, the grievance may be withdrawn only by the mutual consent of the parties and the Faculty Board of Review.

#### l. Consultation

a. A Board of Review may consult with individuals outside the Board on procedural, background and policy matters that do not directly concern the merits of a complaint, including former Board members, faculty governance officers, university counsel, and the university research integrity officer.

b. A Board may consult and seek specialized training and information from the university Title IX officer on issues involving sexual misconduct.

c. In all cases, the Board retains the responsibility to make its own independent decisions about the best way to proceed that is fair to all parties.

## **2. Procedures for a Complaint**

a. Before filing a complaint, the academic appointee must attempt to resolve the matter informally with the official, the official's superiors, and/or the campus chief academic affairs officer.

b. If the grievance is not resolved informally, an academic appointee may initiate the review process by the Board of Review by submitting a written complaint to the Board Coordinator. In most cases, complaints should be filed within 60 days after the grievant learns of the adverse administrative action. Complaints submitted after 60 days should include an explanation of the reason for the delay, and a Board may review the complaint in the interests of fairness. No complaint may be submitted more than one year after the grievant learned of the adverse administrative action.

The complaint must specify:

- the action(s) to be reviewed
- the reasons for requesting the review
- the university official(s) grieved against
- and a proposed remedy

c. Upon receiving a complaint, the Board Coordinator shall deliver, within 5 business days, a copy to the university official(s) grieved against and request a written response. The response shall be submitted within 10 ten business days from the date of the request.

d. When a response is received, the Board Coordinator shall provide a copy to the grievant and submit the complaint and response to the full Board. The Board may request additional information from any party concerned.

e. The whole Board shall hold a preliminary review to determine if the complaint should be dismissed, needs to be revised, or must be referred to a different entity under a university misconduct policy (see UA-03 and ACA-30). A complaint may not be dismissed without giving the grievant an opportunity to address the reason for dismissal and to correct any deficiency in the complaint. The preliminary review shall be conducted within 10 business days. If the complaint is dismissed or needs to be revised, the grievant must address the dismissal or correct any deficiency within 5 business days.

After completion of the preliminary review process, the grievant may request written statements and documents from university officials bearing on the complaint, and university officials must either supply those documents to allow for case preparation or explain in writing to the Board why they are unable to do so. The university officials must respond within 10 business day. All requests and responses shall be made through the Board Coordinator. The Board Coordinator may now schedule proceedings which shall happen within 20 business days. When scheduling the Board Coordinator will ensure that all parties are able to be present in person or virtually.

f. A hearing before a Board of Review

1. Responsibility for presenting their cases rests with the grievant and respondent. They may testify, present documents and written witness statements, call witnesses, and question witnesses. The Board also may call its own witnesses but has no obligation to do so.
2. Advisors may attend and consult with the parties but may not participate in the hearing.
3. The rules of evidence do not apply, and the parties may not object to the other side's evidence. However, the Board has discretion to curtail questioning or argument that is irrelevant or repetitious, or which harasses or embarrasses a witness.
4. Unsolicited or anonymous information may not be considered by the Board.
5. Hearings should be closed except for parties, witnesses, advisors, and the Board Coordinator, unless all parties agree that it should be open.
6. Any participate in the hearing may request accommodations from Disabilities Services

g. At the conclusion of the hearing, within 10 business days the Board shall prepare a Report with written findings and recommendations and submit it to the Board Coordinator. The Report shall be distributed to the parties, Chancellor, and Executive Vice Chancellor of Academic Affair

and include a summary of the grievance and response, a review of the evidence, and copies of any documents the Board found dispositive.

h. If the final decision from the Chancellor or Executive Vice Chancellor for Academic Affairs does not follow the recommendations of the Board, the Chancellor or Executive Vice Chancellor for Academic Affairs shall inform the Board, the Executive Committee of the Academic Senate, and/or any other faculty bodies designated in a campus policy, of the reasons in writing. The decision of the Chancellor or Executive Vice Chancellor for Academic Affairs shall be made within 10 business day after the distribution of the Board report.

I. The grievant has a right to make a final appeal to the president of the university, who may delegate the task of reviewing such appeals

### **3. Procedures for Appeals**

a. A Faculty Board of Review convened to review sanctions imposed under a university or campus misconduct policy should adhere to the time limits for filing appeals and issuing recommendations specified in the relevant misconduct policies. If a time limit is not specified, the Board should adhere to the time limits for reviews of complaints set out in this policy. It may extend any deadline in the interests of fairness.

b. Because discrimination or misconduct situations may involve sensitive information, proceedings shall be closed unless all parties agree to hold an open hearing.

c. The Board may not conduct new fact-finding. Its jurisdiction is limited to a review of whether the university's decision to hold an individual responsible for misconduct and impose a sanction was appropriate based on the record before it. The Board in all cases shall be supplied with the reports, decisions, and recommendations previously prepared by university officials, and have access to all relevant materials gathered by university investigators.

d. Each party to the Appeal, as defined by the underlying misconduct policy, may present a statement to the Board, orally or in writing, personally or by an advisor. The Board may pose questions to any individual who makes a statement, but the parties may not.

e. Because issues of discrimination, harassment, sexual misconduct or research misconduct may involve sensitive matters, specialized knowledge, or legal requirements, the university shall make available to the Board members appropriate training and information

f. Unless a misconduct policy specifies otherwise, the Board may issue recommendations that

- (1) affirm the university's actions,
- (2) recommend an alternative finding or sanction, or
- (3) recommend that a new investigation be conducted because of a significant error in the original investigation.

g. The Board's recommendations shall be addressed to the appropriate university appellate official specified in the underlying misconduct policy. If no official is specified, its recommendations shall be sent to the campus Chancellor or Executive Vice Chancellor of Academic Affairs.

h. The grievant has a right to make a final appeal to the president of the university, who may delegate the task of reviewing such appeals.

