

# CLAREMONT McKENNA COLLEGE

## **Procedures for Student, and Faculty Grievances Against Faculty Members, and for Faculty Grievances Against Academic Administrators**

### ***A. Purpose***

Claremont McKenna College ("College") adopts policies designed to serve the educational function of the College, to protect academic freedom and academic due process, to protect the health and safety of individuals, to promote responsible social interaction within the college community, and to maintain a hospitable and productive working environment. To help implement these goals, this document describes grounds and procedures for Student, and Faculty grievances against Faculty members and for Faculty grievances against Administrators and/or Administrative Entities within the College.

### ***B. Covered parties***

These procedures are open (1) to Students, and Faculty to seek redress or remedy for grievances arising from actions by Faculty members and (2) to Faculty members to seek redress or remedy for grievances arising from actions by Administrators and/or Administrative Entities within the College.

### ***C. Covered grievances***

Except as indicated below, covered individuals may use these procedures to seek redress and/or remedy for (1) violations of policies or procedures published in the Faculty Handbook (including, but not limited to, violations of academic freedom and academic due process), (2) violations of other established College policies or procedures, and (3) violations of federal or state law (including, but not limited to, discrimination). Grievances not covered by these procedures include:

- (1) Grievances arising from appointment, promotion, and tenure actions and decisions. These grievances come under the APT Appeals Procedures.

- (2) Grievances arising from grade disputes covered by the procedures of the Academic Standards Committee. Grievances that allege the challenged grade is the result of discrimination or retaliation in violation of federal or state law are not covered by the procedures of the Academic Standards Committee but instead are covered by these procedures.
- (3) Other grievances explicitly assigned elsewhere.

#### **D. Definitions**

- (1) Administrative Entity. An administrative unit within Claremont McKenna College, including but not limited to an academic department, college committee, or administrative office. In cases where a grievance is brought against an Administrative Entity, the chair of that department or committee, or the head of the administrative office, serves as the Respondent on behalf of the Administrative Entity.
- (2) Administrator. Any member of the administration of Claremont McKenna College.
- (3) Appellant. Either the Complainant or Respondent who files an appeal.
- (4) Complainant. The person or persons who file a complaint.
- (5) Dean of the Faculty (DOF). The Dean of the Faculty or the Dean's designee.
- (6) Faculty. Any member of the Faculty of Claremont McKenna College, or anyone teaching a Claremont McKenna College course.
- (7) President. The President of the College or the President's designee.
- (8) Respondent. The person, persons, or Administrative Entity against whom a complaint is filed.
- (9) Staff. All exempt and non-exempt staff employees, including all administrators.
- (10) Student. Anyone currently enrolled as a full-time or part-time student at Claremont McKenna College or enrolled in a class at Claremont McKenna College.

### ***E. Conflicts of interest and Designees***

1. Individuals charged with implementing this grievance policy may know the parties to a grievance action, they may know other members of the college community who provide information bearing on the resolution of the grievance, and they may have a general prior knowledge of the grievance. Acquaintance with the parties or others involved and general knowledge of the grievance do not in themselves constitute conflicts of interest, for the grievance policy presumes that the individuals implementing the policy will conscientiously discharge their duties, acting in good faith. Direct involvement, including but not limited to involvement as an immediate party, a third party (e.g. as a witness), or as a participant in rendering a decision related to the grievance, does constitute a conflict of interest. Persons charged with implementing these policies must exercise their good judgment in declaring conflicts of interest where the conflicts may not be immediately apparent.
2. In the event a member of the Administration Committee declares he/she has a conflict of interest in the case, the member shall recuse himself/herself from service on the Grievance Committee (see Section G-2 below).
3. In the event that the DOF declares that he/she has a conflict of interest in the case, or for other good reason, the DOF shall designate a tenured Faculty member who has no conflict of interest to perform the functions assigned herein to the DOF. The designee must be mutually acceptable to both the Complainant and the Respondent. If either the Complainant or the Respondent does not accept the person designated by the DOF, the DOF shall convene the Grievance Committee and the Committee shall select from outside its membership a tenured Faculty member with no conflict of interest to perform the functions assigned herein to the DOF. The Grievance Committee does not need to solicit approval of the designee from either the Complainant or the Respondent. The DOF will notify in writing the Complainant and the Respondent of the designee. Within 10 days of receipt of the

written notification of the designee, the decision of the Grievance Committee can be appealed in writing to the President by the Complainant or the Respondent. The President shall render his/her decision within 10 days of receiving the written appeal and send written notice of the decision to the parties and the Grievance Committee within 5 days thereafter.

