

# ETHICS & GRIEVANCE COMMITTEE

## GRIEVANCE PROCEDURE REGULATION

### **I. Competence of the Ethics and Grievance Committee**

#### **Rule 1**

(Violations of the AUA Faculty Handbook)

The Ethics and Grievance Committee of the Faculty Senate (hereinafter the ‘Committee’) has the competence to hear any non-anonymous written complaint (hereinafter ‘grievance’) brought by any member of the University community who believes that the AUA Faculty Conduct, AUA Statement on Academic Freedom, AUA Policy on Equal Opportunity and Affirmative Action, AUA Policy on Sexual Harassment and/or the AUA Policy on Substance Abuse of the AUA Faculty Handbook has been violated by a faculty member, provided that the complainant has been affected by the violation.

#### **Rule 2**

(Violations of the AUA Handbook of Administrative Policies)

(1) The Committee has also the competence to hear any grievance brought by any member of the University community who believes that the Employee Conduct, Staff Conduct, confidentiality and/or personal integrity rules and/or AUA Policy on Substance Abuse of the AUA Handbook of Administrative Policies has been violated by an AUA employee or staff member.

(2) The Committee has also the competence to hear any grievance brought by any member of the University community claiming to be a victim of a sexual harassment committed by an AUA employee or staff member.

#### **Rule 3**

(Violations of the AUA Student Code of Ethics)

The Committee has also the competence to hear any grievance brought by any student who believes that one or more of his/her student rights or freedoms laid down in the AUA Student Code of Ethics has been violated by any member of the University community, provided that the complainant has been affected by the violation.

#### **Rule 4**

(Appeals against disciplinary measures imposed to students)

The Committee has also the competence to hear any appeal filed by any student against whom a disciplinary measure has been imposed by a Program Chair, a Dean or Dean’s

designee, pursuant to the AUA Student Code of Ethics for a violation of academic integrity or misconduct, provided that such measure was manifestly erroneous or grossly unfair.

## **II. Grievance procedure: General Considerations**

### **A. The Panel of the Ethics and Grievance Committee**

#### **Rule 5**

(Establishment and Composition of the Panel)

(1) After receiving the written grievance or the appeal, the Committee shall establish a Panel composed of at least three (3) members of the Committee (hereinafter the ‘Panel’) to carry out factual investigation and make the appropriate decisions and/or recommendations upon the grievance or the appeal, as further specified in this regulation.

(2) The Committee’s Chairperson shall serve as *ex-officio* member of the Panel and shall chair the Panel. If, for any reason, the Chairperson is unable to chair the Panel the latter shall designate another Committee member to chair the panel.

(3) The Panel should periodically report to the Committee about progress on factual investigation and final decisions.

(4) Non-members of the Committee who belong to the University Community may be appointed by the Committee as *ad hoc* members of the Panel, in case more than two (2) members of the Committee are unable to serve the Panel.

(5) The AUA Sexual Harassment Advisor (if there is one) or the Provost (or Advisor’s or Provost’s designee) shall be appointed by the Committee as a third (3<sup>rd</sup>), *ex officio* member of the Panel in case the grievance concerns an allegation of sexual harassment.

#### **Rule 6**

(Interviews of parties or witnesses)

(1) Whenever the case has been declared admissible, the Panel may conduct interviews of the parties or witnesses in person or by e-mail, telephone or other similar technology.

(2) Hearings shall be held via the most expedient format and shall not be adversarial. –

(3) The Panel (or at least one member of the Panel) is obliged to hear in person or otherwise interview the parties (at least once) at any stage of the proceedings prior to reaching a final decision or recommendation within the meaning of Rules 23 and 24 of this regulation.

(3) The Panel may decide to hear in person or otherwise interview any witness it finds

necessary to hear/interview at any stage of the proceedings prior to reaching a final decision or recommendation within the meaning of Rules 23 and 24 of this regulation.

