

11 COMPLAINTS AND GRIEVANCES

In dealing with the conflicts that will inevitably arise when people work together, the Whitworth community is committed to following the general concepts and specific strategies contained in Matthew 18. The general principles in Matthew 18 call Christians to model humility, practice forgiveness, seek reconciliation, eschew vindictive self-righteousness and holding double standards, avoid tempting others to fall, and show respect for those without power. Do not despise the little ones, do not serve as an obstacle for others, seek out the lost sheep, forgive 70 times 7, and extend forgiveness as you have been forgiven are the admonitions contained in Matthew 18. Verses 15-20 in Matthew 18 contain the following specific acknowledgements, admonitions and strategies regarding conflict:

1. Even fellow Christians will occasionally do wrong to one another; such wrong should not be ignored.
2. Direct interaction and communication should be the first step in conflict resolution. Whenever possible, people who experience wrong should deal directly with the one causing them harm.
3. People in conflict should not draw others into the conflict in order to gain an advantage.
4. People on all sides should engage in careful listening intended to result in understanding, a change in behavior, and resolution.
5. When direct interaction and careful listening fail to resolve the problem, one or two others should be brought in to assist.
6. People brought in to assist should be impartial and should seek to confirm the truth of the situation. Only factual evidence, not allegations, suspicions, innuendoes, or hearsay, is to be the basis for further discussions.
7. Only if a wrongdoer refuses to listen and the situation cannot be resolved should the larger group be informed of the problem and asked to assist.
8. The first goal of the larger assembly is to make it possible for the person at fault to listen, understand, and change.
9. Only if the person at fault is unwilling to understand and change should relations be broken.
10. Although Matthew 18 emphasizes patience, careful process, and forgiveness, Matthew 18 also recognizes that hurtful actions require consequences.

11.1 DEFINITIONS

11.1.1 COMPLAINT

Throughout this Section, a complaint means a request for resolution of an alleged mistake, misunderstanding, or potentially grievable action or process relating to treatment of one person or group of persons by another person or group of persons. Examples include but are not limited to matters involving salary, assignment of teaching duties, assignment of space or other facilities, unfair treatment, or propriety of conduct.

11.1.2 GRIEVANCE

A grievance is a formal claim of, and request for redress for, a breach, misinterpretation, or misapplication of policy or procedure, or an infringement of the rights of a party as set forth in the Handbook. Matters covered by the definition of “complaint” can become subject to grievance when not

resolved by the complaint procedures in Section 11.4.1. Requests for reconsideration or appeals of faculty evaluation decisions, or of actions regarding promotion, tenure, or termination do not fall within the scope of grievance.

11.1.3 PARTIES

A “complainant” is a person or group of persons who initiate a complaint, informally or formally. A “grievant” is a person or group of persons who initiate a grievance. A “respondent” is a person or group of persons alleged to have committed the violation of rights or a breach, misinterpretation or misapplication of policy or procedures. A “participant” is someone present at a specified meeting. If perceived conflicts of interest make substitution necessary, another vice president or the president him/herself may substitute in the provost’s role, as designated by the president.

11.1.4 DAYS

Wherever the term “days” is used in Section 11, it means “University business days.” Thus, “within 10 days” means “no later than 10 University business days after the described action.”

11.2 COMPLAINTS REGARDING DISCRIMINATION, SEXUAL HARASSMENT, EVALUATION, TERMINATION, OR OTHER SPECIAL CASES

Complaints regarding discrimination and sexual harassment are governed by the complaint procedures set forth in Whitworth’s Non-Discrimination and Sexual Harassment Policy (Appendix A).

Other university-wide policies and complaint procedures concerning special cases that may be approved at any time by the board of trustees preempt the general complaint and grievance procedures set forth below.

Complaints or disputes regarding outcomes of faculty evaluations conducted by FPTC or FRC are not covered by the section but are governed by the reconsideration and appeal provisions of Section 7.

Complaints or disputes regarding faculty termination decisions are not covered by this section and are governed by the appeal provisions of Section 10.

Any ambiguity as to whether a particular complaint, grievance, reconsideration, or appeal procedure applies to a given situation shall be resolved by the provost in consultation with Faculty Executive, or by the provost alone if Faculty Executive is a party to the issue. If the provost is party to the issue, the ambiguity shall be resolved by Faculty Executive.

11.3 INTENT AND TIME LIMITS

It is in the best interest of all parties to settle conflicts promptly and properly, without fear of prejudice or reprisal. The complaint and grievance process is designed to achieve settlement that meets these goals in cases of interpersonal conflicts and policy disputes, with preference for informal agreement rather than litigation. Individual rights, including academic freedom, are protected. It is the intent of the

University and of these provisions that the processes detailed in Section 11 be the sole avenue for addressing complaints and/or grievances.

