

FACULTY APPEAL POLICY

PURPOSE

The purpose of this policy is to provide faculty members with the means to request a review for any action that might adversely impact their conditions of employment or impede their career.

POLICY STATEMENT

It is the policy of The University of Texas MD Anderson Cancer Center (MD Anderson) that a faculty member's conditions of employment or career progression not be impacted or impeded for arbitrary or capricious reasons and that a faculty member be provided a method to appeal.

SCOPE

The policy covers all faculty members, including faculty administrators or other members of administration.

Compliance with this policy is the responsibility of all faculty, trainees/students, and other members of MD Anderson's workforce.

TARGET AUDIENCE

The target audience for this policy includes, but is not limited to, all faculty members, including faculty administrators or other members of administration.

DEFINITIONS

Academic Performance Review Panel (APRP): An ad hoc panel, responsible for performing an academic review of the appealing faculty member. The APRP consists of two members of the Promotion and Tenure Committee (PTC) and one member from either the Executive Committee of the Science Faculty (ECSF) or the Clinical Faculty Review Committee (CFRC). (See [APRP](#) and [APRP Process](#).)

Appeal: Formal resolution process that provides faculty members with the opportunity to present issues orally and/or in writing to the Provost and Executive Vice President and/or the President. (*NOTE: Faculty members are encouraged to use the Conflict Management process before initiating an appeal.*)

APPEAL TIMETABLE

<u>Action</u>	<u>Within ...</u>	<u>Resolution</u>
Faculty member		
<ul style="list-style-type: none"> receives Provost and Executive Vice President's written notification of adverse action, or has an unresolved complaint concerning an employment condition* 	15 business days*	Faculty member forwards a written request for an appeal to the Provost and Executive Vice President to convene a Faculty Appeals Panel (FAP)
Provost and Executive Vice President receives the faculty member's written request to convene a FAP	60 calendar days	<ul style="list-style-type: none"> Provost and Executive Vice President: <ul style="list-style-type: none"> decides whether to convene a FAP convenes FAP, if applicable reviews FAP's opinion decides outcome notifies faculty
Faculty member receives Provost and Executive Vice President's notification of decision	5 business days	Faculty member may submit a written request to meet in person with Provost and Executive Vice President and/or President
Provost and Executive Vice President and/or President receives written request to meet with faculty member	15 business days	Provost and Executive Vice President and/or President meets with faculty member

* No time limit to appeal an unresolved complaint, but subsequent time limits apply.

Conditions of Employment: Construed broadly to include any area of wages, hours, performance evaluations, merit raises, assignment of duties, interpretation or application of a rule, regulation or policy, denial or withdrawal of a benefit or privilege, or any other matter which is appropriate for communication between employee and employer concerning any aspect of their relationship.

Faculty Appeals Committee (FAC): Comprised of one elected Associate Professor or Professor, who is not a department chair, representing each academic department to serve as a group from which the FAP is selected (see [FAC Process](#)).

Faculty Appeals Panel (FAP): An ad hoc panel, comprised of three members selected from the FAC to serve on one review per year. The purpose of the FAP is to provide an advisory opinion to the Provost and Executive Vice President as to whether or not the action or decision by a party in conflict or a faculty leader was arbitrary or capricious, i.e., whether the action or decision was consistent with institutional policies and principles. The FAP bases its determination on a review of all relevant documents submitted (see [FAP Process](#)).

Examples of Appealable Actions for Which a FAP May be Requested:

- Non-renewal of non-tenure track or tenure track appointment;
- Removal from tenure track during probationary period;
- Switch to a non-tenure track appointment at end of probationary period if no chair recommendation for committee review;
- Any employment condition for which the faculty member has an unresolved complaint. (NOTE: *Initiation of such an appeal has no time limitation.*)

Exceptions to Use of a FAP:

- Non-renewal of tenure;
- Removal from tenure track at the end of the seven-year probationary period as a result of denial of tenure;
- Denial of tenure;
- Violation of state or federal law;
- Issues concerning research integrity or scientific misconduct; and
- Any matter in which there is pending litigation or receipt of notice by an attorney of an intention to bring suit against the institution.

Violation of State or Federal Law: Impacts employment on the grounds of discrimination, retaliation or harassment. Refer to the [Equal Employment Opportunity Policy \(UTMDACC Institutional Policy # ADM0284\)](#) and [Sexual Harassment Prevention Policy \(UTMDACC Institutional Policy # ADM0285\)](#).

