

Southern Utah University
Faculty Review Board
Procedures & Guidelines for Facilitating Hearings
(Version- October 2025)

Introduction

This document establishes and describes the procedures that the Southern Utah University (“SUU”) Faculty Review Board (“FRB”) relies on to facilitate hearings it is authorized to hold by University Policy. These hearing procedures are collaboratively drafted, and revised from time to time, by the members of the Faculty Review Board and the Provost’s Office. The procedures are intended to provide specific information and guidance about how the Faculty Review Board approaches its responsibilities to hear matters involving faculty members. The procedures augment policy requirements, and give greater details about hearing procedures that are not specifically identified by policies. In essence, where the policy may be silent these procedures fill in those details that are more effectively addressed in a procedural document.

Interpretation Guidelines

These procedures are subservient to law and University policy, and if there is a conflict between them, the law or policy will control. In those cases where law and policy specify a procedure, that procedure is adopted by the Faculty Review Board.

Procedures

1.0 Membership & Leadership Structure

The Faculty Review Board is a standing committee of faculty established by the Faculty Senate and referenced in policies associated with faculty professional responsibilities (see SUU Policy 6.28) and grievance resolution (see SUU Policies 6.12, 6.22, and 6.XX).

1.1 Member Selection

Senators from each college/school agree upon a faculty representative from their college/school and provide recommendations to the Faculty Senate President at least one week prior to the last Senate meeting in April. The President notifies nominees of their appointment. Should the Senators nominate someone who is unable or unwilling to serve, the Faculty Senate President will notify the senior Senator and ask for a second nominee.

1.2 Member Qualifications

To serve on the Faculty Review Board, a faculty member must be tenured and hold the rank of Associate Professor or Professor, and have been employed at Southern Utah University for a minimum of three (3) years.

1.3 Term of Service

Members of the Faculty Review Board serve a term of three (3) years. Terms may be renewed by the Faculty Senate Executive Committee. Terms are staggered to provide continuity in operation and institutional memory for the full Board.

1.4 Alternate Members

The Faculty Senate Executive Committee should establish a pool of alternate members for the Faculty Review Board for the purpose of substituting regular members who (a) must recuse from a particular matter because of a conflict of interest or (b) are challenged by a party for actual or perceived bias. Alternate members should be drawn from the current Senators who are tenured.

1.5 Faculty Review Board Leadership

The Faculty Senate Executive Committee will appoint a Chair and Deputy Chair from among the members of the Faculty Review Board.

1.5.1 Faculty Review Board Chair

The Chair serves a three (3) year term that is renewable as long as they remain a member of the Faculty Review Board. The Chair is responsible for (a) scheduling hearings and pre-hearing meetings, (b) drafting correspondence and documents on behalf of the Faculty Review Board, (c) gathering, compiling, and organizing relevant evidence, information, or documents for hearings, (d) leading and presiding at hearings, and (d) coordinating the training of new members.

1.5.2 Faculty Review Board Deputy Chair

The Deputy Chair serves a one (1) year term that is renewable as long as they remain a member of the Faculty Review Board. The Deputy Chair may be delegated responsibilities of the Chair on a case-by-case basis when the Chair determines it is appropriate to delegate or may assume the responsibilities of the Chair when the Chair is conflicted or unable to fulfill their responsibilities as a result of circumstances.

1.6 Procedures Related to Member Recusal

A member of the Faculty Review Board should recuse themselves from any matter in which they reasonably believe they have a conflict of interest. A conflict of interest may arise because the member is (a) likely to be a fact witness in a matter before the Faculty Review Board, (b) so familiar with the facts and issues of a matter that they cannot impartially evaluate the claims, or (c) likely to be viewed as having a personal, financial, or employment interest that will be impacted by the outcome of a particular matter.

To facilitate a conflict of interest assessment, prior to sending the notice of hearing to the parties, the Faculty Review Board Chair will share enough information about the matter with each member of the Faculty Review Board so they can determine whether an actual or apparent conflict exists for them. If they do believe an actual or apparent conflict exists, they will notify the Chair of their plan to recuse within 48 hours of being apprised of the nature of the matter. Members may consult with the Chair to evaluate the potential need to recuse.