Throughout these procedures, maximum time limits are prescribed. Time limits throughout Section 11 are, as noted in the “definitions” paragraph 11.1.4, in University business days. Complaints or grievances based on events which occur within 10 days before a Christmas or summer break, or during such breaks, are subject to time limits as if they had occurred on the first day of class of the next regular term.

Time limits for any step in this process may be extended by a written agreement signed by all responsible parties or participants at that step. Such a letter of extension must include a specific date for the new limit. No extension may be accepted without a written agreement. In the case of complaints, if the parties do not agree, time limits may be extended by the provost in consultation with Faculty Executive, or by the provost alone if Faculty Executive is a party to the complaint. If the provost is party to the complaint, time limits may be extended by Faculty Executive. In the case of grievances filed with Faculty Affairs Committee, either party may appeal to that committee for a time extension.

Unless time limits are extended in accordance with these provisions, failure to act as specified within time limits will be de facto evidence of acceptance of the other party’s claims. Failure at any step to communicate a decision or recommendation within specified time limits shall permit the complainant or grievant to proceed to the next step. Failure at any step to pursue a complaint or grievance to the next step within the specified time limits shall be deemed to be acceptance of the decision rendered at that step.

11.4 COMPLAINT PROCEDURES

Biblical principles call on all to promote congenial relationships among colleagues and to provide careful and caring administrative review. These goals are best served by complaint procedures which are informal, preferably non-confrontational, and aimed at agreeable resolution rather than grievances. Nevertheless, certain parts of the informal process must be documented so that they may be referred to later if the case becomes a grievance. It is understood that no offer of settlement may be used as evidence at a later stage in the process, and no offer or resolution shall be taken as precedent for future similar complaints or grievances. If the complaint is against an action of an individual, the complainant will follow Section 11.4.1 below. If the complaint is against an action of a committee, the complainant will follow Section 11.4.2. In either case, Section 11.4.3 applies.

11.4.1 COMPLAINT AGAINST AN INDIVIDUAL

Within 15 days after the complainant knows or should have known of a questioned action, the complainant must write a letter of concern to the dean citing Section 11 and generally describing the action which the complainant believes may have been in error. If the complainant and the individual about whom the complainant is communicating are from two different schools/colleges or the complaint involves issues that involve more than one school/college, the letter should be addressed to the provost. The dean (or provost) will acknowledge the letter in writing within five days and schedule a meeting with the complainant within ten additional days. As a general rule, at all meetings concerning complaints, the faculty president will be invited to participate as ombudsperson, but not as advocate for any side. The faculty president may also designate someone else acceptable to both sides to serve as ombudsperson. At this meeting, participants will attempt to reach a resolution of the complaint. If

resolution is not reached, the dean (or provost) may or may not choose to support the complainant's case in further discussions.

If the complaint is against the dean or provost, the complainant will contact the chair of the Faculty Affairs Committee within the same time limits as those specified for contacting the dean. The first meeting with the dean or provost will be held no later than 30 University business days after the date of the letter of concern. Again, participants will attempt to reach a resolution by informal means. If a solution is not reached, the provost may recommend other approaches, which may include a recommendation that the complainant file a grievance under the provisions of Section 11.5.

11.4.2 COMPLAINT AGAINST A COMMITTEE

If the complaint is against a committee, the complainant shall write a letter of concern, bound by the same time limits as were described in Section 11.4.1, to the chair of the committee or to the faculty president as chair of the Faculty Executive. This letter of concern will identify the committee action which the complainant believes may have been in error. The chair of the committee or the faculty president will acknowledge the letter in writing within 5 days and schedule a meeting with the complainant to occur no later than 10 days after the letter is submitted. As in the case of complaints against individuals, the faculty president shall be invited as ombudsperson or may designate someone else acceptable to both sides to serve as ombudsperson. If the letter of concern was addressed to the faculty president, the vice-president of the faculty shall serve as ombudsperson or may designate someone else acceptable to both sides to serve in this role. As a result of this meeting, participants may agree on a solution, or the committee chair may or may not ask the committee to reconsider the action.

If resolution is not reached and the committee does not reconsider the action, the complainant may discuss the issues of concern with the provost, in which case the first meeting with the provost must be held no later than 30 days after the date the letter of concern was submitted. If the provost supports the complainant, the provost will within 10 days after the meeting present to the relevant committee a request to reconsider the action.

