

Plymouth State University  
Faculty Meeting Agenda  
Wednesday, April 1, 2009  
3:35PM-5PM – Heritage Commons

I. Approval of draft minutes of the March 4, 2009 meeting. Minutes are available online on the Faculty Governance Blog. You will be required to log in to myPlymouth to view the minutes. Use the headings to the left and click on faculty meeting minutes. Then, in the right-hand column, click on the link listed below the title “Faculty Meeting minutes, March 4, 2009 DRAFT.” The Faculty Governance Blog may be found at <http://facultygovernance.blogs.plymouth.edu>.

II. Reports (submitted in writing) –  
    President Steen  
    Provost Bernier

III. New Business

A. Resolutions of the Standing Committees—

B. Joint Motion from the Faculty Welfare Committee and the Grievance Resolution Committee (Cathie LeBlanc): To dissolve the Grievance and Resolution Committee and eliminate the Faculty Grievance Policy from the Faculty Handbook. See Appendix A.

Rationale: The Faculty Welfare Committee, Grievance Resolution Committee, PSU Human Resources, and Ron Rodgers, USNH General Counsel, all share concerns about the Faculty Grievance Policy. These concerns have led to the conclusion that using the policy may not actually be the best interest of faculty members with grievances or complaints.

This has been an on-going discussion since December 2006. At this point, the FWC and GRC concur that the Grievance Resolution Committee should be dissolved and the Faculty Grievance Policy should be removed from the Faculty Handbook.

The Grievance Resolution Committee voted 3 to 1 to dissolve the GRC (October 24, 2008). The Faculty Welfare Committee voted unanimously to recommend the dissolution of the GRC (February 13, 2009). Ron Rodgers, USNH General Counsel, concurs with this recommendation.

C. Discussion from Faculty Welfare (Cathie LeBlanc): to discuss adjunct representation on the Faculty Welfare Committee. Straw poll regarding the issue. See Appendix B.

IV. Announcements

V. Adjournment

Appendix A:

**Joint Motion from the Faculty Welfare Committee and the Grievance Resolution Committee:**

To dissolve the Grievance and Resolution Committee and eliminate the Faculty Grievance Policy from the Faculty Handbook.

**Rationale**

The Faculty Welfare Committee (FWC), Grievance Resolution Committee (GRC), PSU Human Resources, and Ron Rodgers, USNH General Counsel, all share concerns about the Faculty Grievance Policy. These concerns have led to the conclusion that using the policy may not actually be in the best interest of faculty members with grievances or complaints.

This has been an on-going discussion since December 2006. At this point, the FWC and GRC concur that the Grievance Resolution Committee should be dissolved and the Faculty Grievance Policy should be removed from the Faculty Handbook.

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**A Report to the Faculty**

To inform faculty about this recommendation, the FWC has prepared the following report. It provides background information regarding the discussions that have taken place within and between the Faculty Welfare and the Grievance Resolution Committees since the GITF charged FWC to examine this issue in 2006. It illuminates various concerns/problems that exist related to the current Faculty Grievance Policy. The report also includes a copy of the Faculty Grievance Policy and the HR the Complaint and Grievance Resolution procedures. Currently, faculty members may choose which policy they wish to use when they have a grievance or complaint.

**Faculty Welfare Committee Report on the Grievance Resolution Committee and the Faculty Grievance Policy  
(March 2009)**

**Background**

**Charge from the Governance Implementation Task Force**

The Governance Implementation Task Force charged: "The Faculty Welfare Committee, in consultation with the Faculty Review Committee, will appoint a five-person joint task force by September 29, 2006, to study the role and efficacy of the Faculty Review Committee. This task force will include four members of the Faculty Welfare Committee and one member of the Faculty Review Committee. The task force will focus on the frequency with which Faculty Review recommendations are accepted by the administration and the necessity of a separate elected committee to hear grievances. This task force will submit proposed bylaw changes (as necessary) to the GITF by early February, 2007."

**FWC and FRC Met to Address Charge**

FWC met with FRC to try to discuss the charge from GITF, address problems regarding lack of clarity in the policy, and examine the need for training for GRC members.

The purpose of the meeting was to address concerns raised by the Faculty Welfare Committee (FWC) regarding FRC Bylaws and the Grievance Resolution process in the Handbook.

### **Faculty Bylaws Change**

This resulted in a bylaw change that was voted on Feb 7, 2007

#### *23. Grievance Resolution Committee*

##### *a. Composition*

*The Grievance Resolution Committee shall have five (5) members, four elected by ballot of the faculty and one the chair of the Faculty Welfare Committee, ex officio. All five members must be tenured. The term of each elected member shall be two years. Two members shall be elected each year and shall assume the office at the beginning of the next academic year.*

*No faculty member, other than the Chair of the Faculty Welfare Committee, may serve on both the Grievance Resolution Committee and the Faculty Welfare Committee.*

##### *b. Function*

*(1) To meet at least once each semester for the purpose of training all members on the Grievance procedure.*

*(2) To educate the Faculty about the Grievance procedure (for example, through Faculty workshops, online training, etc.).*

*(3) To mediate faculty grievances.*

*(4) To perform such other duties as specified by the Faculty Handbook and these Bylaws.*

### **Need for Changes in the FACULTY HANDBOOK**

In addition to the bylaws changes, FWC and FRC discussed specific issues related to the Grievance Policy which appears in **Section 2.18 in the FACULTY HANDBOOK**

The group agreed upon the following recommendations:

- Examine the list of grievable acts to ensure that it is comprehensive enough.
- Add complaint to the list of grievable acts and define complaint as follows:
  - *A complaint is an issue of concern related to a work-place situation or working conditions.*
- Examine deadlines specified in the policy. It was noted that someone, unknown to the RC, had revised the policy to give a 10 day deadline. The Review Committee chooses to follow the original deadlines and to add the following statement as a second paragraph under **Grievance Procedure**: *While the Committee will try to meet all the deadlines of this policy, the Review Committee has the discretionary authority to extend deadlines as necessary to ensure a thorough and fair process.*
- Specific changes and additions were also recommended for revision of the Grievance policy related to including mediation and an appeal process.

