

CHAPTER 9

GRIEVANCE POLICY AND PROCEDURES

The Tufts University School of Dental Medicine (TUSDM) expects all faculty members to work collaboratively to resolve individual disagreements and interpersonal conflicts. Department Chairs will encourage and support a high degree of professionalism and collegiality in the conduct of all academic, clinical, research, and business endeavors.

The TUSDM Grievance Policy establishes a process for the prompt, efficient, and just resolution of faculty grievances that cannot be mutually resolved between parties. Its purpose is to provide both informal and formal means to settle grievances internally—within TUSDM—and to avoid prolonged disputes.

I. STATEMENT OF POLICY

In the interest of harmonious and efficacious relations, the Tufts University faculty recognizes the importance of prompt and equitable disposition of any grievance at the lowest organizational level possible. Grievance procedures, whether informal or formal, will promote fairness and serve as a means of timely resolution of misunderstandings and injustices.

A grievance submitted for resolution under this policy will not in any way prejudice the Grievant nor will it adversely affect the Grievant's professional standing within TUSDM and Tufts University.

II. DEFINITIONS

A. Grievant

Potential Grievants under this policy are all members of the TUSDM faculty, exclusive of faculty with Courtesy and Contingency Appointments as defined in the TUSDM Policy on Faculty Appointments, Promotion, and Tenure. Faculty members who hold concurrent administrative appointments may be potential Grievants under this policy only in matters within the terms and conditions of their faculty appointments. Matters within the terms and conditions of the administrative appointment must be addressed through grievance and dispute resolution procedures described in the [Tufts University Staff Employee Handbook](#).

B. Grievance

A grievance is a formal, written complaint—a *Grievance Petition* submitted under the Formal Grievance Procedure described in §VI—alleging that a decision, which affects the Grievant, is either unfair or does not conform with official policies, procedures, or statutes of Tufts University and/or the Tufts University School of Dental Medicine, with the certain exclusions specified in §III.

Grievances may relate to a range of procedural irregularities and work-related responsibilities and expectations within the context of a potential Grievant's faculty appointment. The term grievance may include a formal complaint lodged in response to a denial of promotion and/or tenure or the termination of an untenured faculty member that alleges procedural irregularities in the promotion, tenure, or termination processes.

C. Respondent

A respondent is a TUSDM administrator or faculty member against whom a complaint is lodged or grievance filed.

D. Policy

Policy is defined as official policies of Tufts University and the Tufts University School of Dental Medicine. Within TUSDM, official policies are statements of “policy” or “standards” recommended by a TUSDM Standing Committee, as defined in the TUSDM Bylaws, and formally ratified and adopted by the Executive Faculty and policies mandated by regulatory authorities that are recommended by the Compliance Committee and formally approved and adopted by the TUSDM Dean.

III. EXCLUSIONS

The TUSDM Grievance Policy does not apply to substantive decisions made with regard to the following situations:

A. Complaints Involving Charges of Misconduct in Research and Scholarship

Procedures for resolving such matters are governed by the Tufts University [Scientific Integrity and the Consequences of Misconduct in Research Policy](#), which is administered by the Tufts University Vice Provost for Research.

B. Complaints of Discrimination or Harassment Covered under Policies Administered by the Office of Equal Opportunity and Affirmative Action at Tufts University

The [Office of Equal Opportunity and Affirmative Action](#) at Tufts University (OEO) ensures the University maintains compliance with all federal, state, and local laws pertaining to anti-discrimination, the Americans with Disabilities Act, and Title IX. OEO cooperates with members of the Tufts community to resolve complaints of discrimination, sexual harassment, and sexual misconduct.

Complaints of discrimination in which a faculty member is a complainant or respondent must be submitted directly to the OEO which will be solely responsible for investigating the complaint in compliance with all applicable laws and policies.

C. Complaints Involving the Establishment, Revision, or Substantive Content of TUSDM Policies and Standards

The TUSDM Executive Faculty may establish or revise policies or standards governing a range of academic, clinical, research, or business practices. Once established or revised—with faculty input—the existence or substantive content of said policies are not contestable under this Grievance Policy.

