

To Faculty Council Members: Your critical study of these minutes is requested. If you find errors, please call, send a memorandum, or E-mail immediately to Diane L. Maybon, ext 1-5693.

NOTE: Final revisions are noted in the following manner: additions underlined; deletions ~~over scored~~.

***MINUTES
FACULTY COUNCIL
October 4, 2011***

CALL TO ORDER

The Faculty Council meeting was called to order at 4:00 p.m. by Timothy Gallagher, Chair.

ANNOUNCEMENTS

- A. Next Faculty Council Meeting - November 1, 2011 - A202 Clark Building - 4:00 p.m.

Gallagher announced the next regularly scheduled Faculty Council meeting will be held on Tuesday, November 1, 2011 in A202 Clark Building at 4:00 p.m.

- B. Executive Committee Meeting Minutes - August 23 and 30, and September 13, 2011

Gallagher announced that the August 23 and 30 and September 13, 2011 Executive Committee meeting minutes have been emailed to Faculty Council members for information only.

MINUTES TO BE APPROVED

- A. Faculty Council Meeting Minutes - September 6, 2011

By unanimous consent, the September 6, 2011 Faculty Council Meeting Minutes were approved.

REPORTS TO BE RECEIVED

- A. Provost/Executive Vice President

Alan Lamborn, Vice Provost for Undergraduate Affairs, reported that the INTO negotiations are progressing for a MOU. Lamborn noted that several working groups will be meeting with INTO representatives Thursday and Friday of this week. After a MOU is signed negotiations will begin to draft a contract by December.

Lamborn reported on the "Student Success Challenge." Basically President Frank, at his Fall Address, challenged the University to move the six (6) year graduate rate by 2020, from 65 percent to 80 percent. This graduate rate would place Colorado State University at the top of our peer institutions. The challenge is to increase the graduate rate while retaining the rigor of educational programs. Lamborn added that the 2020 class will be entering two (2) to three (3) years from now. Lamborn noted that the Teaching and Learning SPARK and the Advisory Committee on Undergraduate Affairs (ACUA) will jointly drive this process to meet this goal.

Lamborn reported that the Provost and the Deans have had a "Phase 0" retreat to review pre-proposals for new degree programs in the "pipeline."

Lamborn reported that some innovative training for 12 new department chairs/heads has been completed. In addition a meeting was held for all chairs/heads to discuss promotion and tenure. Lamborn added that new chairs will be paired with senior chairs and meetings are planned for twice a year.

Lamborn reported that the Provost continues to meet with faculty members and his visits to the colleges.

Lamborn reported that there is no news on the 2012 budget. He noted that the President sent an email explaining everything to date on the budget.

Rick Miranda joined Faculty Council via “skype” from the Board of Governors meeting in Pueblo, Colorado. He explained that he was sorry he could not be in attendance today and thanked Lamborn for presenting the Provost’s report. There were no questions for the Provost on Lamborn’s report.

Lamborn’s Report was Received.

B. Faculty Council Chair

Gallagher noted that the concerns raised at the September 6, 2011 Faculty Council meeting regarding INTO were taken into consideration by the administration and the negotiations are moving forward in a positive manner. Gallagher noted that he will be attending some of the working group meetings this week. He added that it is anticipated that an MOU will be signed this week.

Mary Van Buren asked why the Faculty Council was not consulted more regarding the INTO decision in the spirit of shared governance. Van Buren asked who has the final decision on the INTO MOU and contract. Gallagher responded that he was not sure his answer will satisfy and added that when this came forward at a Cabinet meeting, he asked that the Provost present a discussion on the INTO issue at Faculty Council. This was done at the September 6, 2011 Faculty Council meeting. Gallagher added that the President ultimately has the authority, granted by the Board of Governors, to do this.

C. W. Miller asked if an accounting of the money for the INTO project could be presented to the Faculty Council on an annual basis. Tim replied that we have “sunshine” on all budgetary matters and we should pay close attention to this issue. Miller added that, if this is a done deal, faculty time should not be wasted. Tim responded that because of the discussion in Faculty Council last month, several issues were addressed by the administration and the MOU and contract will look much different than if faculty had not been consulted.

Miller asked Miranda to respond and asked what about a five (5) year contract? Miranda responded that a shorter contract length has been discussion, but given the fact that other universities have agreed to a 30 year contract, this is not negotiable. Miranda added that after the MOU is signed, we will have three (3) months for contract writing and faculty will be included for input into this process. Miranda noted that reports regarding INTO will be given to the Board of Governors and available to the faculty as the administration will be analyzing and assessing the INTO program on a regular basis. Van Buren asked if those reports will include information about the impact on colleges, students, and faculty. Miranda responded, yes. He added that the success of internationalization of the University will not just be measured by enrollment.

Alex Bernasek noted that it is often a mystery to faculty members how members are selected for these committees. She asked if Gallagher and others could suggest names. Miranda explained that he started with a bare bones list and then those people suggested other names. All suggestions have been taken by Jim Cooney, Vice Provost for International Affairs, and more names are welcome.

Dan Turk asked what would happen if the University would break the 30 year contract. Miranda noted that non-performance clauses will be written into the contract to address such issues. Miranda added that beyond that, we need to figure out how to make it work or have an “amicable divorce” if need be. He added that the President of INTO has agreed to this.

Eric Aoki asked about the timeline if a contract is signed in December. Miranda explained that there will be visits in January from INTO recruiters. Some international students could come as early as Fall Semester 2012. The Pathways program would be built in the 2012 Spring and Summer Semesters.

Gallagher continue his report by noting that an email from Mike Palmquist was sent out outlining changes to the Digital Student Course Survey to address faculty concerns. Gallagher added that Palmquist and Pat Burns, Vice President for Information Technology, worked with the Faculty Council office to resolve problems encountered during the 2011 Spring Semester. Gallagher noted that new scanning plus keeping the reports for a full year will help improve the Digital Student Course Survey. Steve Robinson noted that it would be advisable for Palmquist to advise faculty members when forms are ready to pick up. Anderson noted that she will ask Palmquist to do this. Mostafa asked if we should allow student to fill out the survey electronically. Idris Hamid was asked why the University went to this new system, especially since the old system was working. Richard Eykholt responded that this system was approved because it reduced costs dramatically. Margarita Lenk added that some people wanted to move totally to an on-line system and this was offered as a transition. Turk added that he is currently chairing the Committee on Teaching and Learning and the committee will be discussing this issue as it is high on the committee’s radar.

Gallagher’s Report was Received.

Gallagher asked if there were any objections to stopping the meeting at 5:30 p.m. in order to facilitate Hunt Lambert's discussion with Faculty Council. There were no objections.

CONSENT AGENDA

- A. Changes in Curriculum to be Approved: University Curriculum Committee Minutes: May 6, August 26 and September 2, and 9, 2011
- B. Approval of Degree Candidates - Fall Semester 2011

Howard Ramsdell, Chair, University Curriculum Committee, moved that Faculty Council approve the above Consent Agenda items.

Ramsdell's motion was adopted and the Consent Agenda items were approved.

SPECIAL ACTIONS

- A. Elections - Student (Graduate and Undergraduate) Representatives - Faculty Council Standing Committees - Committee on Faculty Governance

Luis Garcia, Chair, Committee on Faculty Governance, moved that the Faculty Council adopt the undergraduate and graduate students nominated to serve on Faculty Council Standing Committees.

The students nominated to serve on Faculty Council Standing Committees were elected for one year terms beginning October 4, 2011 to June 30, 2012.

- B. Proposed Revisions to the *Professional and Graduate Bulletin* - D.5 Application: International Students - "Admission Requirements and Procedures" - Committee on Scholarship, Research, and Graduate Education

Mary Stromberger, Chair, Committee on Scholarship, Research, and Graduate Education moved that the Faculty Council adopt the proposed revisions to the section "Admissions Requirements and Procedures" - *D.5 Application: International Students* - of the *Graduate and Professional Bulletin* to be effective upon Faculty Council adoption as follows:

ADDITIONS - UNDERLINED DELETIONS - ~~OVERSCORED~~

ADMISSIONS REQUIREMENTS AND PROCEDURES

D.5 APPLICATION: INTERNATIONAL STUDENTS

Application procedures are similar to those for U.S. citizens or permanent resident students. Refer to U.S. Citizens or Permanent Residents information for on-line World Wide Web instructions.

The following materials must be sent ~~to the Admissions Office, Ammons Hall, Colorado State University, Fort Collins, CO 80523-1062 USA;~~ directly to the department in which the applicant plans to study (see Programs and Degrees webpage for the mailing address at: <http://graduateschool.colostate.edu/prospective-students/degrees.aspx>).

- ~~1.~~ ~~— A \$50 application fee that may be submitted with the on-line application.~~
- ~~2.~~1. An official transcript of all collegiate work completed along with a certified translation into English.
- ~~3.~~2. Certified proof of financial support along with the GS Form 3F.
- ~~4.~~3. Scores on the Test of English as a Foreign Language (TOEFL) or International English Language Testing System (IELTS). Track III Admissions are not required to take either the TOEFL or the IELTS exam.
- ~~5.~~4. A statement of purpose.
- ~~6.~~5. Three letters of recommendation.

Stromberger explained that the process of all application materials being sent directly to the department will better serve students and assist departments by receiving documents in a timelier manner, and will be consistent for both international and domestic applicants. In addition, many departments currently direct students to submit application materials directly to them which makes their procedure conflict with what is stated in the Bulletin.

Stromberger's motion was adopted.

C. Proposed Revisions to the *Manual*, Preface - Executive Committee

Karrin Anderson, Vice Chair, Executive Committee, moved that the Faculty Council adopt the proposed revisions to the *Manual*, Preface, to be effective upon approval by the Board of Governors of the Colorado State University System as follows:

additions - underlined deletions - ~~overscored~~

PREFACE (as adopted by Faculty Council at its May 3, 2011 meeting)

The *Academic Faculty and Administrative Professional Manual* (hereinafter referred to as "*Manual*") contains policies and procedures that apply to academic faculty members and administrative professionals employed at Colorado State University. It is the document that formally captures the shared understanding of the cooperative compact among the Board of Governors of the Colorado State University System (hereinafter referred to as "the Board")*, the University administration, the academic faculty, and the administrative professionals that is used to effectively manage our institution.