### **Discussion of Proposed Changes to 2.18 Grievance Policy**

In the spring of 2007, FWC attempted to incorporate the Faculty Review Committee's recommend changes to the Faculty Grievance Policy with input from Human Resources. The FWC wanted

more involvement from the GRC and from HR. Also, before bringing any changes to the full faculty for a vote, any proposed changes needed to be sent to Laura Alexander in HR for review and to Ron Rodgers, USNH General Counsel.

### **Grievance Resolution Committee Discusses New Functions and Potential Changes**

In the fall of 2007, the Chair of FWC became an *ex officio* member of the GRC. From October 2007 through October 2008, the GRC held monthly meetings discussing its new functions (i.e., training GRC members on the Faculty Grievance Policy and procedures and educating the faculty about the Faculty Grievance Policy), trying to clarify its understanding the current Grievance Policy, their role in mediating faculty grievances, and examining potential changes to the policy. During this time, the FWC Chair kept the FWC apprised of the GRC discussions.

### **GRC& FWC Topics of Discussion**

**Training of GRC**-The Chair of GRC contacted HR to inquire about training for GRC members and then the faculty on grievance procedures. HR responded: “HR is not the interpreter of the policy or the trainer for the faculty in the Faculty Grievance Process. HR’s role is limited to facilitating administrative functions only.”

**Two complaint and grievance policies** -Currently there are two different grievance policies available for faculty use: the Faculty Grievance Policy and the Employee Relations Policy-Complaint Resolution and Grievance Resolution. A faculty member may choose which Procedure s/he wishes to use.

The Faculty Grievance Policy (attached at end) is the responsibility of, and implemented by, the GRC.

In November 2007, Elaine Doell met with GRC to explain the PSU Employee Relations Policy-Complaint Resolution and Grievance Resolution which is implemented by HR. The policy is (attached at end ) and located at <http://usnholpm.unh.edu/PSU/V.Pers/D.htm>

**Concerns about the existence of two different grievance policies**- GRC and FWC discussed a number of issues/concerns related to the existence of two different policies. Are faculty members aware that the two policies exist? How should a faculty member decide which policy to use? In what instances would one be preferred over the other? What is in the best interest of the faculty member?

**Concerns about the Faculty Grievance Policy and HR Policy both addressing discrimination complaints**-FWC expressed concern regarding a faculty member taking a discrimination issues to the GRC. Why would s/he do this? Why is it included in the Faculty Grievance Policy when it is clearly against the law to violate such a policy? It seems it would be in the best interest of a faculty member to pursue the HR policy. Otherwise, valuable time might be lost in filing a discrimination complaint. Also, the GRC is not currently trained in these matters.

FGC contacted HR to inquire about this. HR contacted Ron Rodgers, USNH General Counsel. According to HR he indicated “that the discrepancy has been noted and worried about on occasion at various points. However, the discrepancy has not been resolved. From Ron's perspective, the best resolution would be to have only one process for handling these discrimination complaints, make that one process available to all employees and students, and have it always be administered by the

AA/EEO officer. However, PSU faculty members have long had their own process and have thought it was important to retain a measure of control over that process through the grievance policy.

Ron said he would be very happy to help PSU fix the procedural conflict if Faculty Welfare and the Grievance Resolution Committee believes it is now possible to have the faculty repeal their process and have all complaints of this nature run through the one process administered by HR.”

**GRC members have no training related to issues under their purview-** GRC members have had no training related to issues under their purview. These issues include: Board of Trustees, University System, and PSU institutional policies; academic freedom; discrimination of a faculty member based upon sex, sexual orientation, race, age, religion, color, marital status, national origin, or handicap; violations of accepted University procedure for renewal of contract, promotion and/or tenure; and violations of employment-related policies and procedures, excluding dismissal of tenured faculty.

Given this, how can GRC members effectively and fairly serve the faculty without this knowledge? What sort of training is actually needed? How would this to be accomplished?

**Faculty not using the GRC-**The GRC is not being used by faculty. FWC inquired about the number of cases that have been brought to the GRC in the past 5 years. It appears that no cases have been brought to the GRC.

On occasion, faculty members have sought out the GRC Chair in informal settings to express some concerns about issues. In these instances, the Chair has counseled them in a collegial manner.

It is unclear as to why faculty are not using the process. Is it because faculty are not aware of and or knowledgeable about the GCR and the Faculty Grievance Policy? Perhaps faculty are choosing to use the HR process instead. Perhaps faculty have no grievances.

**Should adjunct faculty be able to use the current process?-**GRC & FWC each discussed whether or not adjuncts should be included in the process. Both groups are concerned about adjunct issues; however, we did not arrive at a clear sense of whether or not adjunct faculty should be included in the process. There are pros and cons. What process is currently available, if any to the adjunct faculty? Is the inclusion of adjunct faculty the faculty’s decision to make? If it were decided that adjuncts could participate in the process, the existing policy would need to be changed.

**Does the Faculty Grievance Policy lead to “resolution?”-** As it currently exists, the GRC process, at the formal grievance stage, involves “a formal hearing” with “a grievant,” “witnesses”, “advocates,” and “testimony.” This process seems to focus on “winners and losers” rather than a more mutually agreeable resolution. Which approach is more desirable?

Following a formal hearing, the GRC reports in writing to the parties involved and to the President its findings and recommendations. According to the current policy, “If the Committee finds no recommendations appropriate, it will state its reasons for so finding in its report. If the President should determine that implementation of the Review Committee’s recommendation(s) is impossible or would cause grave harm to the University, he or she shall, within 21 calendar days, so inform in

writing the Chair the committee, the grievant and the respondent, setting forth in detail the reasons underlying his or her determination.”

This raises the concern of the extent to which the GRC recommendations have any “teeth” since the implementation of the recommendation is ultimately approved or disapproved by the President. The GRC recalled several cases in the past, in which the President did not support the FRC’s recommendations. Even if recommendations are made, who is responsible for making sure they are followed through?

### **Concerns about Interpersonal conflicts, workplace bullying and hostile work environment-**

The Faculty Grievance Policy does not include workplace bullying, interpersonal conflict, or hostile work environment as grievable acts. In addition, concerns were expressed by some faculty regarding the unsatisfactory resolution of faculty complaints made through HR’s Employee Relations Policy-Complaint Resolution. Especially complaints that do not violate laws and/or PSU/USNH policies (e.g., workplace bullying, interpersonal conflict, and hostile work environment). In these instances HR recommends mediation to resolve such matters.