The Faculty Review Board Chair will inform the Faculty Senate President of the recusal and request an alternate member be designated to serve for the pending matter.

1.7 Challenges to the Impartiality of Members

A faculty member that is a party to a matter before the Faculty Review Board may challenge the impartiality of members if they have a sufficient basis in fact. The challenge should be communicated in writing, to the Faculty Senate President, within three (3) days of receiving the notice of a pending hearing. The written challenge should articulate the factual basis as to why a member(s) of the Faculty Review Board could not evaluate a matter impartially.

The Faculty Senate President will have two (2) days to evaluate the challenge and reject or sustain it. The Faculty Senate President will inform the party who originated the challenge of their decision. If the challenge is sustained, the Faculty Senate President will seat an alternate member for the matter, and inform the parties of the identity of the alternate member.

Parties are not entitled to peremptory challenges.

2.0 Notification of Pending Matters before the Faculty Review Board

The Faculty Review Board Chair is responsible for notifying the parties of a pending matter before the Faculty Review Board.

2.1 Form of Notice

Notice should be conveyed in writing and transmitted using a method that is likely to reach the parties in a timely manner. Most often, this will be through an institutional email address. If a party has been placed on administrative leave and had access to an institutional email removed, the Chair may use a personal email or send the letter certified mail to an address on file with Human Resources.

2.2 Content of Notice

University Policy often specifies the content of notice letters. In the event the policy does not specify the content, the following information should be included in the notice:

- (a) A clear and concise statement that provides a general description of the matter pending before the FRB;
- (b) A clear and concise description of the facts, information, and evidence that may have been obtained by the University that is relevant to the matter pending before the FRB;
- (c) References or citations to the relevant policies that pertain to the matter pending before the FRB;
- (d) A brief summary of the procedures that are to be used at the hearing;
- (e) A statement requesting the parties meet with the FRB Chair or Deputy Chair for a pre-hearing meeting to review evidence, schedule a hearing (if not already scheduled), and answer questions regarding the procedures and process;
- (f) A statement that includes an explanation that the FRB may proceed with a hearing and may make a decision that is unfavorable to the parties should they fail to respond to the notice or declines/fails to attend or participate in the hearing;
- (g) A statement explaining that the parties may be accompanied at the pre-hearing meeting and the hearing by an advisor of their choosing;
- (h) A statement that explains the standards of review or evidence that the FRB will use to make a determination about matter;
- (i) Specific dates, times, and locations for the pre-hearing meeting and hearing if those can be ascertained before the notice is sent. If not ascertainable beforehand, the notice should indicate that the parties should provide optional times that would work for them to conduct a pre-hearing and hearing.

2.3 Confirmation Notice has been Received

As part of the notice, the Chair should request that the parties confirm they have received it and the method by which the parties can provide that confirmation.

2.4 Timeframe for Notice in Relation to the Hearing

Notice of the hearing should be sent at least ten (10) Days before the hearing. When possible the notice should be sent as soon as the need for a hearing has been confirmed.

2.5 Scheduling Hearings

To make scheduling hearings more manageable, the FRB should establish a day and time when the standing members are generally available and hearings can be held.

3.0 Structure and Sequence of Hearings

3.1 Hearing Facilitation Structure

3.1.1 Setting and Location of Hearings. When possible, hearings before the FRB should be held in a confidential room on campus where members of the FRB, the parties, and their advisors, if any, can meet in the same physical location contemporaneously. When not possible, hearings can be facilitated using an online, digital meeting platform that is supported by the University's IT staff.

3.1.2 Hearing Sequence

3.1.2.1 - FRB Chair is responsible for presiding at hearings and will introduce the need for the hearing and provide for preliminary matters that are important to address in creating a verbatim record of the hearing. These preliminary matters include the date, time, location, and subject. The Chair may use a script for ensuring consistency across hearings before the FRB. During the preliminary matters, the Chair may also introduce helpful rules of decorum or agreements for ensuring a civil and orderly proceeding.