As an academic community, Colorado State University embraces certain foundational principles that guide our behaviors. Foremost among these is academic freedom for the academic faculty, a longstanding cornerstone of public higher education in our country. ~~As part of academic freedom, members of the academic faculty shall have the right to present all relevant scholarly opinions and conclusions, both in and outside~~ Academic freedom is the freedom of the academic faculty to discuss all relevant matters in the classroom; to explore all avenues of scholarship, research, and creative expression; ~~to speak or write on matters of public concern as well as on~~ matters related to professional duties and the functioning of the University. These freedoms come with responsibilities; academic faculty are expected to follow professional standards for discourse and publication, to indicate when speaking on matters of public interest that they are not speaking on behalf of the institution, and to conduct themselves in a civil and professional manner consistent with the normal functioning of the University. ~~to reach conclusions according to one's scholarly discernment; and to publish the results of these investigations, subject to the professional standards of the discipline. As a member of a university community dedicated to the exchange and discussion of all ideas, a member of the academic faculty shall also have the freedom to speak to any matter of social, political, economic, or other interest to the larger community outside of the university, provided that he or she states clearly that he or she is presenting personal opinions and not speaking on behalf of the institution.~~

Another foundational principle of our academic community is shared governance. In its most generic sense, this principle speaks to an atmosphere of openness and inclusion that welcomes the views of students, faculty, administration, and employees of all classifications into the discourse of the university, including hiring decisions. Shared governance recognizes the authority of the Board, the leadership role of administration, the special relationship of the academic faculty to a university, the importance of all employees, and the centrality of the students. Shared governance expresses itself in a variety of ways, including: the central role of the professional judgment of the faculty in the hiring, tenure, and promotion of tenure-track faculty; the central role of the faculty in curricular proposals and development; the right of the Faculty Council and the Administrative Professional Council to bring forward issues to the administration and the Board; the membership of faculty and students on the Board; and the formal role that the Faculty Council and the Administrative Professional Council play in recommending amendments to this Manual to the Board. ~~An additional aspect of shared governance acknowledges the right of an academic faculty member to comment on, criticize, or challenge any matter of institutional policy or action, whether or not he or she is an official representative of organized institutional governance.~~

~~Academic faculty also have the responsibility to conduct themselves in a civil and professional manner. In recognition of this responsibility, this Manual contains policies and procedures regarding the discipline of faculty members, including revocation of tenure and termination of appointment, for behavior that represents a serious violation of ethics and/or University policy (see Section E.15).~~

For these reasons, this *Manual* is an important component of our institutional structure. Please become familiar with the policies of the University, and keep this *Manual* conveniently available for reference. The policies and procedures contained in this *Manual* may be amended at any time, consistent with the procedures within this *Manual*. Academic faculty members and administrative professionals are advised to consult the Faculty Council website (<http://www.facultycouncil.colostate.edu>) for the most current version of the *Manual* approved by the Board. If you believe that the policies and procedures outlined in this *Manual* are not being followed, you should notify the Faculty Council Office. If you are an administrative professional, you should also notify the Chair of the Administrative Professional Council.

As part of the governance structure of the University, the Board has delegated certain personnel powers to the President, and the President has further delegated certain of these personnel powers to other officers of the University (see Section B.1.4). All references in this *Manual* to the authority of the Board and/or the President shall be deemed to include such delegations. However, the Board; may, from time to time, elect to exercise any personnel power delegated to the President (and which may have been further delegated to other officers of the University.)

Unless a proposed change or addition to this *Manual* is necessitated by action of the Board or the Colorado General Assembly, it must be approved by the Faculty Council prior to submission to the Board in accordance with the procedure in Section C.2.2.e of this *Manual*. Proposed changes or additions to *Manual* sections that apply to administrative professionals shall be submitted to the Chair of the Administrative Professional Council for the purpose of giving the Administrative Professional Council a chance for review and feedback prior to action by Faculty Council.

All financial commitments and financial obligations of Colorado State University and the Board contained in this *Manual* are contingent upon the availability of State funds and are subject to Article XI, Sections 1 and 3 of the Constitution of the State of Colorado. Thus, commitment of employment beyond the current fiscal year is contingent upon sufficient appropriations of funds from the State Legislature. Such commitment without that contingency would be an unconstitutional pledge against the credit of the State made without spending authorization of the Colorado General Assembly. See Section E.16 of this *Manual* for the policy regarding Financial Exigency.

Offices of the Provost and Faculty Council
Colorado State University
~~June 2011~~ September 2011

*Effective August 8, 2002, the State Board of Agriculture name was changed to the Board of Governors of the Colorado State University System. All references to the State Board of Agriculture found in this *Manual* shall be deemed to refer to the Board of Governors of the Colorado State University System (referred to as "the Board").

Anderson explained that this new language makes it clear that members of the Colorado State University community – faculty, staff, students, the administration, and the Board – strongly support the foundational principles of academic freedom and shared governance. It is a statement of our shared institutional values. This proposal is the result of discussions involving Executive Committee of Faculty Council, the University administration, members of the Board, and General Counsel for the Board. These discussions have led to agreement among these parties on the present wording.

The proposed Manual Preface change approved by Faculty Council at its May 2011 meeting was returned by the Board of Governors at its June meeting to Faculty Council without approval. The Board returned that version with a request that the statements about rights and responsibilities be better balanced. The new version does this. Executive Committee of Faculty Council is charged by its operating procedures to facilitate an alternative motion when a proposed Manual change approved by Faculty Council is returned without approval by the Board.

The following concerns were raised by faculty members:

- Why was “academic faculty” added to the second paragraph.
- Why did the Board of Governors send this proposal back to Executive Committee.
- Why was the language regarding the right of the academic faculty to criticize institutional policy.

Eykholt indicated that the proposed language offers more protection than what is currently in the Preface.

Anderson's motion was adopted.

D. Proposed Revisions to the *Manual*, Section K - Mediation, Grievance Procedures, and Review Processes - Committee on Responsibilities and Standing of Academic Faculty

David Greene, Chair, Committee on Responsibilities and Standing of Academic Faculty MOVED, THAT THE FACULTY COUNCIL ADOPT THE PROPOSED REVISIONS TO THE *ACADEMIC FACULTY AND ADMINISTRATIVE PROFESSIONAL MANUAL*, SECTION K – MEDIATION, GRIEVANCE PROCEDURES, AND REVIEW PROCESSES TO BE EFFECTIVE UPON APPROVAL BY THE BOARD OF GOVERNORS OF THE COLORADO STATE UNIVERSITY SYSTEM AND TO BE MOVED TO SECTION H OF THE *MANUAL* AS FOLLOWS:

Additions - underlined Deletions - ~~strikeouts~~

SECTION K. ~~MEDIATION, GRIEVANCE PROCEDURES, AND REVIEW PROCESSES~~
RESOLUTION OF DISPUTES (*last revised March 14, 2000*)

K.1 ~~Purpose of and General Information Pertaining to Mediation and the Grievance Process~~

There are several different offices at Colorado State University that deal with various aspects of dispute resolution (see the following link:

<http://www.facultyandstaff.colostate.edu/ugo/UGO8-EmployeeResources1109.pdf>

on the website of the University Grievance Officer). In particular, the Office of the Ombuds provides the most informal consultation, and it is a good place to start if you are not sure which office to contact.

This section describes a process for resolving disputes that cannot be resolved informally. This process begins with a formal attempt to mediate the dispute. If formal mediation is not successful, then a formal Grievance may be initiated if the dispute involves a Grievable Action (see Section K.3). Note that mediation may be possible even if the dispute does not involve a Grievable Action or if there is not a submission of a claim within the required time limit (see Section K.5).

Academic faculty members and administrative professionals (hereinafter referred to as "Covered Members"), including administrators in either of these two categories, must follow all applicable parts of the Section K process before pursuing any action with external agents or agencies, except in cases where Federal and/or state law gives the Covered Member the right to institute action without exhausting internal administrative remedies. This process replaces and supersedes all mediation and grievance procedures found in department and/or college codes.

It shall be the responsibility of the University, through the Offices of the Provost and the President, to assure that the Section K process is supported, respected, and enforced. This includes financial support.

~~K.1.1 Mediation~~

~~Mediation is a mechanism by which the University seeks to provide a resolution of grievable conflicts (see Section K.9) among its academic faculty members, administrative professionals, and administrators. Mediation can be requested by either party in a grievable conflict if the grievable conflict is not resolved informally.~~

~~Academic faculty members, administrative professionals, and administrators ("Covered Members") shall attempt to mediate their grievable conflicts prior to filing a grievance complaint. Mediation may not be utilized to resolve grievable conflicts involving classified employees.~~

~~K.1.2 Grievance Process~~

~~The purpose of the Grievance Procedure is to assure a rapid and fair process for the resolution of grievable conflicts which are not resolved through mediation. It shall be the responsibility of the University, through the Offices of the Provost and the President, to assure that the grievance procedures, review processes, and mediation provisions herein established are appropriately~~

~~supported, respected, and enforced. All persons with Grievances shall follow these procedures before pursuing any action with external agents or agencies, except in cases where Federal and state law gives persons the right to institute action without first exhausting internal administrative remedies. This Grievance Procedure replaces and supersedes all grievance procedures found in department or college codes.~~

The person with overall responsibility for the Section K process is the University Grievance Officer (hereinafter referred to as the "UGO"). The UGO is a tenured faculty member whose selection has been approved by both Faculty Council and the Administrative Professional Council (see Section K.12).

The Mediation process is conducted by a University Mediator (hereinafter referred to as a "UM") who is selected by the UGO from a pool of UM's. If the Covered Member is a faculty member, then the UM shall be a tenured faculty member; if the Covered Member is an administrative professional, then the UM shall be an administrative professional (see Section K.13).

If a formal Grievance is initiated and a Hearing occurs, then this Hearing shall be conducted by a Hearing Committee whose members are selected from the Grievance Panel (see Section K.11). If the Covered Member is a faculty member, then the members of the Hearing Committee shall be tenured faculty members; if the Covered Member is an administrative professional, then the members of the Hearing Committee shall be administrative professionals.

~~K.14~~ — University Grievance Officer *(last revised December 15, 2005)*

~~The UGO is responsible for coordinating and facilitating the activities of the UM's, the Grievance Panel, and the Hearing Committees (see Section K.14.4 and 15). The UGO also assures that the procedures herein established are followed reasonably and accurately and decides procedural issues as set forth herein. Any departure from these procedures shall occur only with the written approval of the UGO.~~

~~K.16~~ — Time Limits

~~By agreement of the parties, or in the event of pressing emergencies, subject to the written approval of the UGO, the time limits set forth in Section K may be extended for reasonable periods.~~

~~K.182~~ Expectations for Members of the University Community *(last revised December 14, 2004)*

- a. Cooperation and participation by the members of the University community in the resolution of a complaint under these procedures is necessary.
- b. All witnesses shall be truthful in their testimony. Failure to comply with this expectation may result in the imposition of University sanctions.
- c. No person shall restrain, interfere with, coerce, attempt to intimidate, or take any reprisal against a participant ~~under these procedures in the Section K process~~. Failure to comply with this expectation may result in the imposition of University sanctions.

~~K.93~~ Forms of Grievable Actions

~~There are three (3) separate classes of Grievable Actions will be in the form of three (3) separate classes of Grievances. A Class A and or Class B Grievances, as more fully described below, must involve a complaint by a Covered Member that a Grievable Action has occurred because a decision, recommendation, or action of an administrator (hereinafter referred to as the "Action") is unfair, unreasonable, arbitrary, capricious, and/or discriminatory and that it does or will adversely affect the Grievant in his or her academic and/or professional capacity, ~~excepting those matters set forth in Section K.10. An i~~ssues that does not directly affect a ~~Class A or B Grievant Covered Member~~ in such a capacity, such as dissatisfaction with a University policy of general application, ~~are is~~ not a Grievable Actions. A Class C Grievances, as more fully described below, must involve a complaint by an "at-will" employee whose employment was terminated by the University. ~~The determination of whether a Grievance is considered a Class A, Class B or Class C Grievance shall be made by the UGO, based upon legal advice from the appropriately assigned legal advisor.~~~~

Only actions by administrators can constitute Grievable Actions. Also, specific sections of the Manual exempt certain actions by administrators from being Grievable Actions. In particular, a decision or action that is said to be final is not a Grievable Action.

If the administrator whose Action is being challenged no longer holds the relevant administrative

position, then the administrative supervisor for this position, at his or her discretion, shall decide whether the new administrator in this position or the administrative supervisor shall participate in the Section K process.

Class A Grievances are those that involve complaints about the following specific actions: termination of contractual rights, reduction of salary, demotion, ~~actions violative~~ violation of academic and/or intellectual freedom, or assignment of unreasonable work loads. Class A Grievable Actions do not include a decision to terminate the employment of an "at-will" employee. The burden of proof in Class A Grievances falls upon the administrator initiating the whose Action is being challenged ("Responsible Administrator"). (For description of burden of proof, see Section K.12.)