4. In cases where the President declares he/she has a conflict of interest or where, for other good reason, the President wishes to designate another person to fill the functions assigned herein to the President, another person shall serve in the President's place.

- 4.1. In cases where the President has a conflict of interest that is apparent prior to the beginning of the hearing process, the DOF shall perform the functions assigned herein to the President, unless the DOF also has a conflict of interest. If the DOF has a conflict of interest, the choice of the President's designee shall be made by the President from the panel of retired judges used in Judiciary Board hearings. If the DOF has no conflict of interest and serves as the President's designee, the DOF shall convene the Grievance Committee, which shall select from outside its membership a tenured Faculty member with no conflict of interest to perform the functions assigned herein to the DOF.

- 4.2. In cases where a conflict of interest on the part of the President is not apparent prior to the beginning of the hearing process, but where it is revealed either in the hearing process or during the progress of the case after the beginning of the hearing process that the President has a conflict of interest, the President shall designate another person (other than the DOF) to perform the functions assigned herein to the President. This person shall be mutually acceptable to the Complainant and the Respondent. If the President finds no one mutually

acceptable to the Complainant and the Respondent, the choice shall be made by the President from the panel of retired judges used in Judiciary Board hearings.

4.3. In instances where there exists good reason other than a conflict of interest, the President may designate another person who has no conflict of interest to perform the functions assigned herein to the President.

### ***F. Confidentiality***

Subject to applicable law, all filings, records of proceedings, decisions, and, in case of appeal, dispositions on appeal, shall be disclosed only to the Complainant, the Respondent, the DOF, the Dean of Students (when a Student is involved), the Director of Human Resources, the President, the Board of Trustees, and as necessary to implement remedies. The Complainant and the Respondent will be notified in writing that all documents will generally be disclosed to the other party during the grievance process. In individual cases, the Grievance Committee, the DOF, or the President may, for good reason, impose additional restraints on release of information related to the proceedings. The College will endeavor to maintain confidentiality of any information obtained during both the informal and formal resolution procedures. However, subject to applicable law, there may be instances when information must be disclosed in order to conduct a thorough and fair investigation. Accordingly, the College cannot guarantee complete confidentiality.

### ***G. Grievance Committee***

1. Except as indicated in the following sub-paragraph 3, the Grievance Committee shall consist of the elected tenured Faculty members of the Claremont McKenna College Administration Committee as provided in the Faculty Handbook.

2. Any member of the Administration Committee who has a direct conflict of interest in a grievance action, shall recuse himself/herself from the Grievance Committee. If, because of recusals, or otherwise, the Faculty membership of the Grievance Committee falls below 5 in number, the remaining Faculty members, in consultation with the DOF, shall add additional tenured member(s) of the Faculty to bring the Grievance Committee membership up to 5. The Grievance Committee shall select its Chair, who need not be the chair of the Administration Committee. The Chair shall have the right to vote.

#### ***H. Time limits***

The Complainant has 1 year to initiate the informal or formal grievance process from the time he or she becomes aware of the action, inaction or decision in question. However, prompt initiation of the grievance process is strongly urged, because facts often become more difficult to establish as times passes after an action, lack of action or decision has occurred. For good cause, the President or the DOF shall have the discretion to extend any of the time limits described in these procedures except as to the required President's recommendation to the Board of Trustees provided in Section J-4.3 below.

#### ***I. Procedures: Informal resolution***

In cases alleging discrimination, including sexual or other unlawful harassment, a Complainant may proceed directly to the Formal Resolution Procedures. In all other cases, a Complainant must attempt informal resolution of his/her grievance before filing a formal grievance. The Complainant may first use either the informal oral option or the informal written option, as described below.