TUSDM, as educational institution and clinical care provider that accepts Medicare and Medicaid, must adhere to strict, often complex regulations established by outside entities. Among them are the Commission on Dental Accreditation, the Massachusetts Department of Public Health, the U. S. Department of Health and Human Services, and the Centers for Medicare and Medicaid Services. TUSDM may establish new or revise existing policies and standards to comply with accreditation and regulatory requirements. Faculty complaints or concerns regarding adherence to said policies and standards should be addressed to the appropriate standing committee, i.e., Curriculum Committee, Patient Care Quality Assurance Committee, Compliance Committee, or Risk Management and Infection Control Committee.

D. Grievances under Court or Regulatory Agency Authority

A grievance involving a matter that is under current court or regulatory agency review or that has been finally resolved after court or agency review may not be submitted for Informal Complaint Resolution or the Formal Grievance Procedure.

IV. FACULTY OMBUDS

TUSDM, through its Executive Faculty, will designate an Ombuds to help resolve faculty disagreements or concerns in order to avoid escalation to the Formal Grievance Procedure.

The Ombuds will serve as a neutral, independent resource for resolving faculty disputes informally and may advise faculty on the merits of invoking the Formal Grievance Procedure. The Ombuds may not serve as a member of any Grievance Hearing Board convened under the Formal Grievance Procedure. In a case where the Ombuds has an interest in the grievance, the Ombuds will request the TUSDM Dean appoint a disinterested member of the Executive Faculty to mediate informal resolution of complaints.

The Ombuds will hold all communications with those seeking assistance in strict confidence, and does not

disclose confidential communications unless given permission by the Grievant to do so. The only exceptions to this privilege of confidentiality are where there appears to be imminent risk of serious harm, or the complaint falls outside the scope of the Grievance Policy and under the purview of the OEO.

A. Eligibility to Serve as Ombuds

The Ombuds will be a TUSDM faculty member who is knowledgeable about the Informal Resolution of Complaints and the Formal Grievance Procedure, described in **§ V.** and **§VI.** below. The Ombuds will be elected by the members of the Executive Faculty to serve a three year term. Eligibility to serve as Ombuds will be limited to senior members of the faculty with the rank of full Professor (Track 1 or Track 2). The Ombuds may not have a concurrent membership on the Faculty Appointments, Promotion, and Tenure Committee.

B. Resources and Training Available to the Ombuds

The Ombuds will receive appropriate orientation and training on how to: (a) help faculty assess viability of potential grievances, (b) identify exclusions to this Grievance Policy, (c) direct faculty to appropriate Tufts University and TUSDM offices, committees, and policies, and (d) employ best practices in mediation to resolve complaints and conflicts informally. Resources available to the Ombuds include the Tufts University Offices of Provost, General Council, Human Resources, and Equal Opportunity and Affirmative Action, as well as other Tufts University expertise and resources, as appropriate. The Ombuds will be a member of [International Ombuds Association](#) and, as such, operate according to the [principles](#) of the association.

V. INFORMAL RESOLUTION OF COMPLAINTS

Complaints are often more effectively addressed and resolved by informal means than by invoking the Formal Grievance Procedure; however, an attempt to informally resolve a complaint is not a prerequisite to invoking the Formal Grievance Procedure.

TUSDM encourages faculty members to discuss complaints with their Department Chair and/or Division Head. A faculty member may also raise a concern or lodge a complaint by contacting the Ombuds. Alternatively, the Ombuds may contact and invite a prospective Grievant, who may or may not have filed a formal *Grievance Petition*, to engage in efforts to informally resolve a potential formal grievance; the Grievant is free to decline such invitation.

After conferring with the prospective Grievant, the Ombuds will advise on the merits of the case and of further action that might be taken. The Ombuds will not take action or report further on the case without a signed and dated *Consent to Informal Complaint Resolution*. With said consent, the Ombuds may communicate with the interested parties in an attempt to resolve the complaint informally. Said efforts to resolve potential grievances will conclude not later than 45 business days following receipt of the signed and dated *Consent to Informal Complaint Resolution* unless the prospective Grievant and Respondent(s) mutually agree to continue to try to resolve the complaint informally. In the absence of a mutually agreed upon extension, the Ombuds will confirm the prospective Grievant's decision to either officially withdraw the complaint or proceed to the Formal Grievance Procedure.