Class B Grievances pertain to involve complaints about a term or condition of employment other than those specific cases that may be are the basis for a Class A or Class C Grievance, ~~such as~~ Examples are reappointment, amount of salary, denial of promotion, denial of tenure, abuse of discretion, lower evaluation than deserved on annual a performance review, or denial of sabbatical leave. The burden of proof in Class B Grievances falls upon the Grievant.

Class C Grievances involve either a claim by an "at-will" employee that the vice president's recommendation to the President regarding ~~an~~ the employee's termination was due to discrimination prohibited under Federal or State law or University policy; or a claim ~~that~~ by an "at-will" employee that the employee is entitled to post-termination due process. The UGO, based upon with legal advice from the State Department of Law (Attorney General) Office of the General Counsel and as provided for in Section K.12.5, shall determine whether such due process rights are in question and whether review by a Hearing Committee regarding such due process rights is warranted. The burden of proof in Class C Grievances ~~shall~~ falls upon the Grievant.

The burden of proof regarding a Grievable Action is determined by a preponderance of the evidence (i.e., that the claim is more likely to be true than not to be true).

The determination of whether an Action is a Grievable Action, and, if so, whether it is Class A, Class B, or Class C shall be made by the UGO with appropriate legal advice (see Section K.12.5). If the Covered Member disagrees with this determination, he or she may appeal this decision. Such an appeal must be made in writing to the Chair of the Grievance Panel (see Section K.11.1) within three (3) working days of being notified of the determination by the UGO. If such an appeal is submitted, the Chair of the Grievance Panel shall form an Appeal Committee consisting of three (3) members from the Grievance Panel following the same procedure as for the formation of a Hearing Committee (see Section K.11.4), with the Chair of the Grievance Panel assuming the role of the UGO. Within five (5) working days of the submission of the appeal, the Appeal Committee, with appropriate legal advice (see Section K.12.5), shall make a determination regarding the classification of the Action, and this determination shall be final. No member of this Appeal Committee may serve on a Hearing Committee for this Grievance.

~~K.10~~ — Exception to Use of the Grievance Procedure

~~The decisions reached in Section E.10.7 Disciplinary Action for Tenured Faculty are final, except for the appeal procedure described in that section.~~

K.84 The Right to Grieve

K.84.1 Persons Entitled to Grieve

Any Covered Member may initiate a the formal Grievance Process regarding a Grievable Action (see Section K.9) if formal Mediation has not been successful, subject to the requirements set forth above (Mediation) and as further provided below. Grievances by more than one (1) Covered Member from a single administrative unit or department or committee thereof may be joined into a common grievance if, in the discretion opinion of the UGO, their Grievances have sufficient commonality to be heard collectively. Persons entitled to grieve initiating a Grievance under the terms and conditions of this policy are hereinafter referred to as "Grievants." Matters that can be subject of Grievances are described in Section K.9 and are called "Grievable Actions." The Section K process may not be used to resolve grievable disputes involving State Classified personnel.

K.84.2 Provision of Due Process to Grievants

- a. No action that may deprive a Covered Member of a constitutional right shall be taken unless such a member has first been accorded due process of law. If the Covered Member initiates the Section K process with regard to such an action, the action shall not be taken prior to the completion of the Section K process.
- b. University employees not designated pursuant to state law as having "at will" status, ~~including tenure and tenure-track academic faculty members, and persons having preexisting rights of contract extension under such law;~~ shall, ~~before any such action is taken,~~ have the right to grieve under initiate Class A and Class B Grievances as described in Section K.3.
- c. Covered Members who have "at will" status shall have ~~those procedural rights set forth in b above~~ the right to initiate Class A and Class B Grievances as described in Section K.3, except ~~with respect to that~~ Grievances regarding termination of employment must be Class C Grievances, rather than Class A Grievances. ~~In such cases~~ For termination of employment, Any due process required shall be provided administratively in such a manner as may be determined by the President and vice presidents of the University.

K.45 Referral of Grievable Conflicts to University Mediators Initiation of the Section K Process

~~A claim of a Grievable conflicts Action shall~~ must be referred submitted in writing by a Covered Member to the ~~University Grievance Officer (hereinafter referred to as "UGO") (see Section K.14)~~ no later than twenty (20) working days after the date of the ~~decision or a~~ Action giving rise to the ~~Grievable conflict Action or discovery of the decision or action.~~ "Discovery" is that point in time when the individual could reasonably be expected to have knowledge that a basis for a grievance existed. The UGO shall then meet with the Covered Member to discuss the claim.

~~Thereafter~~ Within five (5) working days after receiving the written claim of a Grievable Action, the UGO shall assign a UM from the pool ~~within five (5) working days after receiving the written grievable conflict referral~~ to mediate the ~~grievable conflict dispute.~~ The ~~m~~Mediation participants shall have five (5) working days from the date of the assignment of the UM to object to such an assignment. An objection ~~can~~ may be raised only based ~~only~~ on the UM's prior or current relationship with the ~~m~~Mediation participants and/or the UM's knowledge of previous related ~~grievable conflicts disputes.~~ The UGO shall make the final decision on the assignment of a UM.

K.6 Documentation (last revised May 2, 2007)

- a. ~~Either t~~ Either the UGO ~~and/or~~ the UM assigned to the case may request, and is entitled to receive promptly, any and all materials from the participants in the Grievable Action that either ~~one~~ the UGO or the UM may deem relevant to the ~~grievable conflict dispute.~~
- b. Any formal resolution reached during ~~m~~Mediation by the participants must be in writing and is subject to approval of legal sufficiency by the Office of General Counsel's office and approval by any other necessary individuals.

K.137 Right To Clerical Assistance (last revised June 17, 2003)

Any person ~~entering the Grievance procedure~~ initiating the Section K process has the right to clerical support from University personnel for preparation of documents for use in ~~the Grievance~~ this process. Because maintenance of confidentiality is an important element of the ~~procedure~~ Section K process, the clerical support should come from a unit at the next higher level than the one in which the ~~Grievant Covered Member~~ is housed (e.g., from the dean, for an academic faculty member, or from a vice president, for a dean, etc.). ~~The UGO reserves the right to question and determine the applicability, reasonableness, and relevance of any material to the Grievance.~~ This right may include the refusal by the UGO to forward the Complaint, the Response, and/or any supporting document(s) to the Hearing Committee until the UGO judges that the documents are in compliance with the requirements of Section K. Failure by either party to bring documents into compliance with Section K requirements by a deadline set by the UGO shall result in forfeiture by that party of the right to pursue the matter through Section K or the forwarding by the UGO of redacted documents to the Hearing Committee.

K.58 Mediation Procedures/Time Line Process

- a. ~~Within ten (10) working days of being assigned by the UGO, tThe UM shall attempt to mediate potential grievable conflicts between Covered Members by meeting with the mMediation participants, discussing their respective positions, and reviewing relevant information. Such action shall occur within ten (10) working days following assignment of a grievable conflict to a UM.~~
- b. ~~If, after meeting with the mediation participants, the UM has reason to believes there is a reasonable chance that mMediation efforts are likely to may produce a resolution of the grievable conflict dispute, the mMediation participants and the UM shall enter into a Mediation Period of up to twenty (20) working days mediation period with the UM to attempt to resolve the grievable conflict dispute. If the mMediation pPeriod does not produce reaches its twenty (20) working day limit without producing a resolution of a grievable conflict the dispute, the Mediation participants may mutually agree to extend the Mediation Period by an additional ten (10) working days if they believe that this is likely to produce a resolution of the dispute. However, after the initial twenty (20) working days, either party may choose to terminate the Mediation Process and refuse any extensions of it. Covered Member shall be entitled to file a grievance complaint within five (5) working days after the expiration of the twenty (20) working day mediation period, except that the mediation participants may mutually agree to extend the five (5) day filing deadline an additional ten (10) working days if they or the UM believes such action is likely to produce a resolution of the grievable conflict.~~
- c. ~~If the UM believes decides that mMediation efforts are unlikely to produce a meaningful resolution of the grievable conflict not productive, or then the UM may choose to terminate the Mediation Period at any time.~~
- d. ~~If the Mediation Period expires or is terminated by any party as described above, the UM shall immediately notify both the UGO and all mMediation participants of this determination situation. The Covered Member shall be entitled to file a grievance complaint no later than then have five (5) working days after the date the UM provides such notice to initiate the formal Grievance process regarding any Grievable Action.~~
- de. ~~The UM may continue to work with the mMediation participants even after a formal Ggrievance complaint is filed under Section K initiated. However, tThe UM's mMediation efforts must, however, cease at the time the Grievance Committee commences a hearing to consider the grievance complaint before the beginning of a Grievance Hearing.~~
- ef. ~~Grievable conflicts that are not referred for mediation within twenty (20) working days (see Section K.4) or grievance complaints not filed If the formal Grievance process is not initiated within the five (5) working days limit described in Section K.8.c, or if a claim of a Grievable Action is not referred to the UGO within the twenty (20) working day limit described in Section K.5, then the Grievable Action is (see Section K.5.a and b) are not eligible to be heard by a Hearing Committee under Section K's the Ggrievance pProcedures of Section K.10.~~

K.2 — Summary of Mediation Process —

The persons responsible for conducting mediation under this section will be referred to as "University Mediators" (hereinafter referred to as "UMs"). The UMs will be responsible for mediating grievable conflicts involving academic faculty members, administrative professionals, and administrators. There will be a pool of UMs. The assigning of UMs is set forth in Section K.14. Upon such assignment, the UM shall meet with the mediation participants. If, after meeting with the mediation participants, the UM reasonably believes mediation efforts may result in a resolution of the grievable conflict, the mediation participants shall enter into a mediation period with the UM to attempt to resolve the grievable conflict.

An administrator's decision which gave rise to a grievable conflict may be altered through the mediation process. Possible outcomes of the mediation process as regards an administrator's decision are:

- a. — Acceptance of the decision;
- b. — Modification of the decision;
- c. — Rescission of the decision;

- d. ~~Proceeding to grievance due to a lack of resolution;~~
- e. ~~Other outcomes as determined by the mediation participants.~~

If the mediation process does not produce a resolution of a grievable conflict, or if the UM finds that it is unlikely to do so, the Covered Member shall be entitled to file a grievance complaint.

~~K.7~~ Admissibility of Communication with the University Mediators

- g. Documentation and other communication created specifically in connection with the resolution of a ~~grievable conflict~~ dispute shall ~~constitute a~~ be considered to be part of the Covered Member's personnel file. Under pursuant to the Dispute Resolution Act, C.R.S. 13-22-301 et seq., documents and communications that resulted solely from the Mediation process are confidential and shall Accordingly, such communication is ~~intended to be confidential to the full extent permitted by law and not be disclosed and may not be used as evidence during a Grievance Hearing, except by agreement of the Mediation participants or as may otherwise be required by law or by agreement of the mediation participants.~~ When a resolution is reached, documentation and other communication created during the ~~m~~Mediation process shall be forwarded to the UGO, who shall retain the materials. ~~For purposes of admissibility in a grievance hearing, r~~Records created by a Covered Member or a Responsible Administrator prior to a Covered Member's initiation of the ~~m~~Mediation process are not considered confidential communications and may be used in a Grievance Hearing. Information and documents that are otherwise relevant do not become confidential merely because they are presented, discussed, or otherwise used during the course of mediation.

