

Missouri Western State University
Board of Governors Hearing and Grievance Procedure
Appendices
Approved: 07/08/2011

BOARD OF GOVERNORS HEARING AND GRIEVANCE PROCEDURE

Purpose: These procedures are intended to provide the Board of Governors with guidelines for the review of grievances brought to the Board through the grievance procedures set forth in the *Missouri Western State University Policy Guide* or where the Board adjudicates contested cases pursuant to applicable statutes.

I. DEFINITIONS

A. Adjudicatory grievance: An adjudicatory grievance is a grievance involving the termination or suspension of employment. Only grievances involving the suspension or termination of employment may be appealed to the Board of Governors.

B. Complaining Party: A faculty member of Missouri Western State University who has an adjudicatory grievance.

C. Responding Party: The Respondent identified in the grievance procedure under *Missouri Western State University Policy Guide* or, if none so identified, the party whose actions are put at issue by the request for review or such person as may be designated by that party to respond.

D. Working Day: Weekdays during the fall and spring semesters and weekdays on which classes meet during the eight-week summer semester, exclusive of holidays which are recognized by the University. Counting for any time period begins the working day after an action is taken or a document is received.

E. Decision: Determination and orders whether negative or affirmative in form.

II. PROCEDURE IN BOARD PROCEEDINGS

A. PREHEARING PROCEDURES

1. The complaining party shall initiate a review by the Board by submitting a written request for review to the Chair of the Board.

a. An appeal from a grievance decision in an adjudicatory grievance under the grievance procedures shall be made within the time limit set forth for such appeal in the *Missouri Western State University Policy Guide*, that is, fifteen days.

2. The Responding Party may submit an answer to the request for review within ten (10) working days after receipt of the request for review. The answer shall be filed with the Chair of the Board with a copy to the complaining party.
3. The parties may be represented by legal counsel or other representation. The Board may appoint a hearing examiner to preside over any evidentiary proceeding before the Board and/or advise the Board further on the proceedings.
4. Every writing shall state the name and address of the party filing it, and the name and address of any attorney representing any party.
5. Reasonable opportunities shall be given for the preparation and presentation of evidence relating to any issue raised by the complaint or answer. The parties may waive the formalities of the procedure.

B. NOTICE

1. The Chair of the Board shall promptly mail to Board members, all necessary parties and to any other person to whom the Board determines that notice shall be given a notice that a request for review has been filed. When the name and address of any party is not known, notice may be by publication.
2. The notice shall state the parties to the case, that a request for review has been filed, the date it was filed, a brief statement of the matter involved, and whether an answer is required.
3. Once a place and time for a hearing has been determined, the Board shall mail a notice of hearing to all persons who received notice of the request for review, and to any other persons who are or may become parties to the proceeding. The notice of hearing shall state the parties to the case, the time and place of hearing.
4. No hearing shall be had until at least ten (10) calendar days from the mailing of the notices.

C. HEARING PROCEDURES

1. Hearings shall be recorded and preserved in such manner as the Board shall direct.
2. Official notice of matters of which a court would take judicial notice is permitted.
3. The rules of evidence as provided by state law will apply to the admission of evidence.

4. Records and documents of the University may be received in evidence.
5. The examination of witnesses shall be conducted only after an oath or affirmation has been administered.
6. Each party may call witnesses, introduce exhibits, cross-examine opposing witness regarding relevant issues, impeach any witness and rebut evidence.
7. Even if a party chooses not to testify the opposing party may call and examine him or her as if under cross-examination.
8. Each party may present oral arguments or written briefs at or after the hearing which shall be heard or read by each member of the Board who joins in rendering the final decision.
9. Depositions may be taken in the same manner as provided by the Missouri Rules of Civil Procedure.
10. Discovery may be conducted as provided by the Missouri Rules of Civil Procedure.
11. The use of subpoenas as provided by the Missouri Rules of Civil Procedure.
12. Those members of the Board who render or join in the rendering of a final decision shall have either heard all of the evidence, read the full record, including all the evidence, or personally considered the portions of the record cited or referred to in the arguments or briefs.
13. Decisions and order of the Board shall be in writing. The findings of the fact shall be stated separate from the conclusions and shall include a concise statement of the findings of which the Board based its decision. Written notice of the decision shall be promptly delivered or e-mailed to each party or his or her attorney of record. All decisions of the Board shall be final.
14. The Board may adopt procedures for informal disposition of a matter by stipulation, consent order or by summary proceeding.

Originally Adopted: June 26, 2003
Changes made to reflect University status: August 28, 2005