3.1.2.2 - The Chair will invite all individuals participating in the hearing to introduce themselves and identify their roles as it pertains to the hearing. Typically, members of the FRB introduce themselves, then the parties and their advisors may introduce themselves.

3.1.2.3 - After introducing the hearing and preliminary matters for establishment of a record and introductions, the FRB Chair may introduce the relevant policies and issues that are contested or disputed so all participating are aware of those issues that need to be resolved through a hearing.

3.1.2.4 - The Complainant (or aggrieved party) is invited to present the relevant information and evidence that they believe supports their position regarding the matter and its subsequent issues. The presentation of information is delivered by the party and not their advisor. This presentation is analogous to an opening statement and should introduce all evidence in the possession of the Complainant/Grievant. Following the presentation, members of the FRB may ask relevant questions to clarify and complete the record of information that supports the Complaint/Grievant's position. After the FRB completes its questions, then the opposing party (Respondent/Accused) may request that the Chair ask the Complainant/Grievant to answer additional questions.

3.1.2.5 - After all questions from the FRB and opposing party have been asked, the Complainant may invite witnesses that have material information about the matter and its issues to give testimony. Please see the section on witnesses for additional details regarding how witnesses may share information. The Chair may invite the witness to make a brief statement about what they know, and then receive questions from the FRB and opposing party in that order.

3.1.2.6 - Once all witnesses supporting the Complainant/Grievant have been able to testify, the Respondent/Accused is invited to present the relevant information and

evidence that they believe supports their position regarding the matter and its subsequent issues. The presentation of information is delivered by the party and not their advisor. This presentation is analogous to an opening statement and should introduce all evidence in the possession of the Respondent/Accused. Following the presentation, members of the FRB may ask relevant questions to clarify and complete the record of information that supports the Respondent/Accused's position. After the FRB completes its questions, then the opposing party (Complainant/Grievant) may request that the Chair ask the Respondent/Accused to answer additional questions.

3.1.2.7 - After all questions from the FRB and opposing party have been asked, the Respondent may invite witnesses that have material information about the matter and its issues to give testimony. Please see the section on witnesses for additional details regarding how witnesses may share information. The Chair may invite the witness to make a brief statement about what they know, and then receive questions from the FRB and opposing party in that order.

3.1.2.8 - After all available and relevant witnesses have been able to testify, the parties will be invited to offer a brief summation of all that has been shared. The summations begin with the Complainant and end with the Respondent.

3.1.2.9 - Once all evidence and witnesses have been presented and documented in the record, the FRB Chair will conclude the live hearing portion and move into a closed deliberation. There is no expectation that the FRB will complete its deliberation in the immediate aftermath of the hearing, though it could if it chose to do so.

3.1.2.10 - The FRB Chair will prepare a written determination regarding the outcome of the hearing and the FRB's deliberation and provide that determination to the parties within the timeframe established by the controlling policy.

3.2 The Expectation of Parties for Participation in the Hearing

3.2.1 A party is expected to participate in a hearing before the FRB, but they cannot be compelled to do so by the FRB.

3.2.2 A party could waive participating in the hearing and rely on a written statement in lieu of attendance and participation. This approach could lead to an adverse outcome in the event the FRB determines that it needs additional information at the time of the hearing or its deliberation. If a party elects to waive their hearing participation, they cannot use that fact as a basis for appeal if the decision/determination of the FRB is unfavorable but could have been different had they possessed information that was available to the waiving party.

3.2.3 A party must abide by any rules of decorum established by the FRB or the FRB Chair.

3.2.4 A party is expected to interact and engage directly with the FRB and witnesses that participate. Though a party may be accompanied by an advisor, the advisor's role in the hearing is to provide quiet and discreet support/coaching to their party.