~~K.11~~ Grievance Procedure

~~The Covered Member is required to participate in the mediation process set forth above prior to initiating a Grievance. If a satisfactory resolution is not achieved through the mediation process, or if the UM determines that mediation will not be successful, the Covered Member may then file a Grievance using the procedure below.~~

~~K.11.19~~ Time and Manner of Initiating a the Grievance Process *(last revised June 17, 2003)*

A formal Grievance must be initiated by submitting a written complaint (hereinafter referred to as the "Complaint") to the Responsible Administrator and the UGO and to the administrator whose Action is being challenged (hereinafter referred to as the "Responsible Administrator") no later than five (5) working days after the expiration of the ~~m~~Mediation ~~p~~Period or after the decision by the UM that Mediation will not take place, as described in Section K.58. ~~If the UM determines that a grievable conflict will not be resolved through mediation, the Covered Member may initiate a Grievance by submitting a written complaint to the Responsible Administrator and the UGO no later than five (5) working days after the UM notifies the Covered Member of such a decision.~~

The written ~~complaint~~ ("the Complaint") shall:

- a. Identify the nature of the Grievable Action;
- b. Name the parties to the grievable ~~conflict~~ dispute;
- c. Describe how the ~~a~~Action being ~~complained of~~ challenged is unfair, unreasonable, arbitrary, capricious, or discriminatory;
- d. Identify how the ~~decision or a~~Action adversely affects the Grievant in his or her present or future academic and/or professional capacity; and
- e. Summarize the ~~evidence~~ material that the Grievant is prepared to submit to support the claim.

Upon receipt of the Complaint from the Grievant, the Responsible Administrator shall prepare a written response (hereinafter referred to as "the "Response") to the Complaint and submit it to the UGO and the Grievant and the UGO no later than five (5) working days after receiving the Complaint. This Response should be limited to addressing the claims and statements made in the Complaint.

K.10 Grievance Procedure

~~K.10.21~~ **Receipt of Complaint by Hearing Committee/Request for Formal Hearings** (last revised June 17, 2003)

As described in Section K.11.4, a Hearing Committee shall be formed which consists of five (5) members, one of whom serves as the Chair of the Hearing Committee. The UGO shall forward the Complaint and the Response (see Section K.11.1) to the Hearing Committee (hereinafter referred to as "the Committee").

The Committee may, either at the request of a party, or on its own initiative, the Hearing Committee may:

- a. Instruct the parties to file further written statements: and/or
- b. Direct the parties to produce additional documents relevant to the Complaint, to the extent permitted by law, and to identify possible witnesses and the relevance of these witnesses.

The UGO has the right to question and determine the applicability, reasonableness, and relevance of any material to the Section K process. This right may include the refusal by the UGO to forward the Complaint, the Response, and/or any supporting document(s) to the Hearing Committee until the UGO judges that the documents are in compliance with the requirements of Section K (see Section K.10.4). Failure by either party to bring documents into compliance with Section K requirements by a deadline set by the UGO shall, at the discretion of the UGO, result in either forfeiture by that party of the right to pursue the matter through Section K or the forwarding by the UGO of redacted documents to the Hearing Committee.

If the Covered Member disagrees with such a decision by the UGO, he or she may appeal this decision. Such an appeal must be made in writing to the Chair of the Grievance Panel within three (3) working days of being notified of the decision by the UGO. If such an appeal is submitted, the Chair of the Grievance Panel shall refer the matter to the Chair of the Hearing Committee, who shall make a decision regarding the matter within five (5) working days of the submission of the appeal. The decision of the Chair of the Hearing Committee shall be final.

Since the burden of proof for a Class B Grievance is on the Grievant, the Hearing Committee may decide a Class B Grievance without a hearing if the Hearing Committee determines that the Complaint lacks substantive merit under the criteria specified in Section K.93. The Faculty Member or Administrative Professional Grievant shall have the right to appeal to the Provost a decision rendered by the Hearing Committee without a hearing.

~~K.10.32~~ **Conduct of Grievance Hearings**

Evidentiary rules that are applicable to all hearings are given in Section K.11. The rules and procedure outlined below shall apply in all any formal Grievance Hearings conducted by a Hearing Committee.

- a. The Hearings of a Grievance shall begin no later than ten (10) working days following the receipt of the Complaint from the Grievant's request for a formal hearing. However, Each party has the right to request a delay of no more than ten (10) working days upon showing a necessity to allow the proper development of the evidence and arguments, and the UGO shall have the authority to delay Hearings in order to facilitate the joining of Complaints as provided for in Section K.84.1. Grievance Hearings are closed to the public.
- b. Parties Each party to the Grievance shall have the right to legal and/or peer counsel (see Section K.12.d) be permitted to have a maximum of two (2) advisors present, consisting of peer advisors and/or legal counsel. These advisors may help the party prepare for the proceedings, including the preparation of any required written documentation, and may advise the party during the proceedings, but no advisor may participate actively in the proceedings. Advisors may not make statements, objections or attempt to argue the case (however, if an advisor is called as a witness, he or she is allowed to participate in this capacity). The only persons who have standing to speak at the Hearing are the members of the Hearing Committee, the UGO, the parties to the

Grievance, and any witnesses called. Each party Parties shall identify their counsel his or her advisors at the initiation opening of the proceedings under this Section K Hearing and neither party shall not have the right to delay their proceedings the Hearing because of the a lack of counsel or unavailability of advisors, except when if an emergency occurs.

- c. Once initiated, the hHearings shall continue on a daily or nightly basis, depending on the convenience of the parties, and, in all cases, the Hearing shall be concluded within ten (10) working days of its opening.
- d. Parties to a Grievance have the responsibility to attend all scheduled meetings of the hHearings. No substitutes for the parties shall be allowed. If a party is unable or unwilling to attend any scheduled meeting of the Hhearing , the proceedings meeting may be held ex parte.
- e. If it is deemed appropriate by a majority of the members of the Hearing Committee, a person may participate in the Hearing from a different physical location (e.g., by video conference or teleconference). However, the questioning of witnesses must occur in a real-time, spontaneous format, unless a majority of the Hearing Committee concurs that this is not feasible. Any request to appear or participate in the hearing from a different physical location must be made in writing and must be submitted to the Hearing Committee at least five (5) days before the Hearing.
- ef. Parties to Grievances and counsel advisors for such parties are responsible for abiding by the procedures herein established. Those parties failing to adhere to the procedures, or failing to assure that their counsel advisors adhere to the procedures, may be excluded from participation in the hHearings by a majority vote of the Hearing Committee, and shall have judgment shall be rendered without the presence of those parties.
- fg. The Chair of the Hearing Committee chairperson (see Section K.151.4) shall open the hHearing by determining that the all parties are present and by identifying the legal and/or peer counsel advisors chosen by the parties each party. Such advisors or counsels are free to fully advise respective clients throughout the proceedings, to assist in formulating any required written documentation, and to help prepare for any oral presentation but may not actively participate in the proceedings such as making objections or attempting to argue the case. Only the committee members, UGO, parties to the Grievance, and witnesses called shall have standing to speak.
- gh. The Chair of the Hearing Committee chairperson shall provide the opportunity to all each members of the Hearing Committee the opportunity to excuse themselves himself or herself from service prior to a the Hhearing on grounds because of such intimate having an involvement in or with the original decision one or both of the parties (one or both) as to be and/or with the Action being challenged that renders him or her incapable of rendering an impartial judgment concerning the alleged Grievance.
- hi. The Chair of the Hearing Committee chairperson shall provide each party the opportunity to both parties to challenge for cause members of the Hearing Committee sitting to hear the Grievance.
 - 1. A cChallenge for cause shall be defined to mean a showing must be based on a claim that the challenged member of the Hearing Committee, either through involvement with the original decision or involvement with one or both of the parties (one or both) and/or with the Action being challenged, may be incapable of rendering an impartial decision judgment regarding the Grievance.
 - 2. The Hearing Committee chairperson UGO, with appropriate legal advice (see Section K.12.5), shall have the authority to decide all such challenges other than those involving the chairperson. Such latter decisions shall be made by the UGO. Members successfully challenged shall be excused from hearing the Grievance the Hearing Committee and replaced as described in Section K.11.4. The UGO may excuse a

member of the Hearing Committee even though actual cause cannot be proven.

3. ~~If, because of challenge or excuse, a member of a Hearing Committee is unable to sit the next succeeding Grievance Panel member in the rotation order shall sit to hear the Grievance.~~
- j. The entirety of the Hearing shall be recorded. Upon request, either party shall be provided with a copy of this record, as well as any written material submitted during the Hearing. The Office of the Provost shall bear the cost of producing these copies.

K.10.43 Order of Proceedings for Grievance Hearings

~~The sequence during the hearings shall vary in accordance with the allocation of the burden of proof. In all instances, the party having the burden of proof shall have the right and responsibility to speak first. Subject to the restrictions of Section K.10.32.e above, the following persons are entitled to be present during the hHearings:~~

- a. ~~The parties and their advisors and representatives (see Section K.12.d);~~
- b. ~~The UGO, the Hearing Committee members, and their legal counsel;~~
- c. ~~Witnesses when testifying; and~~
- d. ~~Such other persons as are specifically authorized by a majority vote of the Hearing Committee, unless their presence is objected to by either party and the objection is sustained by the UGO.~~

~~The hHearing process normally should proceed as follows in the following order (although this order may be altered by a majority vote of the Hearing Committee with the approval of the UGO):~~

- a. ~~Statement by the party having the burden of proof (hereinafter referred to as the "First Party").~~
- b. ~~Statement by the other party (hereinafter referred to as the "Second Party").~~
- c. ~~Presentation of evidence, either through direct testimony or in authenticated documentary form, by the First Pparty carrying the burden of proof of witnesses and materials, subject to the restrictions of (see Section K.10.64 for Evidentiary Rules). The First Party shall have the right to call the Second Party as a witness. The opposing Second Pparty shall have the right to challenge the relevancy and/or authenticity of witness testimony and written evidence submitted materials, or to impugn the authenticity of the testimony or evidence presented, and to cross-examine question the parties and all each witnesses called by the First Party following their original testimony and questioning after that witness has been questioned by the First Pparty calling them. All dDecisions on such challenges shall be rendered by the Chair of the Hearing Committee chairperson. Challenges of procedural decisions rendered by the chairperson Chair of the Hearing Committee shall be decided by a majority vote of the remaining members of the Hearing Committee, with all tie votes sustaining the eChairperson.~~
- d. ~~Presentation of evidence, as described immediately above, by the opposing Second Pparty with the same rights and arrangements as outlined immediately above for both parties of witnesses and materials, subject to the restrictions of Section K.10.4. The Second Party shall have the right to call the First Party as a witness. The First Party shall have the right to challenge the relevancy and/or authenticity of witness testimony and submitted materials and to question each witness called by the Second Party after that witness has been questioned by the Second Party. Challenges shall be decided as described in the previous paragraph. The members of the Hearing Committee shall also have the right to question each witness called by the Second Party after that witness has been questioned by the First Party..~~
- e. ~~If either party claims to have been denied access to relevant University records and/or documents, the Hearing Committee may consider this claim in making its final recommendation (see Section K.10.5).~~

- ef. Members of the Hearing Committee ~~sitting to hear the Grievance~~ shall have the right to direct questions to witnesses called or to the parties during ~~the presentation of evidence~~ these proceedings.
- fg. Summary arguments by the First Party having the burden of proof, followed by summary arguments of the opposing party.
- h. Summary arguments by the Second Party.
- gi. The members of the Hearing Committee shall have the authority to direct any further questions to either or both parties following both argument and summary arguments, to schedule further hearings additional meetings of the Hearing to develop points not yet clarified sufficiently, and/or to call additional witnesses requested by the Hearing Committee if the Committee feels the need to do so. A decision to ~~require further~~ require schedule additional meetings of the ~~Hearings~~ Hearings shall ~~be made by the~~ requires a majority vote of the Hearing Committee, and such a decision shall be announced by the Chair of the Hearing Committee chairperson to ~~the both parties~~. Both parties shall also be informed of any with instructions as to the points of evidence or argument that the Hearing Committee feels requiring further clarification and the names of any additional witnesses to be called by the Hearing Committee.

