

Grievance Procedure, Grievance Committee Guidelines

The following procedures provide equitable and prompt response to employee grievances respecting such matters as salary, work assignments, promotion, tenure, conditions of employment, termination, unfair discrimination on the basis of sex, and sexual harassment. The procedures are in compliance with the regulations of Title IX of the Education Amendments of 1972. These procedures are also available to employees grieving promotion, conditions of employment, termination, or discrimination not based on sex or sexual harassment. Employees who have not yet completed the 90-day introductory/probationary period of employment are not eligible to participate in the Grievance Procedure outlined in this policy.

Every effort will be made to achieve an informal settlement of a grievance through consultation at whatever administrative level is appropriate. An employee who has a work-related problem or question is strongly encouraged to bring it to the attention of the immediate supervisor before contacting the supervisor's manager. If the grievance cannot be resolved informally, the following steps will be taken for Converse employees:

1. The employee with a grievance ("Grievant") will present the complaint in writing to the administrative supervisor at the level of the Dean, Vice President, or Senior Vice President within 14 days of the alleged action that is the basis of the grievance. At the time of the complaint, a copy of the grievance must be presented to the Director of Human Resources. Upon receipt of a copy of the grievance complaint, the Director of Human Resources will issue a copy of the Grievance Committee Guidelines to the concerned parties. If the grievance is against the Dean, Vice President, Senior Vice President, or President, the Grievant may present his or her complaint to a Vice President not directly in the line of supervision. The signed, written complaint must sufficiently state the nature and the facts of the alleged incident and must contain the names of all relevant witnesses.
2. The administrator receiving the written complaint will be responsible for establishing a Grievance Committee, to be composed as follows:
 - a. First Member - The Grievant selects the first member (peer level);
 - b. Second Member - The Dean (or administrative supervisor) appoints the second member;
 - c. Chair of Grievance Committee:
 - i. For Administration/Staff: The Vice President for Finance and Business (who is in charge of compliance with Federal regulations), if not subject of the complaint, or the President appoints the third, who will be Chair; or
 - ii. For Faculty: The President of the Faculty Senate (if not subject of the complaint) or President appoints the third, who will be Chair.
3. The Grievant and other parties concerned in the grievance can bring witnesses and freely offer evidence to the Committee. The Grievant, Accused, and witnesses must present their written statements to the minute-taker before offering their testimony. A representative of the Human Resources Office will take written minutes of the hearings and make these available to the Grievant and the Accused. No minutes will be taken during the "closed sessions" deliberations by the Committee as it considers the evidence that has been presented.
4. When the Committee has completed its deliberations, it will report its findings to the President of the University unless the President is subject of the complaint, if so, then to the Chair of the Board of Trustees, who will take final action on the Committee's report. The President of the University or the President's designee will have the final authority to decide all grievances.
5. Time Limits
 - a. The Grievance Committee must be constituted within 15 working days after the submission of a written complaint.
 - b. The Grievance Committee must meet and deliver its written report as described within one month after receiving the case.
 - c. The President of the University or the President's designee will take action on the Grievance Committee's report within 15 working days after receiving it.

6. Appeal

If either the Grievant or the Accused has questions regarding the findings of the Committee or the President's decision, that person may meet with the President to discuss his or her concerns (or with the Chair of the Board of Trustees, if the President is involved in the grievance).

7. Confidentiality

The right to the confidentiality of all members of the academic community will be respected in both informal and formal procedures. The University prohibits any kind of retaliation against any person who, in good faith, brings a complaint to the attention of the University. All complaints will be kept confidential to the fullest extent possible.