VI. FORMAL GRIEVANCE PROCEDURE

If a Grievant, after consultation with the Ombuds, chooses to forgo efforts to informally resolve a complaint or is unsatisfied with process or outcome, a formal *Grievance Petition* may be filed with the TUSDM Faculty Affairs Officer and others as described below.

The Formal Grievance Procedure is a structured three-step process with a fixed communication and response timeline. The procedure begins at the department-level and is elevated as warranted to higher levels of TUSDM and Tufts University decision-making authority. In rare circumstances, the Tufts University Provost may be the final arbiter.

A. Step One: Department Chair

The Grievant may deliver a formal *Grievance Petition* to the chair of his or her department with a copy to the TUSDM Faculty Affairs Officer; in it, the Grievant will describe the grounds for the grievance and name those

persons deemed by the Grievant to be parties involved directly or indirectly in the grievance. Any documentation supporting the grievance (e.g., documents, email correspondence, testimonials, or a list of potential witnesses) may be submitted with the *Grievance Petition*.

The Department Chair will investigate and attempt to resolve the grievance not later than 14 business days following receipt of the *Grievance Petition* unless the Grievant has agreed in writing to an extension. In instances in which the Department Chair is either the Grievant or the Respondent, the Grievant may elect to proceed directly to Step Two.

B. Step Two: TUSDM Dean

If the Grievant is not satisfied with the disposition of the grievance at Step One, or if no decision has been rendered within 14 business days following receipt of the *Grievance Petition* by the Department Chair (unless the Grievant has agreed in writing to an extension), the Grievant may deliver the *Grievance Petition* and supporting documentation, together with a summary of any action taken by the Department Chair, to the TUSDM Dean, with a copy to the Department Chair and TUSDM Faculty Affairs Officer.

The TUSDM Dean will investigate and attempt to resolve the grievance. This investigation may include a meeting among the faculty members involved in the issue(s) of the grievance and the Department Chair.

The TUSDM Dean will either provide a written response to the Grievant not later than 14 business days following receipt of the *Grievance Petition* (unless the Grievant has agreed in writing to an extension); or elect to convene a Grievance Hearing Board. The TUSDM Dean, in his sole discretion, may also direct the Grievant and Respondent(s) to attempt informal resolution under the guidance of the Ombuds.

In instances in which the TUSDM Dean is the Respondent, the Grievant may submit a TUSDM *Grievance Petition* directly to the Tufts University Office of the Provost for consideration, with a copy to the TUSDM Faculty Affairs Officer.

C. Step Three: Grievance Hearing Board

If no decision has been rendered not later than 14 business days following receipt of the formal *Grievance Petition* by the TUSDM Dean (unless the Grievant has agreed in writing to an extension), the Grievant may submit a *Request for Grievance Hearing* to the Dean, with a copy to the Department Chair and TUSDM Faculty Affairs Officer.

1) Grievance Hearing Board Formation and Composition

The TUSDM Dean will identify a minimum of three disinterested parties to serve on a Grievance Hearing Board not later than 14 business days following communication of decision to convene a Grievance Hearing Board or receipt of *Request for Grievance Hearing*, as applicable.

Any member of the faculty who has a conflict of interest or who has participated in the preceding steps of the grievance may not serve on the Grievance Hearing Board. The three-member Board thus constituted will elect by majority vote a Chair.

2) Scheduling of Formal Hearing

The Chair of the Grievance Hearing Board will promptly schedule and arrange for a hearing. The hearing date will be set not later than 30 business days following the request of the Dean.

In a case where a faculty member is under suspension or termination, the hearing will be held as soon as arrangements may reasonably be made, but not later than 14 business days following the receipt of the *Request for A Grievance Hearing*.

The Chair of the Grievance Hearing Board will notify the Grievant and all parties named in the *Request for Grievance Hearing* of the time, place, and date of the Grievance Hearing by certified mail, return receipt requested or by other service agreed upon by all named parties. At this time, the Chair of the Grievance Hearing

The Chair of the Grievance Hearing Board will also notify the TUSDM Dean that the hearing date has been scheduled. The TUSDM Dean may, if appropriate, notify the Tufts University Provost of the formation of a

Grievance Hearing Board and nature of the grievance.