K.110.64 Evidentiary Rules for Grievance Hearings Rules Regarding Witness Testimony and Submitted Material

The following rules shall apply ~~in all~~ to any Grievance Hearings before a Hearing Committee:

- a. It shall be the responsibility of the party seeking to ~~introduce the evidence~~ call a witness or submit material to demonstrate to the satisfaction of the Chair of the Hearing Committee ~~chairperson~~ the pertinency, legitimacy, authenticity and relevance of the evidence presented witness or material.
- b. Witnesses called ~~to testify~~ shall have direct and personal knowledge of the points attested to and ~~shall be subject to~~ may be challenged on the ground that they lack such knowledge. Parties seeking to ~~introduce the testimony of~~ A party calling a witnesses shall first establish the credibility (access to pertinent evidence) and the relevancy of the testimony of the witnesses.
- c. ~~Written evidence~~ Material introduced by either party shall be accompanied by a showing of authenticity and relevance to the Grievance. Decisions, recommendations, and actions that occur prior to the Grievable Action may be relevant to the Grievable Action if they establish a pattern of action over time.
- d. During a witness' testimony, either party also ~~during the questioning or cross questioning of witnesses to the relevancy of the line of questioning pursued~~. In such an event, the questioner shall show the relevance of the questioning to the Grievance to the satisfaction of the Committee chairperson. All hearings shall be recorded and upon request either party shall have the right to a copy of the ~~record~~ may object to such testimony on the grounds that the witness lacks personal knowledge for such testimony or that such testimony is not relevant to the Grievance. The party making the objection shall state the reason(s) for the objection, and the other party shall have the opportunity to respond to the objection. The Chair of the Hearing Committee shall rule on the objection.
- e. ~~Communications and documents prepared and produced solely for carrying out the Mediation process shall not be admissible at the Hearing~~.
- fe. The UM, ~~for~~ assigned to a specific case, ~~cannot~~ may neither attend the Hearing nor be called as a witness in a grievance hearing for that case.

K.110.5 Recommendation of the Hearing Committee Decision

- a. Following the completion of the hearing, the Hearing Committee shall retire for the purpose of discussion, conference, and decision. These deliberations shall remain confidential to the full extent permitted by law. The Hearing Committee shall ~~not substitute its judgment on the substantive merits of the decision which is the basis of the Grievance but will review the decision~~ pertinent information

and the Action of the Responsible Administrator which is the basis for the Grievance solely to determine whether the this aAction is unfair, unreasonable, arbitrary, capricious, or discriminatory, but not to substitute its judgment regarding the substantive merits of the decision which is the basis for the Grievance. If the Hearing Committee concludes that there was a procedural deficiency which materially inhibited the review process, it may specify the nature of ~~such defects~~ this deficiency and refer the matter back to the appropriate administrator for correction and subsequent return to the Hearing Committee.

- b. When the Hearing Committee has agreed on a recommendation (hereinafter referred to as the "Recommendation") by a majority decision has been attained vote, the Committee chairperson shall have the responsibility to oversee the formulation of a written statement of the decision Recommendation shall be prepared that summarizes the relevant evidence information and explains the reasoning that supports the decision Recommendation. It also shall state specifically any action necessitated by the decision Recommendation and identify any proposed relief to be provided. Normally, the Chair of the Hearing Committee shall oversee the preparation of this written statement of the Recommendation. However, if Should the Chair of the Hearing Committee chairperson not concur in opposes the majority decision vote, the members of the majority shall choose from among their number themselves a person to oversee the formulation preparation of the written statement of the decision Recommendation. This person shall also represent the Hearing Committee, if necessary, during reviews and appeals.
- c. If the Recommendation from the Hearing Committee is not unanimous, the dissenting minority shall prepare a written statement reflecting the minority opinion.
- cd. In all cases, tThe written decision Recommendation from the Hearing Committee, together with any minority report, shall be rendered submitted to the UGO by the Chair of the Hearing Committee within ten (10) working days of the adjournment for discussion and conference completion of the Hearing. Dissenting opinions, if any, shall follow the same guidelines and shall be rendered within the same time limits. The Committee chairperson shall transmit the written decision(s) of the Committee to the UGO.
- de. The UGO shall notify both parties when a decision has been reached. Within two (2) working days after notice of a receiving the decision has been given Recommendation from the Hearing Committee, the UGO shall announce the decision this Recommendation to both parties: and provide wWritten copies of the decision Recommendation, together with any minority report, or decisions shall be provided to the both parties and to the administrator next in line for administrative review. Within this same time frame, the UGO shall provide written copies of the Recommendation, any minority report, the Complaint, the Response, the record of the Hearing, and any written material submitted during the Hearing (hereinafter referred to collectively as the "Hearing Record") to both the Provost and the President, unless the President is a party to the Grievance, in which case, the UGO shall instead send these copies to the Board.
- e. Upon request, any party to the conflict is entitled at no cost to a copy of all written or documentary evidence introduced at the hearing.

K.110.76

Appeals and Administrative Reviews *(last revised May 5, 2005)*

~~Decisions of A Recommendation from the Hearing Committee adverse the Grievant are that no action be taken as a result of the Grievance is final, unless the Grievant chooses to appeal the committee decision this Recommendation (see Section K.10.6.1). All other Any decisions of Recommendation from the Hearing Committee that action be taken as a result of the Grievance must be reviewed by both the Provost and President before they it becomes final, unless the Provost or the President is a party to the Grievance. If the Provost is a party to the Grievance, but the President is not, the review shall be made only by the President. If the President is a party to the Grievance, the review shall be made only by the Board.~~

K.10.6.1 Appeal of the Recommendation From the Hearing Committee

Whether or not the Recommendation from the Hearing Committee suggests that action be taken as a result of the Grievance, the Grievant has the right to appeal this Recommendation. This appeal must be made within five (5) working days of receipt of the written Recommendation from the Hearing Committee, and it must provide reasons for the appeal. Failure of the Grievant to file an appeal within this time frame shall constitute his or her acceptance of the Recommendation from the Hearing Committee. This appeal shall be submitted to the Provost, unless the Provost or the President is a party to the Grievance. If the Provost is a party to the Grievance, but the President is not, the appeal shall be submitted to the President. If the President is a party to the Grievance, the appeal shall be submitted to the Board.

K.110.76.12 Review by the Provost Review *(last revised January 27, 2006)*

~~If neither the Provost nor the President is a party to the Grievance, tThe Provost shall consider review the recommendations Hearing Record and any appeal from the Grievant (hereinafter referred to collectively as the "Appeal Record"), unless the Recommendation suggests that no action be taken as a result of the Grievance and no appeal was submitted by the Grievant within the five (5) working day limit. This review shall be based concerning a Grievance only on the basis of the written record accumulated to that point, together with an appeal, if any, by the Grievant. An appeal by the Grievant must be submitted to the Provost within five (5) working days after receipt of the written decision of the Hearing Committee and must provide reasons for the appeal. Failure of the Grievant to file an appeal within this time frame shall constitute acceptance of the Hearing Committee decision Appeal Record. No party may introduce new substantive issues. The Provost shall overturn a decision modify the Recommendation from the Hearing Committee only if there is a finding he or she finds that the decision from the Hearing Committee was this Recommendation is unfair, unreasonable, arbitrary, capricious, or discriminatory.~~

Within ten (10) working days of receiving an appeal from the Grievant or a Hearing Committee decision that was not appealed the expiration of the five (5) working day limit for submitting an appeal, the Provost shall respond by providing to all parties to the Grievance and to the UGO a written statement of the decision rendered with his or her recommendation, which shall include a summary of the relevant evidence information and the reasoning that sustains the decision supports this recommendation. A copy of this recommendation shall also be provided to the President, along with a copy of any appeal to the Provost from the Grievant.

K.10.6.3 Appeal of the Recommendation From the Provost

If the Provost modifies the Recommendation from the Hearing Committee, the Grievant has the right to appeal the new recommendation from the Provost. This appeal must be made within five (5) working days of receipt of the written recommendation from the Provost, it must provide reasons for the appeal, and it must not exceed two (2) pages with normal font size. Failure of the Grievant to file an appeal within this time frame shall constitute his or her acceptance of the recommendation from the Provost.

K.10.7.24 Review by the Presidential Action *(last revised May 5, 2005)*

The President If the President is not a party to the Grievance, he or she shall consider review the rRecommendations of from the Hearing Committee, together with any minority report, and the recommendation from the Provost (unless the latter Provost was a party to the Grievance), and any appeals by from the Grievant. An appeal by the Grievant must be submitted to the President within five (5) working days after receipt of the written statement from the Provost (or the written decision of the Hearing Committee if the Provost was a party to the Grievance) and must provide reasons for the appeal. Failure of the Grievant to file an appeal within this time frame shall constitute acceptance of the decision of the Provost (or the decision of the Hearing Committee if the Provost was a party to the Grievance). Appeals to the President shall include a written summary of the basis for the appeal, not to exceed two (2) pages, and include copies of the Complaint, the original decision upon which the Grievance was based, the decision of the Hearing Committee, and all administrative decisions made with respect to the decision of the Hearing Committee. The UGO shall assist the Grievant in obtaining any such documentation, if necessary. This review shall be based only on the Appeal Record, the Provost's recommendation and any appeal by the Grievant. No party may introduce new substantive issues. Regardless of the recommendation from the Provost, the President shall modify the Recommendation from the Hearing Committee only if he or she finds that this Recommendation is unfair, unreasonable, arbitrary, capricious, or discriminatory.

Within twenty (20) working days of receiving an appeal from the Grievant or the expiration of the five (5) working day limit for submitting an appeal, the President shall respond by providing to all parties to the Grievance, the UGO, and the Provost a written statement of his or her decision, which shall include a summary of the relevant information and the reasoning that supports this decision. The decision of the President is final.

If the decision of the President includes taking action as a result of the Grievance, he or she shall notify the appropriate parties of the action to be taken.

Appropriate action by the President refers to the President's decision to accept or reject the decision of the Provost (or Grievance Hearing Committee if the Provost was a party to the Grievance).

- a. ———— A decision to accept a Hearing Committee decision in favor of a grievant shall require that the President issue the appropriate instructions through the administrative chain leading to the administrator with whom the grievance initially was filed to make the appropriate redress of the grievance.
- b. ———— A decision to reject the Hearing Committee's decision shall be based upon a determination that the decision was unfair, unreasonable, arbitrary, capricious, or discriminatory. The President shall issue a written statement of the decision, complete with a recounting or summary of the pertinent

evidence, a recitation of the relevant policy or policies, and an explanation of the reasoning behind the refusal to accept the Hearing Committee decision. To provide redress in cases where the Presidential decision favors the Grievant, the President shall issue the appropriate instructions through the administrative chain leading to the administrator with whom the grievance initially was filed.

- c. — A decision to accept the Hearing Committee's decision against the Grievant shall require a statement to that effect, with or without further elaboration:

The President shall issue a decision to all parties and the UGO within twenty (20) working days after receipt of all relevant material. The decision of the President is final.