11.4.3 WRITTEN RECORD OF MEETINGS

At all meetings, to assure that the rights of all parties are protected, participants shall sign a note acknowledging that the meeting occurred. Both parties shall keep copies of this note.

11.5 GRIEVANCE

See definition and explanation of "grievance" in Sections 2.2.5.3.2 and 11.2.

The right to grieve faculty governance decisions, administrative decisions, or disputes with colleagues is at all times available to regular faculty members. Before filing a grievance, the faculty member must have pursued applicable complaint procedures in Section 11.4.1.

11.5.1 BASIC RIGHTS

All regular faculty have the following rights with respect to grievance:

- The right to select a faculty member of his or her choosing to serve as an advisor. The advisor may accompany the grievant to any meeting at any stage of the grievance process in

which the grievant is included. The advisor may speak and ask questions on the grievant's behalf. Although a faculty member has the right to obtain legal counsel, legal counsel shall not be permitted to participate in the grievance proceedings. Conferring with legal counsel shall not jeopardize access to the grievance process.

- The right not to have new issues introduced in the hearing process. (This does not preclude introduction or consideration of additional evidence on the issues at hand. If serious but unrelated concerns come to light in the hearing process, the Faculty Affairs Committee may, at its discretion, forward that information to the appropriate administrators but will not otherwise pursue them, except as they may become the subject of some future separate process.)
- The right to make an audio recording when the grievant meets with the Faculty Affairs Committee.
- The right to make sure that every effort is taken to obtain the most reliable and complete evidence possible.
- The right that the Faculty Affairs Committee will make its recommendations solely on solid evidence and logic.
- The right to be notified of the specific findings in writing. This goes beyond a general statement simply saying the grievance has been supported or not supported. This means that the grievant has a right to a specific response to each issue he or she raises.
- The right not to be subject to retaliation for pursuing a grievance.
- The right not to be offered favorable treatment conditioned on not pursuing a grievance.
- The right to receive from the president of the university or the provost, or another administrator when pertinent, specific reasons in writing for overriding a recommendation by the Faculty Affairs Committee.

11.5.2 INITIATING A GRIEVANCE

If the faculty member has pursued the applicable complaint process in 11.4 and the issue remains unresolved, the faculty member may petition the Faculty Executive to convene the Faculty Affairs Committee. The petition must be submitted to the Faculty Executive no later than 15 days after the date of the action of the provost ending an informal complaint process (Sections 11.4.1 or 11.4.2). The petition shall set forth in detail the nature of the grievance and shall state against whom the grievance is directed. It shall contain any data which the petitioner deems pertinent to his or her case. The faculty president shall determine that the complaint process has been followed before bringing the petition before Faculty Executive. If and when the faculty president brings the petition before Faculty Executive, copies shall be provided to the person or persons against whom the grievance is directed and to the provost. The Faculty Executive's role in considering the petition is not to pre-adjudicate the issue, but it does have the obligation to determine that the issue raised is substantial and warrants activating the Faculty Affairs Committee.

11.5.3 FACULTY AFFAIRS PROCESS IN GRIEVANCE

The Faculty Affairs process in considering a grievance must include interviewing the grievant and all respondents. The Faculty Affairs Committee has the right to decide whether or not the facts merit a detailed review or investigation. At the committee's discretion, the review may include interviewing witnesses and persons with significant insight regarding the grievance. The Faculty Affairs Committee may request information in the grievant's or respondents' personnel files if appropriate and relevant, but will not have routine access to the following documents which are a generally confidential: pre-

employment letters of recommendation; letters of evaluation written for promotion review, tenure review, and pre-tenure review; letters of evaluation written for post-tenure review; and Track II and III evaluation letters for the Faculty Review Committee. In the case of a grievance regarding a personnel action, such as non-reappointment where discrimination or violation of due process is alleged, the provost, at his or her discretion, may agree to the disclosure of confidential information to the extent that it ensures a full and fair grievance process. In such cases, the FAC may also request these records with a majority vote of the committee in order to ensure a full and fair grievance process.

11.5.4 FACULTY AFFAIRS ACTION

The Faculty Affairs Committee may seek to bring about a settlement of the issue satisfactory to both parties. If, in the opinion of the committee, such a settlement is not possible or is not appropriate, the committee will report its findings in accordance with Section 2.2.5.4, including the committee's recommendations to the grievant, the respondent(s), and the appropriate administrative officer, via the Faculty Executive.

11.5.5 REQUEST TO PRESENT CASE TO FACULTY

The grievant may request an opportunity to present the case to the entire faculty. The Faculty Executive's decision on this request will be final.