3) Conduct of the Grievance Hearing

The Grievance Hearing, which may comprise one or more individual sessions, will be closed unless opened by the mutual consent of all parties to the grievance and the Grievance Hearing Board. The Board will keep an accurate record of the hearing (i.e., by use of a court reporter, an electronic recording unit, detailed transcription, or by the adequate taking of minutes).

Proceedings of the Board are not those of a court of law, and it is a matter of considerable importance to maintain an atmosphere of collegiality. Consequently, the presence of legal counsel on behalf of either party to the grievance is not permitted during the proceedings.

The Chair of the Grievance Hearing Board will preside over the hearing to: (a) determine the order of procedure during the hearing, (b) assure that all interested parties have the opportunity to participate, and (c) assure that all participants in the Grievance Hearing have a reasonable opportunity to present and substantiate their arguments, and (d) maintain decorum.

The Grievance Hearing Board may be advised by the Tufts University Office of General Counsel or a trained mediator on matters of procedure. Insofar as the proceedings are intended to be of a mediatory nature, they need not follow rules relating to court proceedings.

Postponement of grievance hearings beyond the time set forth in these procedures will be made only with the approval of the Grievance Hearing Board. Granting of such postponements will only be for good cause shown. The Board may, without special notice, recess the hearing and reconvene it if necessary to accommodate the schedules of the participants or to obtain new or additional supporting material or consultation.

A Grievant who, without good cause, fails to appear and proceed at the hearing will be deemed to have withdrawn the grievance. When appearing before the Board, both the Grievant and the Respondent are entitled to be accompanied by a member of the TUSDM Faculty serving as advisor who may fully participate in the proceedings.

All parties will attempt to present their case with a minimum of procedural encumbrance. The Grievance Hearing Board should take special care in evaluating hearsay, where the person whose statement is being offered is unavailable to appear in person.

Upon conclusion of the presentation of oral and written arguments, the hearing will be concluded. At the discretion of the Grievance Hearing Board, the parties may be allowed limited time for closing statements. The Board may thereupon, at a time convenient to itself, conduct its deliberations in executive session.

No member of the elected Grievance Hearing Board may hear testimony or vote by proxy.

4) Grievance Hearing Board Findings

Not later than 14 business days following the conclusion of the Grievance Hearing, the Board will communicate its findings and will include recommendations for disposition of the grievance, in a written report to the TUSDM Dean—or in cases where the TUSDM Dean is the Respondent, the Tufts University Provost for final disposition.

If the TUSDM Dean determines that the Grievance Hearing Board should reconsider its findings and recommendations, said request for reconsideration will be made not later than 30 days of receipt of the Grievance Hearing Board report. This request will be in writing and the reasons for requesting reconsideration will be stated in full.

The Grievance Hearing Board will promptly reconsider its findings and/or recommendations and will thereafter issue a second report not later than 30 business days following receipt of the TUSDM Dean's request. Upon receipt of the second report of the Grievance Hearing Board, the TUSDM Dean will dismiss the Board and take whatever action, if any, he or she believes the report warrants and so advise the Grievant and Respondent in writing.

After final disposition of a Grievance Hearing, the record of the hearing and copies of all documents pertaining to the Grievance Hearing will be placed in the files in the TUSDM Dean's Office. The final decision of the TUSDM is

binding and will not be subject to further internal review, unless the Grievant elects to appeal to the Provost.

If unsatisfied with the Dean's final action in consultation with the Grievance Hearing Board, the Grievant may request review by the Tufts University Provost not later than 14 business days following receipt of the TUSDM Dean's final action.

5) Request for Provost Review of TUSDM Grievance Process Outcome

The decision to undertake further review is at the sole discretion of the Provost. If warranted, the final action of the TUSDM Dean, together with the final report of the Grievance Hearing Board and record of the hearing, will be submitted to the Provost for final disposition. The Provost will base the decision on the record, including the findings and recommendations.