K.110.76.35 Appeals to Review by the Board *(last revised May 5, 2005)*

If the President was a party to the Grievance, ~~the Grievant may appeal the decision of the Hearing Committee to the Board~~ the Board shall review the Recommendation from the Hearing Committee, together with any minority report and any appeal from the Grievant, unless the Recommendation suggests that no action be taken as a result of the Grievance and no appeal was submitted by the Grievant within the five (5) working day limit. An appeal to the Board must be made in accordance with its Grievance Review Policy ("Review Policy"). Such policies are attached as Approved Policy XI-14 to the Board of Governors/Colorado State University System Manual of Policies and Procedures. Copies of this Policy may be obtained either from the UGO or the Secretary or Assistant Secretary of the Board. The Review Policy describes the scheduling of Board review requirements for submission of written statements, including a statement by the Grievant that must be filed thirty (30) days prior to the scheduled review proceeding, and the process by which the Board conducts its review and makes its decisions. Reference must be made to the Review Policy in its entirety for a complete understanding of the Board's requirements for review of Grievances. The decision of the Board is final. If the decision of the Board includes taking action as a result of the Grievance, this may involve special Board action and/or instruction regarding action to be taken by administrators.

The Board may adopt its own rules and procedures for considering grievance appeals. Board decisions in favor of the Grievant shall include an appropriate remedy for the Grievance, whether through special Board action or in the form of instruction for appropriate administrative relief. Decisions by the Board, whether to approve or disapprove recommendations by the Hearing Committee or to sustain or reject appeals made by Grievant, are final.

K.151 Grievance Panel and Hearing Committees

K.151.1 Grievance Panel

The Grievance Panel shall be a pool of eligible Hearing Committee members consisting of twenty-one (21) tenured ~~academic~~ faculty members, with at least one (1) from each college and the University Libraries, and twenty-one (21) administrative professionals, representing at least four (4) administrative areas. Administrative professionals shall have had at least five (5) years employment at half-time (0.5) or greater at Colorado State University. No person having administrative duties, as described in Section K.121.a2, shall be qualified to serve on the Grievance Panel. ~~The UGO and Hearing Committee shall be advised by a representative from the Office of the University General Counsel or the State Department of Law (Office of the Attorney General).~~ The Grievance Panel shall operate under a set of bylaws that describes the operating procedures of the Grievance Panel and Hearing Committees. These bylaws shall be prepared by the Grievance Panel, or a subcommittee thereof, in consultation with the UGO, ~~or subcommittee thereof~~, and they shall be reviewed annually and modified as appropriate. The Grievance Panel shall

~~elect an ad hoc chairperson for each meeting~~ a chairperson who can call and conduct meetings of the Grievance Panel. The UGO shall be an ex officio and non-voting member of the Grievance Panel during its meetings.

K.12 — **Description of Terms** *(last revised June 22, 2006)*

aK.11.2 **Administrative Duties**

With respect to qualification to serve on the Grievance Panel, administrative duty or duties refers to the service of those ~~members of the academic faculty persons~~ acting as the administrators responsible for the various administrative units, departments, colleges, and the University, and responsible for budgets and supervising and evaluating personnel other than state classified personnel. The term shall cover persons having the title "Assistant Dean" or "Associate^u Dean". However, service by ~~members of the academic faculty persons~~ as chairs of faculty committees, ~~as the administrators responsible for the various interdisciplinary programs existing on or off-campus,~~ or as Principal Investigators on contracts and grants shall not be considered to be administrative duties.

b. — **Burden of Proof**

~~Refers to the responsibility of one (1) or the other of the parties to a Grievance to show that the allegations made in pursuance of or in defense against a formally filed Grievance are more likely than not to be accurate.~~

c. — **Decision**

~~A decision is not final until it has been approved officially. The Board has delegated the authority for official approval of most personnel matters to the President, and the President has further delegated the authority to approve appointments to the Provost and vice presidents for the administrative units under their authority. For purposes of Section K, a decision includes recommendations made by an administrator which affect the employment status, including terms or conditions of employment, of an academic faculty member.~~

d. — **Right to Counsel**

~~Parties to Grievances may seek the aid and assistance of counsel, either legal and/or peer, but no party shall have more than two (2) counselors present during any of the discussions, hearings, or proceedings. Legal counsel refers to those counselors selected by the parties who are licensed to practice law, whether members of the academic faculty or not. Peer counsel refers to those counselors selected by the parties who are not licensed to practice law. Counselors shall not have standing to speak or to present written briefs.~~

e. — **Working Day**

~~Any day of normal University operations during the employment year (academic or fiscal) of the Grievant. It is based upon the five (5) day, Monday through Friday week, except all official University holidays.~~

K.15~~1.23~~ **Election of Grievance Panel Members**

~~Academic f~~Faculty members shall be nominated by the Faculty Council Committee on Faculty Governance, who shall provide a full slate of nominees for election by the Faculty Council. Administrative professionals shall be elected by the Administrative Professional Council. Nominations for candidates shall be opened on February 15, annually, and election shall be held in April; Election shall be for a three (3) year term starting ~~Those elected taking office on the first (1st) day of f~~Fall semester, with the terms staggered so that approximately one-third (1/3) of the faculty members and one-third (1/3) of the administrative professionals have their terms expire each year. Grievance Panel members who have served two (2) consecutive terms shall be ineligible for re-election for a period of two (2) years.

K.15.3 Service on the Grievance Panel and Filling of Vacancies

~~Service on the Grievance Panel shall be for a three (3) year term, the staggering of terms having been established by lot when the Panel began. Panel members who have served two (2) consecutive terms shall be ineligible for reappointment for a period of two (2) years. When vacancies occur a vacancy occurs on the Grievance Panel, the Faculty Council Committee on Faculty Governance or the Administrative Professional Council shall fill the vacancy, according to the constituency of the vacant member, it shall be filled by appointment, unless the vacancy occurs within one (1) month before the next regular election, in which case, the unexpired term shall then be filled at the next regular that election. An appointment of a faculty member shall be made by the Faculty Council Committee on Faculty Governance, and an appointment of an administrative professional shall be made by the Administrative Professional Council.~~

K.15.1.4 Organization and Functioning Formation of Hearing Committees

~~The UGO shall establish a rotation schedule for the members of the Grievance Panel to serve on Hearing Committees, which shall consist of five (5) persons. All members of Hearing Committees shall consist of five (5) members having have the same appointment classification (faculty member or administrative professional or academic faculty) as the Grievant. Each Hearing Committee scheduled to hear a Grievance shall select from its membership a eChairperson, who shall be a voting member of the Hearing Committee, preside over the hHearing, maintain orderly procedures, and supervise the preparation of the written decision concerning Recommendation regarding the Grievance. When the chairperson shall be in the minority in a divided vote, the person who supervises the preparation of the written decision shall serve as the spokesperson for the Hearing Committee in the event of rejection or appeal of the decision rendered.~~

~~If , because of absences or successful challenges, the five members required for a member of the Hearing Committee functioning cannot be attained or maintained excuses himself or herself as described in Section K.10.2.g or is excused by the UGO due to a challenge for cause, he or she shall be replaced on the Hearing Committee by the next succeeding persons of the same appointment classification in the rotation order shall sit to hear the Grievance. If the eChairperson of the Hearing Committee is replaced in this manner shall be challenged and excused, the new members sitting to hear the Grievance of the Hearing Committee shall select another a new Chair from among their number themselves. In the event that it is impossible to establish a full Hearing Committee from the remaining membership of the Grievance Panel, each of the parties in the Grievance shall nominate two (2) persons each for every each vacant position, and the UGO shall name the replacements from among those names submitted by the parties nominees, subject to further challenge for cause as provided in Section K.1+0.32.h.~~

K.12 University Grievance Officer

K.142.1 Selection, Qualifications, and Term of the University Grievance Officer *(last revised August 12, 2009)*

~~★ In October of the third year of the UGO's term of office, the chair of the Grievance Panel shall appoint a subcommittee of the Grievance Panel to provide nominations for a UGO to serve the next three-year term. In November, this subcommittee shall solicit nominations for the UGO in November of the third year of the UGO's term of office, and, in January, it shall recommend two (2) or three (3) qualified people persons to the President through the Provost. The UGO shall be selected by the President, after consultation with the members of the subcommittee members of the Grievance Panel, during the second week of February. The selection must be confirmed by a majority vote of those cast by the Faculty Council and the Administrative Professional Council in April, such confirmations being conducted separately. In the event that a majority vote of those cast is not attained by both the Faculty Council and the Administrative Professional~~

Council, another candidate shall be proposed by the President. The UGO shall take office on July 1 following the vote and shall report to the Provost. The Provost shall keep the President informed regarding the activities of the UGO.

The UGO shall be a tenured, full-time member of the academic faculty with at least the rank of associate professor and shall have no administrative duties (see Section K.141.a2) throughout the term of service. The term of office shall be three (3) consecutive one (1) year appointments. There is no limit to the number of terms a UGO may serve. The UGO shall be evaluated annually. In ~~November~~ February, the Executive Committee of Faculty Council and the Executive Committee of the Administrative Professional Council shall each send a written performance evaluation to the Provost. ~~Based on these two (2) evaluations,~~ The Provost shall prepare the official evaluation of the UGO and submit it to the President preceding each reappointment. If the position of UGO becomes vacant before expiration of the term, the Grievance Panel shall recommend an interim appointment to the President, through the Provost, to serve until a confirmed UGO, selected the following February, takes office on July 1.

K.142.2 Oversight of the University Grievance Officer

The UGO shall be responsible to the Grievance Panel (see Section K.151.1), which shall be authorized to adopt procedural guidelines necessary to implement provisions of Section K₂ as well as to assure that the UGO meets his or her responsibilities under Section K.142.

K.142.3 Service of the University Grievance Officer

The UGO shall be appointed part-time, depending upon the work load. The appointment fraction and associated funds shall be negotiated at least annually among the UGO, the Provost, and the UGO's department head and may be reviewed as necessary during the year. Adequate secretarial and expense support shall be provided by the Office of the Provost.

K.142.4 Duties of the University Grievance Officer

The UGO shall be responsible for:

- a. Maintaining a record of actions taken ~~with~~ as part of the Grievance process processes in Section K and Section E.15.
- b. Coordinating and facilitating the activities of the Grievance Panel by maintaining the records of the Panel, scheduling all meetings of the Panel for informational and organizational purposes, scheduling meetings of its Hearing Committees, calling individuals to appear before the Hearing Committees, and establishing the rotation order for service by the members of the Panel on Hearing Committees.
- c. Overseeing the ~~grievance procedures, review processes, and mediation system hereby established to insure its effectiveness and to prepare processes of Section K and Section E.15 and preparing~~ reports to the Grievance Panel, including recommendations for improving the system these processes.
- d. Assuring that ~~academic~~ faculty members and administrative professionals are familiar with the provisions, components, purposes, and procedures of the ~~Grievance Procedures, review processes, and mediation system~~ processes of Section K and Section E.15.
- e. Making recommendations to ~~the~~ Hearing Committees regarding guidelines for the operation of these c ~~Committees to operate under~~ pursuant to Section K and Section E.15.
- f. Advising potential and active parties to a Grievance of their prospects for sustaining a Grievance, including their responsibilities for following the procedural rules of Section K.140.
- g. Facilitating the conduct of Hearings ~~and~~ decision pursuant to Section K and Section E.15.

