I. INTRODUCTION

A. This process applies to any student in the College of Education and Human Development or to any College employee who holds an academic staff appointment at the University of North Dakota. It applies to graduate assistants both as students and, where appropriate to assignment, as academic staff.

B. 1. For academic staff, this process applies to "all matters related to the terms or conditions of employment except matters related to dismissals, terminations, nonrenewals, or other administrative actions which result in the imposition of sanctions upon an academic staff member under State Board of Higher Education Regulations on Academic Freedom, Tenure, and Due Process" (UND Faculty Handbook. 12.2).

   2. Any grievance based upon alleged discrimination must be filed in accordance with the "Equal Opportunity Grievance Procedure" (Faculty Handbook, 12.3) or the "Procedure for Filing Complaints of Handicap Discrimination" (Faculty Handbook, 12.4).

   3. Within this policy, "academic staff is defined as "all probationary, tenured, and special academic staff appointments to the faculty" and to "academic staff who are appointed without faculty rank or status as lecturers and to graduate teaching assistants (but only in their appointments as teachers, not as graduate students)" (Faculty Handbook. 12.2). This policy "shall not apply to administrators or to classified staff (Faculty Handbook. 12.2).

C. 1. For undergraduate students, this process applies to any "complaint, resentment, or accusation lodged by a student about an academic circumstance (such as grading, testing, quality of instruction) which is thought by the student to be unfair" (UND Code of Student Life, Section 3).

   2. Graduate student grievances fall under the jurisdiction of the Graduate School except for grade grievances, which fall within the jurisdiction of the college offering the course.

   3. The academic issues subject to the grievance procedures specified within this policy differ from those issues subject to the academic petition process, which include a request by the student to have a university, college, or program requirement waived or modified. "If a student thinks that a petition has not been handled fairly, the student may initiate a grievance based upon unfair treatment, but not upon the substantive issue" (Code of Student Life, Section 3).

D. All concerns within the scope of this policy must be pursued through the appropriate levels. For students, that is student and instructor, then department chair, and then college dean. Faculty concerns should be addressed first to the appropriate department chair and then to the Dean.
II. DEPARTMENT-LEVEL PROCESS

A. Any person who has a problem, complaint, or resentment which may become subject to this grievance policy must attempt to resolve the grievance at the department level. That individual shall hereinafter be referred to as the "grievant" and the issue of concern shall be referred to as the "grievance." If the grievance involves administrators (other than the Dean) or staff at the College level and/or College policies or procedures, other than those associated with the academic petition process, the Dean shall assign a department chair to handle the grievance in the manner noted below. If the grievance involves the dean, the Vice President for Academic Affairs shall assign an EHD department chair or dean of another college to handle the grievance in the manner noted below.

B. Informal Options
1. The grievant shall discuss the grievance first with the person(s) involved in an attempt to resolve the situation.
2. After initial contact, the grievant may attempt to use either negotiation or mediation, or both, before initiating a formal grievance. In most instances, the grievant should attempt to resolve the grievance through negotiation by discussing the concern with the instructor and/or the department chair.
3. The grievant may initiate mediation by requesting assistance from any person or entity appropriate to provide mediation. If the person or entity requested to mediate the concern agrees to do so, that mediator shall contact the instructor and/or the department chair and proceed with mediation if that party agrees.

C. Formal Options
1. Within twenty (20) days of the occurrence which forms the basis for the grievance, or within ten (10) days of the final attempt at negotiation or the final effort at mediation, whichever is later, the grievant shall file a written grievance to the department chair, indicating the basis for the grievance and the specific remedy sought.
2. The department chair shall visit with the grievant and the individual(s) alleged to be the basis for the grievance and shall request such additional information as deemed necessary to render a response to the grievance.
3. Within fifteen (15) days after the grievance has been provided, the department chair shall provide the parties to the grievance with a written statement indicating what actions, if any, will be taken in response to the grievance.
4. It is the responsibility of the chair to retain a record of the investigation of the grievance and copies of any relevant documents procured thereby.
5. If either party is dissatisfied with the decision of the department chair, he or she may appeal the decision as provided in Section III.
III. COLLEGE-LEVEL PROCESS

A. The College Appeals Committee shall become involved in the grievance process upon written notification to the Dean of an appeal of a department chair's decision related to a grievance considered through the departmental process.

B. Timing
   1. An appeal of a department chair's decision must be submitted by either party involved in the grievance (referred to in this stage of the process as the "appellant") to the Dean within fifteen (15) working days after notification of the decision of the department chair. The appeal must indicate the basis for disagreement with the decision of the chair and the remedy sought. A copy of the statement of the chair must accompany the appeal.
   2. The College Appeals Committee will be formed and a chair elected within five (5) working days after the appeal has been filed.
   3. The appeal process will be completed in twenty (20) working days from the day the committee is formed, unless all parties mutually agree to an extension of this timeline, or upon a showing of good cause by any party, an extension is granted by the committee.
   4. A copy of the recommendation of the College Appeals Committee will be sent within five (5) working days after completion of the appeal process by the committee chair to the parties, including the appellant, the Dean, the second party to the original grievance, and the chair of the department in which the grievance was originally considered.