**Rule 7**  
(Selection of Witnesses)

In an effort to maintain confidentiality, while at the same time conducting a fair investigation of the facts of a grievance, the Panel shall make every effort to limit the number of witnesses it must call upon while at the same time ensuring a full investigation of the factual issues raised in the complaint. Parties may suggest appropriate witnesses to the Panel. The Panel shall decide which witnesses to interview and when making sure witnesses suggested by both parties are interviewed to maintain the objectivity.

**Rule 8**  
(Hearings)

The Panel will meet with each party of the grievance independently, rather than together, after the investigation on grievance is over. However, if the Panel needs to meet parties together, be it during or after the investigation.

**Rule 9**  
(Mediation)

The Panel may at any stage of the proceedings prior to reaching a final decision or recommendation attempt to resolve the dispute through mediation with a view of facilitating a friendly settlement between the parties. The Panel is obliged to attempt mediation before reaching of a final recommendation within the meaning of Rule 24 of this regulation. The Panel should ensure all parties intend to meet for a friendly settlement of the grievance, and clearly realize the purpose of the in-person meeting.

**Rule 10**  
(Recording and Publication of Panel's Final Decisions and/or Recommendations)

(1) All final decisions of the Panel shall be recorded by the Committee in the form of a written report. The report's content and subsequent disposition of the report by the Panel depend on whether or not the decision calls for a disciplinary action.

(2) Periodically, but no less than once a year, the Committee shall publish a report on grievances or appeals that it has examined without mentioning any names or positions of the parties within the Community (e.g. of a caption of a grievance or appeal: 'In re Grievance against X, warning issued'). In the summary of the report, the Committee shall refer to the of the grievance or appeal parties as "student", "Faculty member" or "Administrative staff member" (e.g. for summary of the grievance or appeal: 'The student Y. lodged a grievance against the Faculty member X.'). In the annual report, the

Committee may also provide guidance to the university community, without names or identifying specifics, on claims that have been dismissed or rejected, claims that have been satisfied, and how to avoid common infractions.

**Rule 11**  
(Voting in the Panel)

The Panel shall reach all of its decisions and/or recommendations by a majority vote.

**B. Procedural Guarantees**

**Rule 12**  
(Due Process)

(1) Due process is guaranteed to the grievance parties in any of the proceedings laid down in this regulation. This includes the right to be heard (subject to the limitations in Rules 6 and 8 of this regulation), right to call witnesses (subject to the limitations in Rules 6 to 8 of this regulation) a right to review and decision by impartial persons or bodies, and a right to adequate notice.

(2) The complaint shall be shared with the respondent, to ensure both parties of the grievance are equally informed and familiar with the wording of the complaint.

(3) The nature of the proceedings will be fact-finding unless the Panel decides otherwise.

**Rule 13**  
(Impartiality)

(1) Before accepting to serve as members of the Panel, the Panel's nominees must affirm that they are free of any bias towards the parties. A nominee who believes that their inclusion on the Panel would raise an appearance of bias must notify the Committee of the circumstances for the Committee's consideration.

(2) If a member of the Committee is a party to a grievance or appeal being considered by the Committee, that member's attendance shall be excused from any part of the meeting discussing the grievance or appeal in question. That Committee member may not be appointed as a Panel member.

(3) Once the Panel has been formed by the Committee, the Panel's Chair (or Chair's designee) shall notify the parties in writing of the Panel's composition.

(4) Once being notified of the Panel's composition, the grievance parties may request the Committee (within 3 business days of the notification) to reconsider the inclusion of a particular member or members in the Panel based on potential bias. A party who believes that the inclusion as a member of the Panel of particular person would raise an

appearance of bias must substantiate the allegations and notify the circumstances of the suspicion of partiality for the Committee's consideration.

(5) Once being notified of the request for removal of a Panel's member due to appearance of bias, the Committee shall inform the parties in writing of whether or not it accepted the request.