- h. Preparing an annual report, in consultation with the Chair of the Grievance Panel, each June for the Faculty Council and Administrative Professional Council; which summarizes activities and recommendations during the previous year.
- i. Maintaining and updating the list of UM's.
- j. Appointing appropriate UM's to mediate ~~grievable conflicts~~ disputes involving academic faculty members, administrative professionals, and/or administrators.

K.12.5 Legal Advice

At any time, the UGO may seek legal advice from the Office of General Counsel for the University. If the UGO determines that it is appropriate to seek legal advice from outside the Office of the General Counsel for the University, he or she may request that the Office of the General Counsel engage the services of an attorney from the Colorado Attorney General's Office to give legal advice to the UGO. If the UGO determines that it is necessary to seek legal advice from an attorney who is outside of the Office of the General Counsel and the Colorado Attorney General's Office, the UGO may make such a request to the Office of the General Counsel. Any such engagement must be approved by the Colorado Attorney General's Office. A denial by the Colorado Attorney General's Office of such a request is not grievable.

K.142.56 Temporary Special University Grievance Officer

In the event of a conflict of interest by the UGO in a ~~Grievance~~ dispute, or in the event that the UGO becomes a Grievant or requests to be recused, the Provost ~~shall appoint~~, after consultation with the Grievance Panel and the President, shall appoint a Special UGO for that ~~Grievance~~ dispute. The Special UGO shall have all the duties herein of the UGO for the duration of the specific ~~Grievance~~ dispute for which ~~he/she~~ he or she is appointed.

K.13 University Mediators

K.13.1 Qualifications of University Mediators *(last revised August 12, 2009)*

The individuals nominated and recommended as UM's shall be presently employed or retired academic faculty members or administrative professionals who have the skills, credibility and commitment that would enable them to discharge their duties effectively as UM's. Currently employed individuals shall obtain prior approval from their department head/supervisor. The UGO is not eligible to serve as a UM.

K.13.1.1 Qualifications of University Mediators for Academic Faculty *(last revised August 12, 2009)*

Each UM for academic faculty members shall be a tenured, full-time faculty member of the academic faculty with at least the rank of associate professor or a faculty member with a transitional or emeritus/emerita appointment who previously held such a rank. He or she shall have no administrative duties (see Section K.121.a2) throughout the term of service.

K.13.1.2 Qualifications of University Mediators for Administrative Professionals *(last revised August 12, 2009)*

Each UM for administrative professionals shall be employed at least half-time (0.5) as an administrative professional at Colorado State University or, if retired, shall have been employed by the University at least half-time (0.5) as an administrative professional.

K.13.2 Selection and Terms of University Mediators for Academic Faculty *(last revised August 12, 2009)*

The Chair of Faculty Council and the Provost shall solicit nominations for UM's from the academic faculty members prior to the end of each academic year. In consultation with the Faculty Council Executive Committee, the Council of Deans, and any other appropriate groups, the Chair of Faculty Council and the Provost shall jointly forward recommendations to the President. The President shall appoint at least two (2) academic faculty UM's for the upcoming year. The UM's for academic faculty members ~~normally~~ shall take office on July 1 following their appointment by the President.

As appropriate, individuals appointed as academic faculty UM's may have their effort distributions adjusted, as negotiated with their immediate supervisor, to reflect their involvement in the mMediation process; or they may receive release time from their academic obligations, or compensation, as determined by the Provost, if mMediation is required beyond their appointment periods or if they are retired.

The term of office for a UM shall be three (3) consecutive one (1) year appointments on an at-will basis. There is no limit to the number of terms a UM may serve. Each UM shall be evaluated annually. In February, the Executive Committee of Faculty Council shall send a written performance evaluation to the Provost, and the Provost shall then prepare the official evaluation of the UM and submit it to the President preceding each reappointment. If the position becomes vacant before the expiration of the term need arises to appoint an additional UM during the academic year, the Chair of Faculty Council and the Provost shall recommend jointly an interim appointment to the President to serve until a new UM is selected and takes office the next July 1.

K.13.3 Selection and Terms of University Mediators for Administrative Professionals *(last revised August 12, 2009)*

The Chair of the Administrative Professional Council and the Vice President for ~~Administrative Services~~ University Operations shall solicit nominations for UM's for administrative professionals prior to the end of each academic year. In consultation with the Administrative Professional Council and any other appropriate groups, the Chair of the Administrative Professional Council and the Vice President for ~~Administrative Services~~ University Operations shall jointly forward recommendations to the President. The President shall appoint at least two (2) administrative professional UM's for the upcoming year. The UM's for administrative professionals shall take office on July 1 following their appointment by the President.

As appropriate, individuals appointed as administrative professional UM's may have their effort distributions adjusted by their immediate supervisor to reflect their involvement in the mMediation process or, in the case of retired administrative professionals, shall receive adequate compensation, as determined by the Vice President for ~~Administrative Services~~ University Operations.

The term of office shall be three (3) consecutive one (1) year appointments on an at-will basis. There is no limit to the number of terms a UM may serve. Each UM shall be evaluated annually. In February, the Executive Committee of the Administrative Professional Council shall send a written performance evaluation to the Vice President for University Operations, and the Vice President for University Operations shall then prepare the official evaluation of the UM and submit it to the President preceding each reappointment. If the position becomes vacant before the expiration of the term need arises to appoint an additional UM during the academic year, the Chair of the Administrative Professional Council and the Vice President for ~~Administrative Services~~ University Operations shall jointly recommend an interim appointment to the President to serve until a new UM is selected and takes office the next July 1.

K.13.4 Training of University Mediators' ~~Training~~

The UM's must attend periodic mediation training sessions to be eligible to participate in the University's mMediation process. Training sessions shall be arranged by the Provost and the Vice President for ~~Administrative Services~~ University Operations and be held by experienced mediation professionals, as determined by the Provost and the Vice President for ~~Administrative Services~~ University Operations.

K.13.5 ~~University Mediators' Risk Management and Governmental Immunity Provisions for University Mediators~~

The UM's may be covered by the State's risk management and governmental immunity provisions. Such determinations are made by Risk Management and the General Counsel on a case-by-case basis.

~~K.17 Timing Limitations Within the Mediation System and the Grievance Review Process~~

Action	Maximum
	Working Days

a. Original Decision or Action	Covered Member	20
— Announced/Discovered	makes written request	
	to the UGO for mediation	
b. Appointment of UM		5
c. Objections to UM Appointment		5
d. Decision to Mediate	UM must decide and	10
	provide notice to participants	
	whether mediation efforts	
	likely to produce resolution of	
	grievable conflict	
e. Mediation Period		20
f. Filing of Grievance Complaint	To be filed after mediation	5
	period or after notice that no	
	mediation will occur	
g. Conference with		3
— Administrator		
h. Written response by		5
— Administrator		
i. File appeal to		10
— Hearing Committee		
j. Establish Hearing	UGO reviews	10
— Panel	and sets hearing on request and	
	selects Hearing Committee	
k. Hearing		10
l. Decision of Hearing		10
— Committee		
m. Administrative Review		
— Provost		10
— President		20
— Board		

K.14 Key Time Limits Within the Mediation and Grievance Processes

<u>Action</u>	<u>Maximum Number of working days</u>
(a) <u>Action discovered</u>	
(b) <u>Submission of written claim to UGO</u>	<u>20 days after (a)</u>
(c) <u>Appointment of UM</u>	<u>5 days after (b)</u>
(d) <u>Decision by UM whether to attempt mediation</u>	<u>10 days after (c)</u>
(e) <u>Mediation Period</u>	<u>20 days after (d)</u>
(f) <u>Submission of written Grievance Complaint</u>	<u>5 days after (d) and (e)</u>
(g) <u>Written Response from Responsible Administrator</u>	<u>5 days after (f)</u>

<u>(h) Form Hearing Committee and begin Hearing</u>	<u>10 days after (f)</u>
<u>(i) Conclude Hearing</u>	<u>10 days after (h)</u>
<u>(j) Recommendation of Hearing Committee</u>	<u>10 days after (i)</u>
<u>(k) Notification of Recommendation by UGO</u>	<u>2 days after (j)</u>
<u>(l) Appeal of Hearing Committee Recommendation</u>	<u>5 days after (k)</u>
<u>(m) Review by Provost</u>	<u>10 days after (k) and (l)</u>
<u>(n) Appeal of Provost recommendation</u>	<u>5 days after (m)</u>
<u>(o) Review by President</u>	<u>20 days after (n)</u>

¹The term “personnel file” refers to information collected because of the employer-employee relationship, and it does not necessarily refer to a single physical file. In order for information to be part of the personnel file, there must be a reasonable expectation that such information will be kept private. Information in the personnel file is generally not made available for public inspection, but it is available to the individual and to his or her supervisors.

Greene explained that Section K has been reorganized to make it easier to follow, the language has been cleaned up in many places, and the procedures for administrative review and appeals have been made more clear. In addition, the following additions have been made:

1. It is made clear that the UGO oversees the Section E.15 process for the discipline of tenured faculty, as well as the Section K process.
2. It is made clear that past actions may be cited to establish a pattern of action over time.
3. Mediation is made possible in cases where a dispute is not grievable.
4. It is made clear that either party may refuse extensions of the Mediation Process, thus preventing a delay of the formal Grievance Process.
5. Language has been added to allow persons to participate in a Grievance Hearing via video conference or teleconference.
6. Language has been added to allow the Hearing Committee to consider a claim by either party that he or she was denied access to University records or documents.
7. Language has been added to address the situation where the administrator who is the subject of a complaint no longer holds the relevant administrative position.
8. Language has been added to allow appeals of decisions by the UGO regarding whether an action is grievable, how to classify a grievance, and whether material is admissible in a Hearing.
9. Language has been added to allow the UGO to seek outside legal advice independent from that from the University and the State of Colorado.
10. Language has been added to ensure that the UM’s receive annual evaluations.

Mostafa congratulated the Committee on Responsibilities and Standing of Academic Faculty for its hard work on reorganizing Section K. Mostafa noted that Section K sometimes does not explain what happens if a time limit is not met. Eykholt responded that the document is not perfect. He explained that revisions to Section K have been made over a six (6) year process. He added that the document kept circulating around to each applicable entity every time a new issue was brought up. Approximately three (3) years ago it was decided to cut things off and get current problems addressed. Eykholt noted that this document has been approved by key parties and there are areas for improvement that the Committee on Responsibilities and Standing of Academic Faculty will continue to address.

Greene’s motion was adopted.

DISCUSSION ITEM

A. Hunt Lambert, Associate Provost, Division of Continuing Education - Strategic Plan

Hunt Lambert, Associate Provost, Division of Continuing Education explained that he planned to address three (3) areas in this discussion:

1. Overview of Division of Continuing Education (DCE)
2. How “On-Line Plus” came to be
3. Hypergrowth

Lambert noted that last fiscal year the DCE served 7,500 unique students and had \$26 million in revenue of which \$21 million went back to the campus. He added that DCE is growing at the rate of 15-20 percent per year. Lambert explained that when he arrived at DCE he investigated whether or not “Continuing Education” was the best name. Lambert’s research showed that the DCE label was related to non-credit coursework. He added that DCE worked with marketers and wanted DCE to be part of Colorado State University, but DCE needed to be re-branded.

Lambert explained that 95 percent of people who search for continuing education at a University use the term “on-line.” He noted that DCE has had 50,000 unique visitors per month generated from the “On-Line Plus” brand. He noted that this new brand was not brought forward to Faculty Council because DCE was not changing its name. It was a market positioning. This was approved through the appropriate channels. Lambert added that DCE is intentionally not prominent on its website. Lambert explained that most print and web ads make it clear that Colorado State University’s DCE programs and courses advertised under On-Line Plus and are offered through DCE. He added that the words that attract students are On-Line Plus, not DCE. Lambert compared this to the product, Kleenex, this is a product name and you must turn the Kleenex box over to find in small print that the company is actually Kimberly Clark. Lambert asked for questions regarding the marketing name “On-Line Plus.” Lambert asked Faculty Council to tell DCE if they wanted DCE to pursue a formal name change to CSU Online Plus.