##### **1. Informal oral option**

The Complainant shall orally notify the DOF of his/her grievance, identifying (a) the action or decision complained about, (b) relevant grounds as set forth above in Section C, "Covered

Grievances," and (c) the requested remedy. The DOF shall orally notify the Respondent of the grievance, including the action, inaction, or decision complained about, the grounds, and the requested remedy. The DOF shall attempt to devise a solution satisfactory to both parties (which attempt may include a meeting with the Complainant and the Respondent together), and, if successful, shall record the solution in writing, with copies to each party. If a mutually satisfactory solution is not reached within 14 days of the Complainant's original notification to the Dean, the Complainant may proceed to the informal written option, or may proceed directly to file a formal complaint within an additional 14 days.

## **2. Informal written option**

The Complainant shall give the DOF and the Respondent a written statement detailing the grievance. The statement must identify (a) the action, inaction or decision complained about, (b) the relevant grounds as set forth above in Section C, "Covered Grievances " and (c) the requested remedy. The Respondent shall respond in writing, within 7 days of receipt of the Complainant's written statement to both the DOF and the Complainant. The DOF shall attempt to devise a solution satisfactory to both parties, and, if successful, shall record the solution in writing, with copies to each party. If a mutually satisfactory solution is not reached within 14 days of the DOF's receipt of the Complainant's initial written statement, the Complainant may proceed to file a formal grievance within an additional 14 days.

## ***J. Procedures: Formal Resolution***

### **1. General**

Except when the Complainant claims discrimination, including sexual or other unlawful harassment, he/she must first use the Informal Resolution process described above. If the Informal Resolution process produces no mutually satisfactory solution and the Complainant wishes to proceed further, he/she must file a complaint (as described below) in a timely fashion which shall be no later than 14 days after the conclusion of the informal resolution process. If the Complainant claims discrimination, including sexual or other unlawful harassment, he/she may proceed directly to the provision in Section J-2, below.

## **2. Complaint**

- 2.1 To initiate a formal grievance, the Complainant shall file a written request for a hearing (the complaint) with the DOF, who shall within 5 days of receipt, forward it to the Grievance Committee.
- 2.2 The complaint shall include this information:
  - 2.2.1 A detailed description of the activity or action, inaction or decision complained about.
  - 2.2.2 A specification of the covered grievance under which the complaint arises. (See Section C above.)
  - 2.2.3 The requested remedy (to be included only in those cases where the Complainant requests remedial action other than, or in addition to, a penalty).
  - 2.2.4 Any available and relevant written or other documentation. (However, failure to include written or other documentation with the complaint does not preclude later submission of such material.)

- 2.3 The DOF shall, within 5 days of his/her receipt of the complaint, provide the Grievance Committee with all relevant material from the informal process that is in the DOF's possession, including all written filings and decisions.
- 2.4 The DOF shall, within 5 days of his/her receipt of the complaint notify the Respondent of the complaint and shall concurrently provide the Complainant and the Respondent with copies of all material forwarded to the Grievance Committee.

### **3. Hearing and assignment of penalty and/or remedy**

- 3.1 Within 14 days of the time the DOF receives the complaint, the Dean, in consultation with the chair of the Administration Committee or the chair's designee, shall convene initial meeting of the Grievance Committee (described in Section G above). At its initial meeting, the Grievance Committee shall randomly select 5 of its faculty members to act as voting members and 2 of its faculty members to serve as alternates with respect to the deliberation process described in section J-3.7 below. Irrespective of the cause, in the event that the number of voting members are or become even in number, then the first and second alternates respectively will serve as additional voting members as may be required to have the voting members be odd in number.
- 3.2 If, after reviewing all documents submitted, at least 2 members of the Grievance Committee agree that the grievance is not frivolous, the Committee shall grant a hearing to the Complainant, shall develop a tentative schedule for the grievance process, and shall establish any necessary internal procedures. If the Grievance Committee decides that the grievance is frivolous, the Committee shall, within 2 days after so convening, inform the Complainant in writing of the basis for its

determination, and that the Complainant may appeal to the President under the Appeals process described below.