#### **Rule 14** (Confidentiality)

(1) General: Pursuant to other AUA bylaws, and out of respect for the parties involved, all parties to the grievance or the appeal and all members of the Ethics and Grievance Committee and the Panel are obliged to keep confidential all aspects of any specific grievance or appeal, especially the names of the parties, the facts of the grievance, and any communications or procedures undertaken by the Panel toward resolution.

(2) "Confidentiality Notice": For clarity, any document containing substantive information about a grievance or appeal (including the names of the parties) shall be marked "Confidential" to assure against inadvertent circulation of the document to an unauthorized person.

(3) Witnesses: In order to balance confidentiality concerns with the need to conduct investigation, the obligation to keep confidential all aspects of any grievance or appeal shall be extended to any witness called by the Panel and the witness shall be informed of this obligation by the Panel. The Chairperson or his/her designee shall (1) ensure that the witnesses are informed about the requirement set forth in this provision, and (2) require a non-disclosure statement in writing.

(4) Breach of Confidentiality: For the protection of all involved individuals and for fairness in general, if a party to a grievance or appeal discloses information about the grievance or the appeal to a person outside the circle of confidentiality, then the Committee may take disciplinary action against the disclosing party. This may include dismissal of the grievance without further proceedings, in the event that the unauthorized disclosure was made by complainant or complainant's witnesses.

(5) Transparency: For the protection of Panel members and in order to maintain an impartial process, any Committee member who discovers a breach of confidentiality must report such breach to the Panel or the Committee.

### **III. Grievance Procedure for Complaints of Violations of the AUA Faculty Handbook, the AUA Handbook of Administrative Policies and/or the AUA Student Code of Ethics**

#### **A. Procedure prior the Panel's final decision**

### **Rule 15**

(Time limit for filing a grievance)

Grievances within the meaning of Rules 1, 2 and 3 of this regulation shall be filed to the Committee within twenty one (21) business days from the day when the complainant became aware of the violation he/she alleges to have been committed.

### **Rule 16**

(Content of the Grievance)

The grievance shall state (1) the problem at issue, (2) the rights believed to be violated, (3) the reasons for believing so, and (4) the relief to which the complainant claims to be entitled. The statement shall contain factual or other data that the complainant believes to be pertinent to grievance. The complainant may also include a notice of witnesses he/she intends to call to support his/her position.

### **Rule 17**

(Inadmissible grievance and its notification to the complainant)

(1) If the Panel determines either (i) that the facts alleged in the grievance, if true, would not constitute a violation of the University codes mentioned in Rules 1, 2 and 3 of this regulation; or (ii) that the consideration of the facts alleged in the grievance would not be in the purview of the competence of the Panel laid down in Rules 1, 2 and 3 of this regulation; or (iii) that the complainant has not been affected by the violation as required by Rules 1, 2(2) and 3 of this regulation; or (iv) that the grievance was filed beyond the time-limit specified in Rule 15 (1) of this regulation; then, within twenty one (21) business days of the filing of the grievance, the Panel shall notify in writing the complainant(s) that the grievance was rejected.

(2) The Panel's decision shall specify the ground upon which the grievance was rejected. The Committee shall retain a copy of the final decision for its archive, but shall destroy the remaining evidence in the file. The final decision shall remain to be confidential.

(3) No further appeal will be available within the University against the Panel's decision.

### **Rule 18**

(Admissible grievance and its notification to the respondent)

If the Panel determines that the facts alleged in the grievance, if true, may constitute a violation of the University codes mentioned in Rules 1, 2 or 3, then, within twenty one (21) business days of the filing of the grievance, the Panel's Chair (or Chair's designee) shall provide written notice of the complaint to the respondent. The Panel's written notice to the respondent shall state the Panel's composition, the facts and complaint(s) alleged

(including a notice to the rule(s) allegedly violated), and shall provide the respondent with a statement of the respondent's rights and an explanation of the Panel's hearing procedure.