The GRC discussed at length the need for these issues to be addressed effectively on campus and the need to include these in the Faculty Grievance Policy. The committee examined how other institutions address these issues, reviewed definitions of hostile work environment, and workplace bullying, as well as means for deterring and resolving such problems (e.g. ombudspersons, position statements, and creating a campus culture that does not tolerate bullying).

Ron Rodgers, USNH General Counsel, shared that workplace bullying is an issue of growing concern at universities across the nation. He recommended an article, *Academic Bullies*, which appeared in *The Chronicle Review* in September 12, 2008.

<http://chronicle.com/weekly/v55/i03/03b01001.htm>

### **There is a need for change in the Faculty Grievance Policy**

The 2006 Faculty Welfare Committee and Faculty Review Committee joint task force, the current Faculty Welfare Committee and Grievance Resolution Committee, HR, and Ron Rodgers, USNH General Counsel, all agree that changes need to be made to the current Faculty Grievance Policy. Which changes need to be made has been an on-going discussion since December 2006. Discussion has focused on revising the current policy to add new language, adding an appeal process and adding to the list of grievable acts. FWC and FGR are concerned that simply amending the process may not be enough. A major overhaul is needed to make the FGC and the Faculty Grievance Policy an effective and useful means for resolving faculty complaints and conflict. To that end there is support for dissolving the Faculty Grievance Committee and removing the Faculty Grievance Policy from the Faculty Handbook.

### **Support for dissolving GRC and Faculty Grievance Policy**

Grievance Resolution Committee voted to 3 to 1 to dissolve the GRC (October 24, 2008). Faculty Welfare Committee voted unanimously to recommend the dissolution of the GRC (February 13, 2009).

Ron Rodgers, USNH General Counsel, concurs. Below is a brief statement of my perspective on the good sense of eliminating the faculty grievance process identified in the PSU Faculty Handbook:

Having a process specifically for the resolution of faculty grievances imposes two types of risk on the individuals who participate in the process (whether as complainant or respondent) as well as the University. The first type is the risk of an unfair or unjust outcome. The fact that the process is rarely used means there is very little training or experience among those who will be called upon to manage the process and/or adjudicate the claims. Under such conditions the process is almost certain to be inefficient and likely to produce unreliable decisions. Adjudication processes will always produce “winners” and “losers” -- they add value to our interactions only by establishing an end to a dispute that the community is willing to live with. No process that produces unreliable results will enjoy the confidence of the participants or their community for very long, after which the process becomes ineffective. The second type of risk engendered by multiple adjudication systems is the risk of inconsistent decisions across the institution. When potential complainants realize they can get different results depending on the forum they select, they naturally begin to shop for their preferred “justice,” quickly leading, once again, to a loss of confidence in, and therefore effectiveness of, the process.

### **Moving Forward**

How the faculty votes on this matter will influence the next steps to be taken.

[from PSU Faculty Handbook, pages 65-69 of 12-5-2007 online version]

## **2.18 Grievance Policy**

*[October, 2004: Certain revisions to this policy have been suggested by the PSU Office of Human Resources and considered by the Faculty Welfare Committee. One pending suggestion is noted in green highlighted text below. The Faculty Welfare Committee is considering this suggestion, and would bring any proposed change to the faculty for a vote.]*

The Faculty and Administration of Plymouth State University affirm their conviction that the University is an academic community in which policies should be characterized by, and individuals treated in, a spirit of fairness and equity. However, it is recognized that from time to time grievances may arise. It is the purpose of this procedure to encourage prompt resolution of such grievances and to recognize the importance of settling them fairly, without fear or prejudice or reprisal and in a manner which protects the rights of everyone concerned. The aggrieved will follow the orderly process hereinafter set forth, and these procedures shall be the final campus remedy used for their resolution.

Any status faculty member – including tenure-track faculty, faculty-in-residence, and contract faculty – is eligible to use this grievance procedure. *[revised 12-30-04 in accord with USNH OLPM USY.V.D.12.3.1.2]*

### **A. Definition**

A grievable act is defined as any action (s) which allegedly:

1. violates a Board of Trustees, University System, or institutional policy [*revised 12-20-04 to use wording from USNH OLPM USY.V.D.12.3.1.1*]
2. abrogates or denies a faculty member's academic freedom;
3. unfairly discriminates against a faculty member on the basis of sex, sexual orientation, race, age, religion, color, marital status, national origin, or handicap;
4. violates accepted University procedure for renewal of contract, promotion and/or tenure;
5. violates employment-related policies and procedures, excluding dismissal of tenured faculty (see Section 2.9 for conditions involving dismissal including tenured faculty);

## **B. Grievance Resolution Committee**

Grievance Resolution Committee membership is established under Article XI. F. 11 of the Bylaws of the Plymouth State University Faculty. The Grievance Resolution Committee will strive to maintain confidentiality at all steps throughout the grievance procedure. Attendance at meetings of the Review Committee is by invitation only.

In cases involving promotion or tenure, the Grievance Resolution Committee will not act to substitute for the judgment of a department promotion and tenure committee; but upon application of an aggrieved party will review the fairness of the application of the departmental committee's procedures.

Any member of the Grievance Resolution Committee who either has or perceives a conflict of interest in his or her involvement in a particular grievance shall so inform the Chair and recuse himself or herself from further participation in the formal grievance procedure. If the impartiality of the Chair of the Grievance Resolution Committee is challenged by a party of interest, the Chair of the Faculty Welfare Committee will make the determination as to whether or not a conflict of interest exists. If the impartiality of any other member of the Grievance Resolution Committee is challenged by a party of interest, the Chair of the Grievance Resolution Committee will make a determination as to whether or not a conflict of interest exists. If the currently sitting Chair of the Grievance Resolution Committee is to be removed because of an upheld challenge of impartiality, the new chair (as prescribed in the following paragraph) will make the determination on challenges to any other members of the Grievance Resolution Committee.