GRIEVANCE COMMITTEE GUIDELINES

1. Findings, conclusions, and recommendations of the Committee must be based on a preponderance of the evidence presented and shall be the result of a majority vote of the Committee.
2. In reference to a grievance brought forth which alleges sexual harassment, the Committee will look at the record of the case as a whole and at the totality of the circumstance, such as the nature of the sexual advance and the context in which the alleged incidents occurred. Such determinations shall be made from the facts on a case-by-case basis.
3. If, in a particular instance, a committee member feels that he or she cannot render an objective decision due to personal relationships with any of the parties involved or if a particular committee member is an involved party, said Committee member must withdraw from the Committee for that particular hearing. In such an event, the President shall appoint an appropriate ad hoc member to the Committee for hearing the particular complaint.
4. Any Committee member who cannot attend a particular hearing, for whatever reason, must be replaced for that hearing by an ad hoc member appointed by the President.
5. Upon receipt of a written complaint, the Committee shall, after a reasonable notice, hold a hearing at which the testimony of both the Complainant and the Accused shall be heard. Both parties shall have the right to be accompanied by an advisor of their choice from within the University community. The Committee may also hear testimony from other parties who may have relevant information regarding the case, but only after notifying the Accused and the Complainant. Only written minutes of the hearing will be taken.
6. After hearing all of the evidence, the Committee shall deliver to the President of the University its written findings of the facts and shall recommend a sanction to the President.
7. Determination of Sanctions: The President of the University shall, in consultation with the Committee, determine the sanctions to be imposed on the Accused, if any. In so determining, the President shall accept the findings of fact made by the Committee; however, recommendations as to the imposition of sanctions by the Committee shall not be binding upon the President. The President will inform the chairman of the Grievance Committee in writing of the final decision regarding the case. The chairman of the Grievance Committee will, in turn, inform the Accused and the Complainant in writing of the Committee's findings and the President's decision.
8. Appeal
9. If either the Complainant or the Accused has questions regarding the findings of the Committee or the President's decision, that person may meet with the President to discuss his or her concerns.
10. If the Accused or Complainant is not satisfied with the findings of the Committee and the decision of the President, she or he may appeal to the President of the University for reconsideration. The President has the option to establish a new committee for further review of the findings. An appeal decision will be reached by the President within 10 working days.
11. Hearing Formats
Individuals thought to have relevant information or testimony, including an accused employee, will be contacted and interviewed by appropriate University officials. If sufficient information is

available to conclude that there are “reasonable grounds” to do so, the University will conduct a hearing following one of two possible formats:

*a pre-hearing adjudication in which the charged employee accepts responsibility for the charge(s) and requests to have sanctions determined by the hearing authority without a formal hearing, or

*a hearing before the Grievance Committee, as established under “Grievance Procedures” guidelines in the *Administrative and Staff Handbook* and in the *Faculty Handbook*, to conduct hearings to determine responsibility and recommend appropriate sanctions.

12. Hearing Procedures

Decisions regarding responsibility for charges shall be based upon a “preponderance of evidence” standard, meaning responsibility does not have to be proven beyond a reasonable doubt. The University need only conclude that the conduct with which the employee is charged is more likely than not to have occurred. Regardless of the format chosen, hearing officers will not be restricted by technical rules of evidence. In these informal, non-adversarial hearings, there is no formal cross-examination. Reasonable accommodations may be made in hearing procedures, e.g., indirect questioning or special seating arrangements in the hearing room.

13. Sanctions

Possible sanctions recommended to the President or the President’s designee include loss of job, suspension, disciplinary probation, restitution, an official warning, or any combination of these. Conditions, restrictions, or specific prohibitions may be issued with or attached to any of these sanctions. The outcome of the hearing shall be reported in the employee’s personnel record maintained in the Human Resources Office.

14. Rights of the Accused Employee

15. I. To an explanation of the charges

- To an explanation of the campus judiciary process
- To state a preference as to campus hearing format
- To be presumed innocent
- To have a fair, impartial, speedy hearing
- To have someone accompany him/her through the hearing. All participants will be bound by the rules of confidentiality governing the hearing.
- To remain present for the entire proceedings and to inspect evidence presented, assuming the accused employee maintains appropriate decorum during the proceedings.
- To know ahead of time the names of witnesses to be called to the hearing
- To remain silent
- To testify on his/her own behalf
- To be free from a second hearing on the same charge after the employee’s actions have been found not in violation, exclusive of the President’s option to have the findings reviewed
- To appeal the decision of the hearing board