### **Rule 19**

(Time limit and Content of the Response to the Notification)

(1) The respondent shall have 14 business days from the date of receipt of the Panel's notice within which to submit a written response to the Panel.

(2) The respondent's reply may include respondent's statement of facts in support of respondent's position, notice of witnesses who respondent intends to call to support respondent's position, reference (or inclusion in the response) to relevant documents in support of respondent's position and/or proposal for a friendly settlement of the case.

(3) If the respondent fails within the said 14 business days to respond to the original complaint, then the Panel shall reach a tentative ruling based on the evidence produced by the complainant.

### **Rule 20**

(Panel's tentative ruling)

Within 14 business days of either (1) the expiration of the time limit said in Rule 11 above or (2) the Panel's receipt of the respondent's written response to the Panel's notification of the grievance, the Panel shall give written notice to the complainant and the respondent of the Panel's tentative ruling.

### **Rule 21**

(Requesting a hearing to challenge the tentative ruling)

(1) If either the complainant or the respondent desire to have a hearing before the Panel to challenge the Panel's tentative ruling, the complainant and the respondent shall each have the right, within 7 business days of the date of the Panel's written notice of its tentative ruling, to notify the Panel's Chair and the other party, that they wish to have a hearing before the Panel in order to present his/her case and/or to hear witnesses that they have produced.

(2) The Panel is not, however, obliged to conduct a hearing, if it had already heard the parties or and/or witnesses that the parties have called to testify. If the Panel dismisses the request for a hearing it shall so notify, in writing, the parties.

(3) The failure of either the complainant or the respondent to challenge the Panel's tentative ruling by requesting such hearing within the said 7 business days, shall cause the tentative ruling to become a final decision or recommendation within the meaning of Rules 23 or 24 of this regulation.

## **B. Subsequent Procedure**

### **Rule 22**

(Notification of Panel's final decision or recommendation)

(1) Within 7 business days of the hearing or the Panel's notice to the parties that the request for a hearing has been dismissed, the Panel shall notify both the complainant and the respondent, in writing, of the Panel's final decision or recommendation within the meaning of Rules 23 or 24 of this regulation.

(2) If the Panel, by a recommendation within the meaning of Rule 24 of this regulation, calls for a disciplinary action against the respondent, then the Panel shall notify the written summary of this recommendation to the AUA President within seven (7) business days from when the recommendation became final.

### **Rule 23**

(No Disciplinary Action)

(1) If the Panel by final decision finds that the grievance does not call for any disciplinary action or acknowledges that the parties have reached a friendly settlement to the case, then the Panel shall close the case and inform so the parties in writing.

(2) The Committee shall retain a copy of the final decision for its archive, but shall destroy the remaining evidence in the file. The final decision shall remain to be confidential.

(3) No further appeal will be available within the University against this decision.

### **Rule 24**

(Disciplinary Actions/Sanctions)

(1) If the Panel by final recommendation calls for a disciplinary action against the respondent, the Panel shall prepare a written summary of the recommendation, setting forth the recommended disciplinary action, procedural history, essential facts, and the recommendation's rationale. The Panel shall also inform the parties that they have a right to appeal against the recommended sanction with the AUA President under Rule 25 of this regulation.

(2) The following disciplinary actions (sanctions) may be recommended by the Panel to the AUA President, depending of the seriousness of the violation:

- (a) Warning;
- (b) Censure;
- (c) Dismissal after a hearing.

### **Rule 25**

(Appeals against final Panel's recommendation proposing disciplinary action)

(1) There is a right to appeal available to the disciplined party against the Panel's final recommendation proposing disciplinary sanction against that party. The appeal must be made to the AUA President within seven (7) business days of the notification of the Panel's final recommendation. The appeal must be in writing and clearly state grounds for appeal.