C. Selection of the Committee
   1. Members of the College Appeals Committee pool will be selected in the academic departments through elections conducted by September 1 of each year. Within each department, two faculty members, one graduate student, and two undergraduate students (if appropriate) will be selected for the pool.
   2. For each appeal by academic staff, four faculty names will be drawn by lot from the college pool. Members of the department involved in the appeal being heard will be excluded from the drawing. In the event that any of the four faculty representatives could not be available at the time of the hearing(s), additional name(s) will be drawn from the college pool.
   3. In the case of student appeals, a graduate or undergraduate student, as appropriate, also will be selected from the pool, by lot, to serve with the four faculty members. Any student(s) representing the department involved in the appeal will be excluded from the drawing. In the event that the student representative could not be available at the time of the hearing(s), an additional name will be drawn from the college pool.
D. Committee Procedures

1. The committee must hold a meeting and elect a chair within five (5) working days after the appeal has been filed. Selection of the chair shall be by nomination of the committee members and majority vote of those individuals.

2. The committee shall set a date, time, and place for a hearing to receive testimony from the parties to the appeal.

3. The appellant, the second party to the original grievance, and/or the department chair whose decision is being appealed may provide documents for consideration by the committee. A copy of all such documents related to the appeal, including the file compiled by the department chair in conducting the original investigation, will be provided to the Dean's office for distribution to the committee members, chair of the department involved, appellant, and second party to the original grievance at least three (3) working days prior to the hearing.

E. Hearing Procedures

1. At least twenty-four (24) hours prior to the opening of the hearing, the appellant will provide a signed written statement to the Dean's office declaring whether the hearing is to be open or closed to the public. In the absence of such statement, the hearing is to be closed to the public.

2. Before the presentations by the principal parties to the Appeals Committee, the following instructions will be read by the chairperson:

   This is neither a disciplinary hearing, legal proceeding, nor a courtroom process. The first phase of the meeting is designed for the committee to obtain information on the related factors and aspects of the appeal. The appellant and respondent will present their positions. Principal parties will not have the right to cross-examine each other. The committee has the right to question all parties in its attempt to achieve an understanding of the issue(s).

   To begin, the appellant(s) will present their position(s) to the committee, followed by the presentation by the respondent. Any other principal parties, earlier identified, will be allowed to make a presentation. The committee may then follow with questions. After this phase of the meeting, the committee will deliberate and reach a final decision. If the principal parties are present during the committee's deliberations, continuing participation is not allowed. The principal parties and the Dean will be notified by the chair of the committee, in writing, of the decision within five (5) working days after completion of the appeal process.

3. The appellant will begin the hearing by giving an account of the problem, complaint, or resentment that led to the grievance. The appellant will also provide a response to the department chair's decision regarding the grievance.

4. The department chair who issued the department level decision against which the appeal was filed shall then give an account of the issue(s), the investigation, and the decision.
5. The second party to the original grievance, other than the appellant, will then be invited to give his or her account of the issue(s). However, the party is under no obligation to give such an account.

6. The principal parties involved may ask other persons to provide supporting testimony at the hearing. Each of these individuals must be identified to the committee prior to the hearing. If the hearing is an open hearing witnesses may not be present in the hearing room until after they have provided testimony and it has been determined that they will not be recalled for further testimony.

7. Any questions or responses by the parties involved in the appeal hearing will be directed through the chairperson and will be presented only after both sides have concluded their testimony.

8. The Appeals Committee chair will assure that the discussion is limited to the specific matter(s) listed in the appellant's written appeal and will restrict the committee recommendation(s) to the specific matter(s) cited in that appeal.

9. During the appeal hearing, the appellant may have an advisor present, but the advisor may not ask question of parties to the appeal or witnesses and will not be allowed to address the committee unless asked to so, or unless given permission to do so.

F. Committee Decision

1. The Appeals Committee will consider all documents and testimony provided by the parties prior to deliberation. A quorum, defined as four out of five members for a student appeal or three out of four for a faculty appeal, must be present at the time of the vote. The recommendation(s) of the committee shall be approved by a majority vote of those present. The committee chair will vote only in case of a tie.

2. Any appeal not resolved at this level may be brought by either party to the appropriate university committee. Students should consult the UND Code of Student Life, Section 3; faculty should consult the UND Faculty Handbook, 12.2.

G. General Information

1. Secretarial support for the College Appeals Committee will be provided by the Dean's office staff, who will be responsible for audio-taping the meeting, keeping official minutes, and distributing and storing all documents provided by parties involved.

2. All documents related to the appeal will be kept for a period of three years after the final resolution at the College level. At that time, the Dean will be responsible for destroying the documentation. Should the recommendation of the Committee be appealed to a higher level, all documents shall be provided to the relevant administrator or committee and subsequent security and storage shall be maintained according to appropriate University policies and/or procedures.

(Approved 1/7/97)