In either case, the Faculty Speaker will appoint a replacement who is acceptable to both parties to the grievance to serve as a replacement member on the hearing panel. If the Chair of the Grievance Resolution Committee is replaced, then the new constituted hearing panel shall elect a new chair for the impending hearing.

## **C. Grievance Procedure**

Any faculty member eligible to use this grievance procedure who feels that he or she has been aggrieved must initiate the grievance process within 10 calendar days following the time when the faculty member could reasonably have been aware of the existence of the situation which is the basis of the grievance and within one year of its occurrence. [*revised 12-20-04 in accord with OLPM V.D.12.3.1.3*]

[*Suggestion by HR Office: "Deadlines: Faculty members are encouraged to file a grievance according to the filing requirements of the process. All grievances will be handled as expeditiously as possible adhering to the deadlines outlined. However, the Chair of the Grievance Resolution Committee has discretionary authority at any time during the grievance procedure to extend a deadline to ensure a thorough and fair process." The Faculty Welfare Committee (4-05) suggests the following wording of the last sentence: "However, the*



Grievance Resolution Committee has discretionary authority at any time during the grievance procedure to extend a deadline as necessary to ensure a thorough and fair process.” This has not yet been brought to the full faculty for a vote.]

### **1. Informal Grievance Procedure**

Written notification of informal grievance shall be submitted to the Chair of the Grievance Resolution Committee with a copy to the Director of Human Resources who will be responsible for coordinating the stages of the informal grievance process.

Prior to initiating a formal grievance, the aggrieved must attempt reconciliation with all appropriate administrators and faculty. These discussions may include Department Chairs, members of the administration, parties of interest, and other persons who are either involved in or affect the situation and/or action for which a grievance may be brought. A qualified mediator agreeable to both parties may be used. Reasonable expenses will be paid by the University.

At the informal discussion, every attempt should be made to reconcile differences through face-to-face discussion and negotiation of the issues. The Grievance Resolution Committee will not be involved in these discussions directly, but will maintain contact with parties involved to help ensure that a good faith effort at reconciliation is made. The informal grievance procedure must be completed within 60 calendar days after the initiation of the process.

If, by the determination of the complainant, no acceptable resolution is forthcoming from the informal process, he or she may then file a formal grievance with the Chair of the Grievance Resolution Committee within 30 calendar days after the completion of the informal grievance procedure but in no event later than 90 calendar days after the initial filing of the grievance at the informal stage.

### **2. Formal Grievance Procedure**

Notification: The grievant shall file his/her grievance in writing with the Chair of the Grievance Resolution Committee. The grievance shall identify (1) the nature of the grievance, i.e. the specific action or pattern of actions which is being grieved; (2) the background and reasons why the grievant believes the action was in error; (3) where relevant, the specific provision of the Faculty Handbook, policy, practice or procedure alleged to have been violated and (4) the grievant’s perception of the appropriate remedy of the grievance. Once the grievance has been filed, the Chair shall forward a copy of the grievance to the Respondent(s). The Committee shall meet to discuss the grievance among themselves and shall then schedule a hearing no later than 21 calendar days after receiving the grievance.

#### Procedure:

The following procedures are to be followed when a faculty member files a grievance:

- a. The formal grievance procedure shall include both a prehearing and a formal hearing. During the prehearing and the formal hearing both the grievant and the respondent and their advocates will be allowed to hear and to respond to all testimony. Each party may have one advocate. The advocate must be a PSU employee and shall not have a law degree.
- b. The Human Resources Office will make available to the Grievance Resolution Committee all necessary resources and will undertake the facilitation of both the prehearing and the formal hearing.
- c. The Prehearing

- The Grievance Resolution Committee shall hold a prehearing with the grievant, the respondent, and their advocates. The purpose of the prehearing shall be:
- (1) to establish the procedures to be followed in the formal hearing.
  - (2) to determine witnesses for the formal hearing. To determine these witnesses, the grievant, respondent and the Committee will work together closely, using as criteria (1) witnesses with information relevant to the grievance, and (2) witnesses who can share new information in an effort to avoid redundant testimony.
  - (3) to determine the relevant documents to be used at the formal hearing.
  - (4) to identify and summarize the general factual areas about which witnesses will testify.
- d. **The Formal Hearing**  
 All documents and a summary of areas of testimony identified during the prehearing shall be made available to grievant and respondent before the hearing. The hearing will include, but is not limited to the grievant and his/her advocate, the person being grieved (respondent) and his/her advocate, and the Grievance Resolution Committee.  
 The Grievance Resolution Committee will conduct the formal hearing. The grievant, the respondent, and their advocates have the right to hear the testimony and to respond to testimony during the hearing, and question the witnesses. The Grievance Resolution Committee will make all appropriate decisions as to the conduct of the hearing and the evidence received.
- e. Within 10 calendar days of the conclusion of the hearing, the grievant and respondent may submit a written summary of their positions to the Grievance Resolution Committee. Within 21 calendar days from receiving any written summaries the Grievance Resolution Committee shall report in writing to the parties involved and to the President its findings and recommendations. If the Committee finds no recommendations appropriate, it will state its reasons for so finding in its report.
- f. If the President should determine that implementation of the Grievance Resolution Committee's recommendation(s) is impossible or would cause grave harm to the University, he or she shall, within 21 calendar days, so inform in writing the Chair of the Grievance Resolution Committee, the grievant and the respondent, setting forth in detail the reasons underlying his or her determination. No grievance resolution shall be considered precedent-setting.
- g. **Remedies:** Insofar as possible, the remedies available under this grievance resolution procedure shall be limited to those necessary to address the grievance.
- h. **Record-keeping and Access to Records:** All materials used in the grievance process, including tape recordings, exhibits, minutes and affidavits, shall be held in a sealed file in the PSU Human Resources Office. This file shall be separate from the individuals' personnel files. The only people authorized to open the files are the grievant, the respondent, and appropriate administrators who prove an official need to know.

## **D. Appeal**

Appeals of decisions and/or recommendations of the Grievance Resolution Committee shall be made to the President, and shall be made within 21 calendar days of the report of the Grievance Resolution Committee. Appeals should clearly state all grounds for the appeal. The President shall decide whether the grounds for appeal have merit and may call for a rehearing of the case, if necessary.