Cindy Christen asked if this is “On-Line Plus” or “CSU On-Line Plus.” Lambert responded that it is “CSU On-Line Plus.” Dana Hoag asked if Colorado State University’s consumers can tell the difference between “CSU On-Line Plus” and CSU Global. Lambert responded that CSU Global was created to serve students that Colorado State University cannot serve. The student customers may not know the difference but employers do know the difference. The DCE aspires to be Colorado State University’s quality at a distance. Global aspires to be better than the University of Phoenix. Lambert noted that CSU Global’s marketing has lifted the enrollment at Colorado State University Pueblo and Fort Collins. Hoag noted that it seemed that CSU Global lacked coordination between its programs and Colorado State University’s programs and it was more competitive than cooperative with Colorado State University. Lambert responded that CSU Global was designed not to be competitive with Colorado State University at its launch but in at least one program area they have become competitive. Turk noted that when he was the Board of Governors Faculty Representative, he worked with the Board of Governors and Becky Tekada-Tinker, President of CSU Global to address some of these issue. Turk explained that the Board of Governors has created an Academic Affairs Committee and Tekada-Tinker is also working with Colorado State University to create processes to deal with competitive/coordination issues.

Lambert explained that the University of Phoenix have developed a great market for on-line universities, but they overcharge and under deliver. In addition University of Phoenix has consumed a large amount of federal financial aid and military educational funds. Lambert noted that emerging from this are online options that are much better than the University of Phoenix and Westwood. Lambert added that CSU-Global is serving students who would not otherwise be served by a public solution in Colorado. Lambert explained that the partnership of Arizona State University and eCollege at Pearson is an excellent model and they have launched a campaign in Colorado and exceed all advertising for CSU System total. They have 3500 recruiters and have 5 million students a day logging in across all eCollege customers and partners. Lambert noted that other universities are going after this market because they can give a top quality education and generate cash. He explained that the United States needs to generate 7 million more college graduates to hold our current ranking of 16th in the World. The distance programs need to grow to do this. Colorado State University needs to think about how distance adult students think about quality (involves availability as much as academic rigor). Lambert stated that Colorado State University can do both. Lambert pointed out that new recruiting regulations have slowed the process of the private companies. State registration regulations have backfired costing approximately \$300,000 per public university and year to stay in compliance with no cost to the Privates who already operate in each state. The post 9/11 GI Bill

regulations were a boom to the privates providing over \$1 billion a year. The gainful employment rule will have no teeth. He added that the public/private partnerships are growing 100 percent per year while campus enrollment grows 1 percent per year because the campuses are full. Lambert stated given all of this how fast should Colorado State University grow. Should Colorado State University shoot for hypergrowth? Lambert requested input back from Faculty Council on the hypergrowth issue.

Van Buren asked how DCE defines quality. Lambert responded that DCE complies with campus processes in place. The DCE goes through the University Curriculum Committee and has quality measures in place. He added that not all programs work as well at a distance. The TILT builds programs for DCE. Howard Ramsdell asked if DCE were to pursue more rapid growth would it be to grow existing programs or solicit new programs. Lambert answered that DCE's first priority is to fill empty seats in addition to building more new programs such as psychology. Hamid stated that the name change seems to be a "no brainer." He asked what benchmarks DCE uses to prove that Colorado State University is better than the privates. Lambert responded that program accreditation, graduate rates, and course by course rigor are the proof. He noted that Intel has stopped reimbursing the University of Phoenix tuition because its students were not promotable. Hoag noted that faculty will have to teach more student for same or less pay. He asked that DCE think about how increased revenue will lead to more faculty lines and to look at the incentive structure. Lambert responded that he hoped the \$21 million returned to the University would be put toward faculty lines. Lambert added that departments decide how to spend the money.

Don Radford if more certificate programs vs. degree programs would be offered. Lambert stated that DCE is still collected data regarding this issue. He added that students are attracted to the certificate programs. Lamborn clarified that under State law the word "certificate" is regarded as a degree analog. Colorado State University offers certificates of course completion.

Miller asked if DCE is planning any seminars to help teach faculty about all the new technology for teaching classes. Lambert responded DCE tries to support what the faculty want. He added that DCE is working with TILT to get the word out on new technologies and DCE is trying to reinvest surplus money on campus to enhance on-campus and distance learning. He added that distance innovations can inform resident pedagogies. Hamid asked how Lambert personally judges the appropriate rate of growth for DCE. Lambert responded that the DCE needs to maintain quality staffing and at this time 15-20 percent growth feels comfortable. But, he added, that Arizona State is eating into the market.

Gallagher thanked Lambert for his discussion with Faculty Council.

The Faculty Council meeting adjourned at 5:43p.m.

Timothy Gallagher, Chair

Karrin Anderson, Vice Chair

Diane L. Maybon, Executive Assistant/Secretary

ATTENDANCE

BOLD INDICATES PRESENT AT MEETING

UNDERLINE INDICATES ABSENT AT MEETING

Agricultural Sciences

Stephen Koontz, Excused
Denny Crews, Excused
Howard Schwartz for William Jacobi
Joe McGrane for Steve Newman
Mary Stromberger
Dana Hoag
Andrew Norton

Agricultural and Resource Economics
Animal Sciences
Bioagricultural Sciences & Pest Management
Horticulture & Landscape Architecture
Soil and Crop Sciences
College-at-Large
College-at-Large

Applied Human Sciences

Molly Eckman
Robert Gotshall
David Sampson
Jenn Matheson
Scott Glick
Matthew Malcolm
Sharon Anderson
Nancy Banman for
Kim Bundy-Fazioli

Design and Merchandising
Health and Exercise Science
Food Science and Human Nutrition
Human Development and Family Studies
Construction Management
Occupational Therapy
School of Education
School of Social Work

Business

Margarita Lenk
Stephen Hayne
Patricia Ryan
Jim McCambridge
Dave Gilliland

Accounting
Computer Information Systems
Finance and Real Estate
Management
Marketing

Engineering

Collette Heald
Brad Reisfeld
Ken Carlson
Steve Reising
Don Radford
Eric Maloney
Sudeep Pasricha

Atmospheric Science
Chemical and Biological Engineering
Civil and Environmental Engineering
Electrical and Computer Engineering
Mechanical Engineering
College-at-Large
College-at-Large

Liberal Arts

Mary Van Buren
Eleanor Moseman
Andy Merolla
David Mushinski
Louann Reid
Ernesto Sagas
Jonathan Carlyon
Robert Gudmestad
Cindy Christen
Gary Moody
Idris Hamid
Ursula Daxecker
Ken Berry
Mary Vogl
Eric Aoki
Alex Bernasek

Natural Resources

Melinda Laituri
Paul Doherty
Mark Paschke
Sven Egenhoff
Stu Cottrell

Natural Sciences

Eric Ross
David Steingraeber
John Wood
Robert France
Iuliana Oprea
Raymond Robinson
Benjamin Clegg
Philip Chapman
Steve Stack
Mike Steger
Miguel Mostafa

Anthropology

Art
Communication Studies
Economics
English
Ethnic Studies
Foreign Languages and Literatures
History
Journalism and Technical Communication
Music, Theater, and Dance
Philosophy
Political Science
Sociology
College-at-Large
College-at-Large
College-at-Large

Ecosystem Science and Sustainability

Fish, Wildlife, and Conservation Biology
Forest, Rangeland, and Watershed Stewardship
Geosciences
Human Dimensions of Natural Resources

Biochemistry and Molecular Biology

Biology
Chemistry
Computer Science
Mathematics
Physics
Psychology
Statistics
College-at-Large
College-at-Large
College-at-Large

Veterinary Medicine & Biomedical Sciences

Scott Earley

Daniel Smeak

John Rosecrance

Robert Jones

Terry Nett

Jeffrey Wilusz

C. W. Miller

Anthony Knight

Susan Kraft, Excused

William Hanneman

Biomedical Sciences

Clinical Sciences

Environmental & Radiological Health Sciences

Microbiology, Immunology and Pathology

College-at-Large

College-at-Large

College-at-Large

College-at-Large

College-at-Large

College-at-Large

University Libraries

Nancy Hunter

Louise Feldmann

Libraries

At-Large

Officers

Tim Gallagher

Karrin Anderson

Carole Makela, Excused

Richard Eykholt

Diane Maybon

Lola Fehr

Chair, Faculty Council

Vice Chair, Faculty Council

BOG Faculty Representative

Immediate Past Chair, Faculty Council

Executive Assistant/Secretary

Parliamentarian

Ex Officio Voting Members (*Indicates Elected Member of Faculty Council)

Luis Garcia, Chair

Susan LaRue, Chair, Excused

Martin Gelfand, Chair

David Greene, Chair

Mary Stromberger, Chair*

Ketul Popat, Chair

Tony Maciejewski, Chair

Dan Turk, Chair

Eric Prince, Chair

Howard Ramsdell, Chair

Committee on Faculty Governance

Committee on Intercollegiate Athletics

Committee on Libraries

Committee on Responsibilities & Standing of Academic Faculty

Committee on Scholarship Research and Graduate Education

Committee on Scholastic Standards

Committee on Strategic and Financial Planning

Committee on Teaching and Learning

Committee on University Programs

University Curriculum Committee

Ex Officio Non-Voting Members

Torsten Eckstein, Chair

Committee on Special and Temporary Faculty

Ex-Officio Non-Elected Non-Voting Members

Anthony Frank, Excused	President
Rick Miranda, Excused	Provost/Executive Vice President
<u>Brett Anderson</u>	<u>Vice President for Advancement</u>
<u>Mary Ontiveros</u>	<u>Vice President for Diversity</u>
<u>Lou Swanson</u>	<u>Vice Provost for Engagement/Director of Extension</u>
<u>Robin Brown</u>	<u>Vice President for Enrollment and Access</u>
Tom Gorell	Vice Provost for Faculty Affairs
<u>Jodie Hanzlik</u>	<u>Interim - Vice Provost for Graduate Affairs</u>
<u>Patrick Burns</u>	<u>Vice President for Information Technology/Dean Libraries</u>
Jim Cooney	Vice Provost for International Affairs
<u>Tom Milligan</u>	<u>Vice President Public Affairs</u>
<u>Bill Farland</u>	<u>Vice President for Research</u>
<u>Blanche M. Hughes</u>	<u>Vice President for Student Affairs</u>
Alan Lamborn	Vice Provost for Undergraduate Affairs
<u>Amy Parsons</u>	<u>Vice President for University Operations</u>
<u>Craig Beyroudy</u>	<u>Dean, College of Agricultural Sciences</u>
<u>Jeff McCubbin</u>	<u>Dean, College of Applied Human Sciences</u>
<u>Ajay Menon</u>	<u>Executive Dean/Dean, College of Business</u>
Sandra Woods	Dean, College of Engineering
<u>Ann Gill</u>	<u>Dean, College of Liberal Arts</u>
<u>Jan Nerger</u>	<u>Dean, College of Natural Sciences</u>
<u>Lance Perryman</u>	<u>Dean, College of Veterinary Medicine and Biomedical Sciences</u>
<u>Joyce Berry</u>	<u>Dean, Warner College of Natural Resources</u>
David Mornes	Chair, Administrative Professional Council