- 3.3 The Grievance Committee shall complete the hearing process within 21 days of the Committee's initial meeting, excluding breaks in the College calendar. The Grievance Committee shall allow the Complainant and the Respondent reasonably sufficient time to prepare for the formal hearing(s).
- 3.4 The Grievance Committee's hearings shall be closed, and the Grievance Committee shall keep a taped or other verbatim record of all sessions or portions of sessions in which it receives oral evidence (but not of its deliberations). This record or a copy of it shall be made available to the Complainant and the Respondent.
- 3.5 The Complainant and the Respondent may each be accompanied by an individual of his/her own choosing who is an employee of Claremont McKenna College. In cases where a student is involved, he/she may be accompanied by an individual of his/her own choosing who may or may not be an employee of the College. Because this is not a criminal investigation or hearing, legal counsel will not be permitted at the hearing, except in cases in which any party to the grievance faces potential criminal charges or if required by applicable law. In such cases an attorney will only be permitted in a non-participatory advisory role for each involved Complainant and Respondent. The Complainant and the Respondent shall each be permitted to make statements to the Grievance Committee. The Complainant and the Respondent shall have the right to question each other as well as all witnesses.

- 3.6 The Grievance Committee may ask for statements from other parties and for relevant College records. It is the responsibility of the Grievance Committee to reasonably ensure that all relevant evidence is available and considered at the hearing.
- 3.7 Upon completion of the hearing, the voting members of the Grievance Committee, as selected pursuant to section J-3.1, shall complete the consideration of the grievance in closed session without the parties present and shall reach decisions by majority vote. It shall deliver to the DOF a written report of its findings within 10 days of the completion of the hearing process as provided in Section J-3.3 and, if appropriate, its recommendations for a penalty and/or other remedy, if any, or dismissal of the complaint. These findings and recommendations shall also be reported to the Complainant, the Respondent, the Director of Human Resources and the Dean of Students (when a Student is involved).
- 3.8 The Grievance Committee's recommendations of penalty and/or remedy to the DOF are only advisory.
- 3.9 The DOF shall review the record of the Grievance Committee's proceedings, findings and recommendation, and after consideration of the Grievance Committee's recommendation regarding the penalty and/or other remedy, if any, or dismissal of the complaint the DOF shall determine what penalty, if any, will be levied and/or what other remedy, if any, is appropriate or if the complaint should be dismissed.
- 3.10 The DOF shall notify relevant parties and explain his/her decision in writing within 10 days of receiving the Grievance Committee's findings and recommendations. Notification shall be by sending a copy of his/her decision to the Complainant, the Respondent, and the Grievance Committee for each's review and any comments.

Comments by either the Complainant, Respondent, or Grievance Committee must be made within 10 days of the DOF's notification. The DOF shall also concurrently notify the President by submitting a copy of the decision to him/her in cases deemed to be automatically appealed as provided in Section J-4 below.

- 3.11 The DOF may modify his/her decision within 10 days of receiving the comments mentioned in Section J-3.10 above. If the Dean does not modify the penalty and/or remedy, if any, or dismiss the complaint, he/she shall promptly forward these comments to the President in the event his/her decision is appealed. If the Dean does modify the penalty and/or remedy, if any, or dismiss the complaint, then he/she shall again be bound by the notification procedures set forth in Section J-3.10 above.

## **4. Appeals**

### 4.1 General

- 4.1.1 Either the Respondent or the Complainant may appeal to the President the appropriateness of the Grievance Committee's findings and/or the decision reached by the DOF, or his/her designee. (For grounds for appeal, see Section J-4.4, below.)
- 4.1.2 All penalties, other remedies or dismissals which require action by the Board of Trustees, are deemed to have been automatically appealed to the President even if neither the Respondent nor the Complainant files a petition for appeal. Both parties will be notified if a penalty and/or remedy, if any, or complaint dismissal will be automatically appealed within 10 days of the DOF's decision.