*[revised by Faculty 4-5-00; name changed from Review Committee to Grievance Resolution Committee on 2-7-07]*



## PSU Plymouth State University

### V. Personnel Policies

(Note: OLPM sections on this page may be cited following the format of, for example, "**PSU.V.D.12.1.1**". These policies may be amended at any time, do not constitute an employment contract, and are provided here only for ease of reference and without any warranty of accuracy. See [OLPM Main Menu](#) for details.)

#### D. Employee Relations

**12. Complaint Resolution.** The Complaint and Grievance Resolution procedures (see also [PSU V.D.13](#)) represent two distinct but related processes established for the purpose of resolving work-place problems and/or misunderstandings. This procedure ([PSU V.D.12](#)) pertains to complaints, and the following procedure ([PSU V.D.13](#)) pertains to grievances. Except where noted, status PSU faculty and staff may use either procedure solely and separately, or may use the complaint resolution procedure as the first step of the grievance resolution procedure.

##### 12.1 Complaint Resolution -- General

**12.1.1 Purpose.** The PSU complaint resolution procedure is intended to resolve complaints and problems arising out of the interpretation and/or implementation of Board of Trustee, University System, or Plymouth State University policy, procedure and practice.

**12.1.2 Definition - Complaint.** A complaint is an issue of concern related to a work-place situation or working conditions.

**12.1.3 Relation to Grievance Process.** The complaint resolution process may serve as an informal step to the PSU grievance resolution procedure ([PSU.V.D.13](#)). Complaints related to evaluations of work performance, and final classification determinations cannot be grieved. Termination may be addressed only through the grievance resolution procedure.

##### 12.1.4 Conditions

**12.1.4.1** The complaint resolution mechanism does not provide employees any rights other than the right to have a complaint heard and be considered. It does not bind PSU to any particular outcome or course of action.

**12.1.4.2** Complaints may be brought to Personnel at any time. In order to continue complaints into the grievance resolution procedure, established time lines must be followed. If the complaint is against Personnel, the Director of Personnel will make a determination of the appropriate source of appeal. The complainant may have an advocate (must be a status PSU employee who is not an attorney).

**12.1.4.3** Confidentiality shall be expected of participants in the complaint resolution process. Information revealed and discussions held shall be confidential as reasonable within legal requirements and organizational responsibilities.

**12.1.4.4** The filing of a complaint shall not affect the rights of an employee to seek any remedy which may be available in an external forum and does not postpone any deadlines for pursuing such remedies.

**12.1.4.5** PSU shall not take punitive actions or retaliate against a faculty or staff member for filing a complaint. Such retaliatory action by PSU employees shall be subject to appropriate discipline.

**12.1.4.6 Remedies.** Remedies pursued under the complaint resolution procedure may include any remedy which conforms to the spirit of the policy.

**12.1.5 Personnel function.** The PSU Personnel Office shall serve as a resource for understanding, accessing and managing the complaint resolution process.

**12.1.6 Record keeping.** Complaint information shall be kept in a confidential file in the Personnel Office and will be accessible only to those individuals engaged in the complaint resolution process and appropriate administrators with an official need to know.

## **12.2 Process of Complaint Resolution**

**12.2.1** A status PSU faculty or staff member may register a complaint by notifying the PSU Personnel Office of the complaint and indicating a desire to pursue a solution. If the faculty or staff member wishes this complaint to meet the deadline for filing a grievance, the notification of a complaint/grievance must be in writing.

**12.2.2** After considering the nature of the complaint, the PSU Personnel Office will initiate a discussion towards a resolution. Options to pursue resolution will include, but not be limited to, discussions with the supervisor, informal investigation of facts, and/or use of a third party to help mediate between the decision maker and the complainant. PSU faculty may use the Review Committee (as defined in the PSU Faculty Handbook) as the process for complaint resolution.

**12.2.3** If a resolution is reached, it will be communicated in writing to all involved parties.

**12.2.4** If the options, outlined in [12.2.2](#), selected do not result in a satisfactory resolution of the complaint, the Personnel Office may, as appropriate, require any of the following:

**12.2.4.1** A report from the investigator of the facts of the case

**12.2.4.2** A report from the mediator about the potential solutions

**12.2.4.3** A report from the supervisor about the reasons that no settlement or resolution was reached

**12.2.4.4** The Personnel Office will establish the appropriate time frame for any report or follow up on reports required.

**12.2.4.5** If the complaint is not grievable or pursued as a grievance, the process ends at this point.

**12.2.5** If the complaint also qualifies as a grievance under the definition in [13.1.2](#), a PSU faculty or staff member may file a written grievance within the deadlines established in Section [13.1.3.1](#). The Personnel Office will make a determination of the point at which the complaint process has ended. If the complaint continues as a grievance, the grievance will normally continue at Step One. By mutual agreement of the college and the grievant, the grievance may begin at Step Two.

**13. Grievance Resolution.** The Complaint and Grievance Resolution procedures (see also [PSU V.D.12](#)) represent two distinct but related processes established for the purpose of resolving work-place problems and/or misunderstandings. Except where noted, PSU faculty and staff may use either procedure solely and separately, or may use the complaint resolution procedure prior to Step One of the grievance resolution procedure.

### **13.1 Grievance Resolution -- General**

**13.1.1 Purpose.** The PSU grievance resolution procedure is intended to provide PSU status faculty and staff members a mechanism to resolve alleged violations of Trustee, University System or Plymouth State University policy.

**13.1.2** Definition: Grievance. A grievance is a written statement alleging a violation of a Board of Trustees, University System or Plymouth State University policy. The grievance procedure shall not be used to review the substantive merits of an administrative judgment, evaluation, or other discretionary act or decision, except as may be necessary when a violation of a nondiscrimination policy is alleged. A grievance may be filed by any status faculty or staff member except principal administrators.

### **13.1.3** Conditions

**13.1.3.1** The deadline for filing a grievance shall be ten (10) calendar days from the day on which the aggrieved faculty or staff member becomes aware of the action which is alleged to violate policy. In no event may a grievance be filed more than one year after the occurrence of the alleged policy violation. In cases where the complaint resolution process is used, the grievance moves to either Step one or Step Two within ten (10) calendar days of the failure of that process (the date will be determined and announced by the PSU Personnel Office).