PROCEDURE

1.0 Process: Step 1

- 1.1 Within fifteen (15) business days of receiving written notification of adverse action from the Provost and Executive Vice President and/or President, or at any time for an unresolved complaint, the faculty member forwards a written request for an appeal to the Provost and Executive Vice President to convene a FAP.
- 1.2 The faculty member may use any advice of value to prepare and submit written documents in support of his/her position. The written request must include all:
 - A. Issues;
 - B. Allegations;
 - C. Changes in employment condition(s); and
 - D. Information the faculty member considers relevant to the action.

2.0 Process: Step 2

Within 60 calendar days after Provost and Executive Vice President receives written request for appeal from a faculty member, Steps 3 through 15 must be completed. If the Provost and Executive Vice President is recused, then the EVP/PIC (or Senior Vice President for Academic Affairs) acts in place of the Provost and Executive Vice President.

3.0 Process: Step 3

The Provost and Executive Vice President determines if an allegation of a violation of state or federal law occurred.

3.1 If there is no allegation of a violation of state or federal law, go to Step 4.

3.2 If there is an allegation of a violation of state or federal law, the Provost and Executive Vice President refers it to the Chief Legal Officer for resolution. Go to Step 12.

4.0 Process: Step 4

The Provost and Executive Vice President determines whether or not to convene a FAP.

4.1 If the Provost and Executive Vice President convenes a FAP, go to Step 5.

4.2 If the Provost and Executive Vice President does not convene a FAP, go to Step 12.

5.0 Process: Step 5

The FAP first determines if the action or condition is due in whole or in part to academic performance (not meeting the criteria for scholarly achievement).

5.1 If the action or condition is due to academic performance, go to Step 6.

5.2 If the action or condition is not due to academic performance, go to Step 9.

6.0 Process: Step 6

FAP determines if an academic review has been carried out by ECSF, CFRC, or PTC within the past 12 months.

6.1 If an academic review has not been carried out, FAP solicits a review by APRP. Go to Step 7.

6.2 If an academic review has been carried out, go to Step 9.

7.0 Process: Step 7

In consultation with the Provost and Executive Vice President, FAP convenes the APRP to conduct an academic review.

8.0 Process: Step 8

The APRP submits its findings in writing to the FAP.

9.0 Process: Step 9

Prior to the FAP recommendation to the Provost and Executive Vice President, the faculty member may submit any additional written documents to the FAP in support of his/her position (e.g., letter of rebuttal and letters of support from peers). The other party may also submit additional written materials for consideration by the FAP. The FAP may request additional information via the Provost and Executive Vice President and makes all documents available to both parties.

10.0 Process: Step 10

FAP reviews all relevant written information, including:

- 10.1 APRP assessment (if applicable);
- 10.2 Other academic reviews;
- 10.3 Documents from faculty member including written rebuttals; and/or
- 10.4 Documents from the other party including written rebuttals.

11.0 Process: Step 11

FAP makes a determination whether or not the action or decision by a party in conflict or a faculty leader was arbitrary or capricious.

- 11.1 If the FAP finds that there has been an arbitrary or capricious action or decision, a recommendation to rescind the action or decision is forwarded to the Provost and Executive Vice President.
- 11.2 If the FAP finds that the action or decision was not arbitrary or capricious, a recommendation to uphold the action is forwarded to the Provost and Executive Vice President.

12.0 Outcome of Appeal: Step 12

The Provost and Executive Vice President makes a decision to uphold or not uphold the action or change of employment condition and notifies the faculty member and faculty administrator or other member of administration in writing.

13.0 Outcome of Appeal: Step 13

Within five (5) business days of receipt of notification from the Provost and Executive Vice President, the faculty member may submit a written request to the Provost and Executive Vice President and/or President to meet in person.

14.0 Outcome of Appeal: Step 14

Within fifteen (15) business days of the request, the Provost and Executive Vice President and/or President meets with the faculty member, who may be accompanied by an individual of his/her choosing.

15.0 Outcome of Appeal: Step 15

Following the requested meeting, the Provost and Executive Vice President and/or President makes the final decision and notifies the faculty member in writing.

ATTACHMENTS / LINKS

[APRP \(Attachment # ATT0224\).](#)

[APRP Process \(Attachment # ATT0225\).](#)

[FAC Process \(Attachment # ATT0235\).](#)

[FAP Process \(Attachment # ATT0237\).](#)

[Original Faculty Conflict Management and Appeals Process Document.](#)

RELATED POLICIES

[Equal Employment Opportunity Policy \(UTMDACC Institutional Policy # ADM0284\).](#)

[Sexual Harassment Prevention Policy \(UTMDACC Institutional Policy # ADM0285\).](#)

JOINT COMMISSION STANDARDS / NATIONAL PATIENT SAFETY GOALS

None.

OTHER RELATED ACCREDITATION / REGULATORY STANDARDS

None.

REFERENCES

None.

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