VII. CONFLICTS OF INTEREST

Any member of TUSDM Faculty or Administration who was involved in the formal decision-making process that occasioned a grievance may not participate in the adjudication of the grievance. A member of the Faculty or Administration whose impartiality might be compromised by participating in the adjudication of the grievance must recuse himself or herself from consideration of the grievance.

VIII. CONFIDENTIALITY

Confidentiality is important to the success of any grievance procedure. Accordingly, those who participate in the grievance process—and thereby become privy to a Grievant's allegations, the TUSDM response, information obtained in the course of any investigation and any resulting reports—must respect the confidentiality of matters disclosed to them.

This assurance of confidentiality is designed as a protection for the Grievant. Should the Grievant choose to make public that which would otherwise be deemed confidential, the TUSDM, Tufts University may respond by disclosing related matters that ought, in fairness to parties involved in the grievance process, be disclosed.

IX. RECORDS RETENTION

All official records of any Formal Grievance Process will be retained in by the TUSDM Faculty Affairs Officer for an unspecified time but no less than 6 years.¹ No documents will be associated with any one individual's personnel file, regardless of Grievant or Respondent status. Participants in the grievance process, including the Ombuds, TUSDM Dean, and Grievance Hearing Board members will not retain personal notes or records related to any grievance once it has been officially resolved.

X. GRIEVANCE PROCESS TIMELINE

Prospective grievants should initiate action regarding potential grievances [as soon as possible] [not later than one year [two years] from the date of the grievance. Once the process is initiated, the Grievant should keep a file of all documents and communication related to the complaint.

Resolution of all informal complaints and formal grievances must adhere to the following timeline unless the Grievant agrees to an extension at each step. Extensions must be confirmed by the Grievant in writing.

A. Informal Complaint Resolution

Informal complaints will be resolved, withdraw, or elevated to formal grievance within:

- 45 business days of the Ombud's receipt of the signed and dated Consent to Informal Complaint Resolution.

¹ Records Retention Standard under HIPAA

B. Formal Grievance Procedure

Step 1	Review and Resolution at Department Level	<p>Department Chair will respond not later than:</p> <ul style="list-style-type: none"> - <u>14 business days</u> following receipt of <i>Grievance Petition</i>
Step 2	Review and Resolution at TUSDM Dean Level	<p>TUSDM Dean will respond and/or convene a Grievance Hearing Board not later than:</p> <ul style="list-style-type: none"> - <u>14 business days</u> following receipt of <i>Grievance Petition</i> and summary of actions taken by Department Chair
Step 3	Review and Resolution by a Grievance Hearing Board	<p>The TUSDM Dean will identify a minimum of three disinterested parties to serve on a Grievance Hearing Board not later than:</p> <ul style="list-style-type: none"> - <u>14 business days</u> following communication of decision to convene a Grievance Hearing Board or receipt of <i>Request for Grievance Hearing</i>, as applicable. <p>Hearing date will be scheduled not later than:</p> <ul style="list-style-type: none"> - <u>30 business days</u> following receipt of the <i>Request for Grievance Hearing</i>. <p>In cases, where a faculty member is under suspension or terminated, the hearing date will be scheduled not later than:</p> <ul style="list-style-type: none"> - <u>14 business days</u> following receipt of <i>Request for Grievance Hearing</i>. <p>Grievance Hearing Board findings will be reported to the Dean not later than:</p> <ul style="list-style-type: none"> - <u>14 business days</u> following the conclusion of the Grievance Hearing <p>TUSDM Dean will determine need for and order, as appropriate, reconsideration of Grievance Hearing findings not later than:</p> <ul style="list-style-type: none"> - <u>30 business days</u> following of receipt of the Grievance Hearing Board report <p>Reconvened Grievance Hearing Board will reconsider initial findings and issue second report not later than:</p> <ul style="list-style-type: none"> - <u>30 business days</u> following of receipt of TUSDM Dean request for reconsideration <p>TUSDM Dean will issue final adjudication of grievance not later than:</p> <ul style="list-style-type: none"> - <u>30 business days</u> following of receipt of either the original Grievance Hearing Board report or the second Grievance Hearing Board report <p>Grievant may request review by the Tufts University Provost not later than:</p> <ul style="list-style-type: none"> - <u>14 business days</u> following receipt of the TUSDM Dean's final action