**13.1.3.2** The grievant may have an advocate, who may act in an advisory capacity to the grievant or, at the grievant's request, may speak on the grievant's behalf. This advocate must be a status PSU employee who is not an attorney.

**13.1.3.3** Two or more employees similarly aggrieved by the same alleged violation of policy may file a joint grievance. All grievants to a particular grievance shall be identified in the written statement setting forth the grievance. A "class action" grievance shall not be permitted.

**13.1.3.4** Confidentiality shall be expected for participants in the grievance resolution process. Information revealed and discussions held shall be confidential as reasonable within legal requirements and organizational responsibilities.

**13.1.3.5** The filing of a grievance shall not affect the rights of an employee to seek any remedy which may be available in an external forum and does not postpone any deadlines for pursuing such remedies.

**13.1.3.6** PSU shall not take punitive actions or retaliate against a faculty or staff member for filing a grievance. Such retaliatory action by PSU employees shall be subject to appropriate discipline.

**13.1.4** Remedies. The remedies available under this grievance resolution procedure shall be limited to those necessary to bring the grieved action into conformance with the policy which was violated.

**13.1.5** Personnel Function. The PSU Personnel Office shall serve as a resource for understanding, accessing and managing the grievance resolution procedure.

**13.1.6** Record keeping. All materials used in the grievance process, including tape recordings, exhibits, minutes and affidavits, shall be held in a confidential file in the PSU Personnel Office and/or appropriate site as designated by the Personnel Office. This file shall be separate from the official personnel files.

## **13.2** Process of Grievance Resolution

**13.2.1** The grievant files a written statement of grievance with the PSU Personnel Office. The statement will include the specific policy or policies alleged to be violated, a brief statement of the alleged violation, and the resolution desired.

**13.2.2** The Personnel Office and/or the grievant shall consider the appropriateness of using the complaint resolution procedure. Faculty have the option of utilizing either this grievance resolution procedure or the grievance process as defined in PSU Faculty Handbook. Electing one process precludes using the other.

### **13.2.3** Step One

**13.2.3.1** The PSU Personnel Office will arrange a conciliation meeting to take place within twenty (20) calendar days of receipt of a properly filed grievance. The conciliation group will include, but not be limited to: the grievant, the grievant's advocate, a representative of the PSU Personnel Office, the person whose actions are being grieved (the respondent) and any other individuals appropriate to resolution of the grievance.

**13.2.3.2** The grievant and respondent each have the responsibility to provide documents which can reasonably be expected to contain evidence bearing on the case. This process of discovery may include an effort to investigate the facts and ask questions of the participants prior to the conciliation meeting in an effort to seek out evidence relevant to the grievance.

**13.2.3.3** The PSU Personnel Office shall coordinate the collection of the documents. The documents shall be made available to all parties to the conciliation meeting.

**13.2.3.4** The conciliation group will meet to review the grievance and fashion a mutually acceptable resolution. The meetings are intended to be non-adversarial and each party is expected to extend serious consideration to the views of the other parties.

**13.2.3.5** If the parties are able to reach a consensus for the resolution of the grievance, the terms of the resolution will be implemented by PSU. The resolution shall not be precedent setting.

**13.2.3.6** If the parties are unable to reach a resolution, the grievant shall have the option of filing a written request to proceed to Step Two. This request will be made to the PSU Personnel Office no later than five (5) calendar days after the end of Step One. All documents submitted for Step One will be provided by the Personnel Office for review at Step Two.

**13.2.4** Step Two. The grievant has the option to have a Step Two grievance heard by a hearing panel, which makes a recommendation to the President, or heard directly by the President, if he/she agrees. If the President is the accused, an appropriate administrator would be asked to act accordingly.

**13.2.4.1** For PSU staff, a hearing panel shall consist of three (3) USNH status employees, at least one of whom must be the same occupational type as the grievant, and at least one of whom must be the same occupational type as the person whose actions are being grieved. If the person whose actions are being grieved is a principal administrator, the panel member need only have a supervisory responsibility. For PSU faculty, the hearing panel shall be the Review Committee of the Faculty, as described in Section 2.0 of the PSU Faculty Handbook.

**13.2.4.2** The PSU Personnel Office shall coordinate the selection of the panel members in agreement with all parties.

**13.2.4.3** After selection of the hearing panel, the panel shall determine the hearing procedures, including but not limited to, reasonable time limitations if any, method of hearing witnesses, and overall format. A pre-hearing meeting will be held to inform the parties of these procedures.

**13.2.4.4** A representative of the Personnel Office will attend the hearings to provide procedural support to the panel.

**13.2.5** The panel will determine whether a policy violation has occurred, and if so, what shall be the appropriate remedy. The panel shall not serve to provide greater wisdom on an issue as part of decision/recommendation.

**13.2.5.1** If a panel was selected, the panel will make a recommendation to the President of Plymouth State University, which will include a determination of which, if any, policies have been violated, and a proposed remedy if appropriate. The decision will be by majority vote.

**13.2.6** Decision of the President

**13.2.6.1** If the grievance was heard directly by the President, the parties (grievant and respondent) shall be notified in writing of the decision within 10 calendar days following the hearing date.

**13.2.6.2** Upon the receipt of a recommendation from the hearing panel, the President will make the final decision on the employee grievance. The President shall retain the authority to accept or reject the recommendation of the panel in whole or in part. The remedy, if any is appropriate to the decision, shall conform to [PSU V.D.13.1.4](#). The parties (grievant and respondent) shall be notified in writing of the decision within ten (10) calendar days following the President's receipt of the recommendation from the hearing panel. The hearing panel will receive a copy of the President's written decision.

### **13.2.7** Petition to the Chancellor

**13.2.7.1** After the President exercises the authority described in [PSU V.D.13.2.5](#), a grievant who remains aggrieved shall be entitled to petition the USNH Chancellor for further review of the grievance.

**13.2.7.2** The petition must be received by the Chancellor's office no later than 10 calendar days after the President issues the decision described in [13.2.5](#). The grievant's petition shall state clearly the grounds on which the Chancellor's review is sought.