### 4.2 Appellate Procedures

- 4.2.1 To request a review, an Appellant (either the Respondent or the Complainant) must submit a written petition to the President within 5 days after the DOF issues his/her decision. The petition must state and explain the grounds for appeal. The President shall, within 5 days of receipt, forward a copy of the petition to the other party. (For grounds of appeal, see Section J-4.4below.)
- 4.2.2 If an appeal is filed with the President, the President shall request and promptly receive from the DOF the full record of the grievance proceedings prior to the appeal.
- 4.2.3 Within 5 days of receiving the Appellant's petition, the President shall communicate in writing to the Complainant, the Respondent, the DOF and the Grievance Committee his/her decision on whether to hear the appeal.
- 4.2.4 Within 15 days of receiving the Appellant's petition, or within 15 days of the decision of the DOF in a case that is automatically appealed, the President shall in writing notify the Complainant, the Respondent, the DOF, the Director of Human Resources, the Dean of Students (if a Student was involved), and the Grievance Committee of his/her decision or of the date when the decision is expected (which shall not normally exceed 15 days after the President's such notification).

#### 4.3 Presidential Authority

In all appeals, the President may accept or reject the Grievance Committee's original findings and may approve or disapprove the decision by the DOF. In addition, as provided in Section J-4.4.3 the President may dismiss the case for lack of substantial evidence. In the event that an appeal, or any issue on appeal, is brought to the President

more than once, the President shall have the authority to approve, disapprove, dismiss, or modify the decision. If the President's decision, in whole or in part, requires the approval of the Board of Trustees, the President may only, and shall, recommend approval or disapproval of the DOF's decision. The complaint must be brought to the Board of Trustees, or the Executive Committee of the Board of Trustees, at its next meeting but not more than 45 days after the President's decision.

#### 4.4 Grounds for Appeal (available to either the Respondent or the Complainant), and

##### Additional Options for Presidential Disposition of Appeals

- 4.4.1 The President shall dispose of all appeals by rendering a written decision within the time prescribed in Section J-4.2.4 above.
- 4.4.2 Improper dismissal before hearing. The Appellant may claim that the Grievance Committee improperly dismissed the case as frivolous before hearing it. If the President accepts this claim, he/she may return the case to the Grievance Committee for a hearing within 30 days thereafter.
- 4.4.3 Lack of substantial evidence. The Appellant may claim that the Grievance Committee's findings were not supported by substantial evidence. If the President accepts this claim and the Committee's findings were against the Respondent, the President may act under his/her general authority and modify such part of the decision so not supported or dismiss the case. If the President accepts this claim and the Committee's findings were against the Complainant, the President will send the claim back to the Grievance Committee with direction to, within 30 days, reconsider the matter and to submit its reconsidered recommendation to the DOF.

- 4.4.4 New evidence. The Appellant may claim that new evidence is available. The President shall determine whether such new evidence is germane to the case, and whether the evidence could reasonably have led to different findings and/or a different decision. If the President accepts these claims, he/she may, as appropriate, refer the case back to the Grievance Committee for a new hearing within 30 days and a new decision by the DOF.
- 4.4.5 Bias. The Appellant may claim that the Committee was biased, suffered from conflicts of interest, or showed malice. If the President accepts this claim, he/she may: refer the case back to a differently constituted hearing panel designated by the President for a new hearing in accordance with the time provisions of Section J-3 above. If the President orders a new hearing the President shall, within 10 days, select a new hearing panel of 5 members, drawn from the tenured members of the Faculty.
- 4.4.6 Arbitrary penalty and/or remedy. The Appellant may claim that the penalty or remedy imposed was not appropriate to fit the circumstances of the case. If the President accepts this claim, he/she shall refer the case back to the DOF for a new decision on the penalty and/or remedy within 10 days thereafter.
- 4.4.7 Improper procedures. The Appellant may claim that the Grievance Committee used improper procedures and that such procedures adversely affected the fundamental fairness of the hearing. The term "improper procedures" is restricted to the interpretation of the procedures outlined herein. If the President accepts this claim, he/she may refer the case back to the Grievance

Committee for a new hearing in accordance with the time provisions in Section J-3 above.

**K. Record of Proceedings: Destruction**

After 5 years from the date of the filing of the written statement of the Informal Resolution process, if any, and the complaint, the taped or other verbatim record required to be maintained under Section J-3.4 above, all written and other material relating to the proceeding (other than material in personnel files) may be destroyed by the College.