(2) The required standard of proof of the appeal will be whether the decision made and the sanction proposed is reasonable under all of the circumstances.

(3) The President shall respond to the appeal in reasonable time. The President shall have the discretion to confirm, revise or overturn Panel's recommendation. The document containing the President's disposition of the matter shall become the final decision.

(4) The final decision, all files of the case and the minutes shall be archived with the Institutional Research Office, shall remain confidential and after being maintained for three years shall be destroyed, in accordance with RA Law. A copy of the final decision shall be placed in the disciplined party's personnel file and delivered to the disciplined party, the disciplined party's supervisor and the President. It shall continue to remain confidential. Committee Chair or his/her designee shall (1) ensure that the supervisor is informed about the requirement set forth in this provision, and (2) require a non-disclosure statement in writing.

(5) No further appeal will be available within the University.

## **IV. Grievance Procedure for Appeals Against Disciplinary Measures Imposed to Students Due to Violations of the AUA Student Code of Ethics**

### **Rule 26**

(Time limit for filing an appeal)

Appeal of a student against a disciplinary measure imposed to him/her by a Dean (or Dean's designee) within the meaning of Rule 4 of this Regulation, shall be filed to the Committee within five (5) business days from the day when the student had been informed of the measure.

### **Rule 27**

(Notice and content of the appeal)

- (1) A copy of the appeal shall be sent to the Dean (or Dean's designee).
- (2) The appeal shall state the reasons for believing that the measure was manifestly erroneous or grossly unfair and the relief to which the student claims to be entitled. The statement shall contain factual or other data that the student believes to be pertinent to appeal.

### **Rule 28**

(Inadmissibility of the Appeal)

If the Panel determines either (i) that the consideration of the facts alleged in the appeal would not be in the purview of the competence of the Panel specified in Rule 4 this regulation (i.e., the measure was not manifestly erroneous or grossly unfair or does not relate to violations of rules on academic integrity or misconduct); or (ii) that the appellant has not been affected by the violation as required by Rule 4 of this regulation; or (iii) that the appeal was filed beyond the time-limit specified in Rule 26 of this regulation; then the appeal shall be declared inadmissible.

### **Rule 29**

(Notification and recording of the final decision)

- (1) Within 10 business days of the Committee's receipt of the student's appeal, the Panel shall give a written notice to the complainant and the Dean (and/or the Dean's designee) of the Panel's final decision.
- (2) If the Panel's final decision dismissed the appeal, then the Panel shall close the case and inform in writing the parties of its final decision. The final decision shall remain confidential, be retained in the Committee's archive, together with supporting material, and sealed. A copy of the final decision shall be placed in the student's personnel file and delivered to the student, Dean and President.
- (3) If the Panel's final decision uphold the appeal, then the Panel shall close the case and in writing the parties of its final decision. The Committee shall retain a copy of the final decision for its archive, but shall destroy the remaining evidence in the file. The decision shall remain to be confidential.

### **Rule 30**

(Appeals against Panel's decisions)

No further appeal will be available within the University against the Panel's decision.

## **V. Procedure for destroying the files containing confidential information**

### **Rule 31**

- (1) The Panel shall (1) archive all files of the case to the Institutional Research Office, (2) delete all electronic files, containing confidential information, from their computers and/or e-mail servers, (3) destroy all hard copies, containing confidential information, within 10 (ten) business days after the final decision of the President, and (4) pass a resolution assuring that all files (electronic and hard copies) have been destroyed by the Panel.
- (2) The resolution of the Panel shall be dated and signed by all members of the Panel. It particularly shall assure that all members of the panel destroyed all files (electronic and hard copies) received by them containing confidential information regarding the dispute, the parties and all participants involved in the dispute.

## **VI. Definitions**

### **Rule 32**

(“Business days”)

For the purposes of this regulation “business days” are not weekend days, national holyday days and school-brake days, but only working days during the academic year.