**13.2.7.3** The Chancellor or his/her designee shall review the petition and determine whether further review is warranted. In some instances, if the grievant has requested, the Chancellor may request an outside agency to review the situation for possible solutions.

**13.2.7.4** If the Chancellor or his/her designee determines further review is not warranted, the grievant shall be so notified and the President's decision shall be final.

**13.2.7.5** If the Chancellor or his/her designee determines further review is warranted, the record of the grievance shall be reviewed and any further inquiry as may be deemed necessary or appropriate will be undertaken, including consulting an outside agency. The Chancellor or his/her designee shall then decide the grievance and notify the parties (grievant and respondent) and the PSU President. Such decision shall be final.

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This page last updated **December 1, 2005**. For information on the adoption and effective dates of policies please see explanation on the [OLPM Main Menu](#).

Appendix B:

## **Adjunct Representation on Faculty Welfare Committee**

### **Timeline of Events:**

1. An adjunct faculty member contacted a FWC member and inquired about the possibility of adjunct representation on FWC. (End of spring semester 2008).
2. FWC discussed the matter and requested more information from adjunct group (Sept 2008). FWC asked the following questions:

What do adjunct faculty hope to achieve by securing representation on the FWC?

What are their reasons for wanting representation?

Would their goals be better served through an adjunct faculty committee?

3. Adjuncts prepared a Position Paper Advocating for Adjunct Representation on FWC (Sept 2008).
4. FWC members met with adjunct faculty to hear more about their request, concerns, and goals (October 2008).
5. Adjuncts send a memo to FWC after FWC members meet with adjuncts (October 2008).
6. FWC discusses meeting with adjuncts decided to follow-up with USNH legal council (November 2008)
7. Contacted USNH legal council, Ron Rodgers, to ask two questions (December 2008) :

"Are there any legal or USNH policies that would prevent Plymouth State from defining faculty (in our faculty bylaws) in such a way to include adjunct faculty?"

Follow up question: Is there anything that would prevent adjunct faculty from voting in faculty elections or at meetings and/or serving on faculty committees?

FWC found out that there are no legal issues associated with questions raised above. Although it must be clear that faculty recognizing adjunct faculty as "faculty" under the faculty by-laws and offering opportunities to serve on faculty committee and /or to vote, in no way changes the institution's responsibility to adjunct faculty.

8. FWC again discusses pros and cons of adjunct representation. A motion to make a motion for a bylaws change that includes one adjunct as a voting member of FWC was not passed by the FWC. We decided to bring issue to full faculty for discussion and straw poll at the March, 2009 meeting. (February 2009).
9. Item was on the agenda, however, due to time constraints, the discussion and the straw poll was postponed until the April meeting.

### **Issues for Consideration**

#### **Does/should the Faculty Welfare Committee represent adjunct faculty?**

When revising the Faculty bylaws related to FWC, the FWC polled faculty regarding whom the FWC represents. There seemed to be a general consensus that FWC should be concerned about, and represent the interests of, the adjunct faculty (Fall 2007); although, it is not stated in the Faculty bylaws that the FWC's role is to represent adjunct faculty.



Should FWC represent adjunct faculty interests?

The faculty appears to be concerned about adjuncts. In November of 2007, FWC polled the faculty about their concerns and preference for what FWC should be working on. Adjunct salaries was among the top 3 concerns identified.

FWC discussed with the Provost the concerns about adjunct pay. Provost shared her discussions with adjuncts and her efforts to increase adjunct salary. FWC committee believed this issue was being addressed.

Without adjunct representation on FWC, can FWC adequately and effectively represent the interests of adjunct faculty?

### **Should adjuncts have representation on FWC?**

Adding adjunct representation on FWC would require a change in the current faculty bylaws, Article III. Which states:

Membership in the faculty shall be restricted to those persons employed at Plymouth State University who have appointments in one of the following categories: Tenure-Track Faculty, Faculty-in-Residence, or Contract Faculty. Only such members of the faculty may vote on issues at faculty meeting, vote in faculty elections, or be elected to faculty offices and committees.

Faculty members serving on committees represent the faculty as whole, not a specific interest group; therefore, would it be appropriate to have adjunct representation on FWC?

If adjuncts had a voting member on FWC, would this set a precedent for adjuncts serving as voting members on other principle policy making committees? What are the pros and cons of this?

If adjunct representation on FWC or other committees were to be instituted would they be elected? If yes, then should adjunct faculty have voting rights?

What would be the implications of adjunct faculty members having voting rights?

There are approximately 237 adjunct faculty members. What are the implications of these numbers?

Committee work is not expected of adjunct faculty, nor are they compensated for it. Is it fair for adjuncts to serve on committees under these circumstances?

American Association of University Professors (AAUP) Statement on Contingent Appointment and Academic Profession (2003) advocates for governance responsibilities to be shared among all faculty at the institution, including those appointed to less-than-full time positions. It recommends "although part-time faculty have proportionally less time available for governance responsibilities, their appointments should provide for appropriate participation and compensation (p. 106).

Does the PSU faculty support such a position?

If yes, would the PSU administration provide needed supports to do so?

## Documents from Adjuncts

### **Position Paper Advocating Adjunct Representation on the Faculty Welfare Committee**

To: Plymouth State University Faculty Welfare Committee

From: Plymouth Adjunct Community

Date: September 26, 2008

Subject: Position Paper Advocating Adjunct Representation on the Faculty Welfare Committee

The preamble to the section of the PSU Faculty Bylaws describing the composition, representation, and functions of the Faculty Welfare Committee states: “The academic reputation and vitality of the University is integrally linked to the quality of the faculty. Therefore, it is in the best interests of the University and the students to attract and keep high-quality faculty. . . .” (Article XI, Section F.7)

We, the PSU Adjunct Community, feel that “the academic reputation and vitality of the University” is strongly linked to the professionalism of those in our group, and we are concerned about having that professionalism – and the working conditions which enable that professionalism – maintained and protected for all faculty, including adjuncts.

Although we adjuncts could seek the establishment of our own Faculty Welfare Committee, we are interested in pursuing the chance to share in the work of a body which has the welfare of the entire institution at the core of its mission; can recognize common concerns about professional values; and has the power to make recommendations, to call for Faculty Forums on areas of mutual concern, and to effect change in both policies and in treatment of fellow faculty. Accordingly, we adjuncts believe that representation on the Faculty Welfare Committee is essential to its mission.

In short, we prefer to work with the full-time faculty rather than compete with you for scarce resources. A separate approach would disperse rather than amplify our collective faculty voice.

### **Memo of Understanding and Request for Future Meeting**

To: PSU Faculty Welfare Committee

From: PSU Adjunct Community

Date: October 20, 2008

Subject: Memo of Understanding and Request for Future Meeting

We very much appreciate the visits of Cathie LeBlanc (Oct. 14 and 15) and of Gary Goodnough (Oct. 15) to recent adjunct meetings, and the willingness of Cathie and Gary to share the concerns of the Faculty Welfare Committee regarding our recent position paper requesting representation on that committee. We also appreciate Cathie and Gary’s willingness to listen to our concerns as we seek to make “quality of life” improvements to the working conditions of the adjunct community that makes up 48% of the faculty here at Plymouth State University.

As the result of these two meetings, we understand that your concerns focus on three major areas:

- The Faculty Welfare Committee, as currently constituted by PSU faculty bylaws, is not set up to “represent” particular constituencies, but rather the interests of the faculty as a whole. The current definition of “faculty” in the PSU constitution/bylaws (for purposes of committee appointments) includes tenured, tenure-track, and (fairly recently?) full-time contract faculty, but not part-time adjunct teachers. A bylaws change might be necessary to change the composition of the committee.
- Members of the Faculty Welfare Committee, who are paid for full-time work that includes service to the university on committees, are concerned about the time/work demands that would be

placed on an adjunct member of the committee who would not be reimbursed for his/her work. Thus, there is a fairness/equity issue.

- Members of the Faculty Welfare Committee feel that there is not necessarily a shared agenda with the adjunct community. The example given was that, this year, almost the entire focus of the FWC has been given over to discussion of promotion and tenure issues which affect only the tenure-track, full-time faculty.

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We feel that our shared discussions with Cathie and Gary revealed large areas of agreed-upon mutual concern, particularly as those areas are enumerated in the description of the Faculty Welfare Committee's "Function" spelled out in the PSU faculty bylaws. For your consideration at your next meeting, we are providing our responses to your three major concerns:

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#### Representation –

Given that we seemed to find numerous shared areas of concern, we would ask you to consider, at a minimum, including the adjunct faculty in that pool of faculty from which the Faculty Speaker can draw for "a non-voting participant on the committee for a one-year, non-renewable term." At the moment, that person "shall be selected from a pool of faculty with not more than five years service at PSU." Certainly within the large group of adjuncts here at PSU, we have those who have served at numerous colleges and institutions (sometimes in full-time capacities in the past), those with terminal degrees, those with experience teaching both graduate and undergraduate students, those with rare and unusual expertise, etc. In other words, we have adjuncts who can readily comprehend the issues of the faculty as a whole.

If having adjuncts as a part of that larger pool available for appointment by the Faculty Speaker is not an option (i.e., if the FWC wants to reserve that appointment position listed in the bylaws for a relatively new tenure-track but non-tenured faculty member), then we would request that there be a second named appointment (by the Faculty Speaker) of a non-voting member, with a one-year, non-renewable term, expressly drawn from the adjunct pool of faculty.

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#### Workload Fairness/Equity –

Having worked last year on ascertaining current pay for adjunct faculty at Keene State College and other comparator institutions, we PSU adjuncts are well aware of the inequities of pay under which we already labor. When the outside reviewer of one of our campus departments can comment that the adjunct pay and working conditions of that department are "signally unjust" and that an "institution seriously interested in improving the quality of undergraduate instruction and providing an ethical model for its students would make addressing this situation a very high priority. . . ." then we can safely say that adjuncts know they experience unfairness and inequity in both pay and working conditions.

However, adjuncts, like full-time faculty, are also capable of living into the idealism expressed by the PSU motto – *Ut Prosim* – especially when we believe that a willingness to volunteer our services now – for example, on the Faculty Welfare Committee – could help lead to improved "quality of undergraduate instruction" and other long-term institutional benefits here at PSU, including a more stable and more engaged adjunct faculty. As the preamble to the Faculty Welfare Committee states, "The academic reputation and vitality of the University is integrally linked to the quality of the faculty. Therefore, it is in the best interest of the University and the students to attract and keep high-quality faculty." Increasingly, academic institutions are realizing that a "high-quality faculty" for some decades now has included an ever-higher percentage of adjunct faculty, and professional organizations are increasingly calling for this changed reality to be addressed. A recent article in *Academe*, the journal of the American Association of University Professors, asks, "When as many as two-thirds (or more) of the people actually contributing to a college's academic mission

– and especially to student learning – do not participate in governance, can the system sustain itself?” (William F. Plater, “The Twenty-First-Century Professoriate,” *Academe*, July-August, 2008).

■ Question of a Shared Agenda –

Those of us able to attend the adjunct meetings with Cathie and Gary felt that we ended our discussion with a fuller appreciation of how thoroughly our two agendas indeed overlap. We feel that our presence on the Faculty Welfare Committee could extend the effect of your work, especially in those extensive areas in which you are not currently engaged. We return to those issues enumerated in the description of the committee’s “Function” as presented in the bylaws: “The Committee will advocate for the welfare of the faculty and will make recommendations to the faculty and/or administration on matters affecting the welfare of the faculty, including but not limited to: academic freedom; promotion and tenure; compensation and benefits; workload; personnel policies; professional ethics; and ‘quality of life’ issues related to working conditions.” We particularly see these “quality of life” issues as having an impact on the whole university. Your students are our students; or, often more precisely, our students become your students. The working conditions that impact our lives as adjuncts directly impact the lives of our shared students who often have to obtain their first impression of college life and the life of the mind from teachers who have inadequate or no office space in which to confer, who are sometimes not provided with computers and other necessary equipment, and who are often brutally overworked and underpaid.

Surely, as a 21<sup>st</sup>-century university, PSU can do better than this.

We trust that we have addressed the concerns you thoughtfully expressed to us, particularly in light of the goals that we agree we share.

We would welcome the opportunity for a joint meeting between the adjunct community and the Faculty Welfare Committee sometime in December.