3.2.5 A party should be prepared to provide the FRB Chair with a list of questions that would be useful to have asked during the hearing. The FRB Chair may elect to ask the questions on behalf of the party, or permit the party to ask them during the hearing. Additional, unanticipated or unplanned questions may be asked based on information introduced at the hearing, but those questions should be asked directly to the Chair for their determination of relevance and appropriateness. The FRB Chair may ask the parties to provide a written list of questions at the pre-hearing meeting or other date that makes sense for the circumstances of a particular hearing.

3.3 The Expectations of Witnesses for Participation in the Hearing

3.3.1 The FRB will receive fact witnesses that have relevant and material information or evidence about the issues to be considered during the hearing.

3.3.2 Character and Expert witnesses will not be received at the hearing and are not considered relevant to the issues addressed by the FRB.

3.3.3 Witnesses are expected to share truthful and complete information. The FRB Chair may orient witnesses when they are invited to enter the hearing, and may remind them of their obligation to provide accurate, complete, and truthful information at the hearing or face consequences under other University employment policies such as 6.28, 8.3.5, and 11.2.

3.3.4 Witnesses are the responsibility of the party that believes they support their position. That responsibility includes notifying witnesses of the date, time, and location of the hearing.

3.3.5 Parties must identify those witnesses they want to participate in the hearing to the FRB Chair in advance of the hearing so adequate preparations may be made for their participation. Advanced notice of witness participation should be provided at the pre-hearing meeting or five (5) days before the hearing, whichever is earlier.

3.3.6 The FRB does not have the authority or power to compel a witness to attend or participate at a hearing. Witnesses may decline to answer questions from the FRB or a party, but declining/failing to answer may be considered by the FRB in their assessment of the witnesses credibility or veracity.

3.3.7 Witnesses must maintain the decorum of the hearing and to the extent they are unable to do so, they may be dismissed without being able to share all information they may have.

3.3.8 Witnesses are questioned by the FRB first and then by the opposing party. Questions for witnesses may be exclusively routed through the FRB Chair to reduce the potential for aggressive questioning by a party. The FRB Chair has discretion to modify questioning practices based on the needs manifest during the hearing.

3.3.9 If a witness is unable to attend a hearing, they may provide a written statement containing relevant information and testimony. To the extent that a witness does provide a written statement, it may be weighed as less powerful or probative because contemporaneous questions cannot be asked to the witness to clarify or complete the information.

3.4 General Standards and Expectations for Hearings

3.4.1 The FRB does not rely on Rules of Evidence used in criminal and civil proceedings. The FRB accepts information and evidence that is relevant, material, and not unduly repetitious. The Chair has authority and discretion to accept or reject offered information or evidence applying a general understanding of the concepts of relevancy, materiality, and repetitiveness.

3.4.2 The FRB limits its decisions regarding alleged policy violations to the evidence that is introduced at a hearing. The FRB may accept evidence at a hearing about prior incidents or allegations of misconduct to the extent that they are factually related to the core allegations that brought faculty to the FRB. Care should be exercised to avoid introducing information about prior misconduct or allegations that are unrelated to the core allegations, and would have the effect of prejudicing members of the FRB against a faculty member. The Chair has discretion to restrict or limit information that has less relevancy and more potential for prejudice. The FRB may only consider a faculty member's past discipline for the purpose of determining the commensurateness of sanctions, and only after the FRB has concluded that a faculty member has violated a policy in the matter before it.

3.4.3 The role of the University's General Counsel, or designee, in hearings before the FRB is to provide the FRB with guidance and advice on how to facilitate fair and orderly hearings. Typically, the FRB Chair may, from time to time during a hearing, confer with the University's General Counsel on requests from parties or to aid in interpreting University Policy or these procedures. The Chair may request the presence of General Counsel at all hearings and pre-hearing meetings to provide counsel, guidance, and advice.

3.4.4 The FRB is a represented entity and if parties have advisors who are attorneys, those advisors should communicate with the University's General Counsel regarding legal matters they believe should be addressed as part of the hearing or pre-hearing preparations.

3.4.5 Hearings before the Faculty Review Board are confidential. Confidentiality is operationally defined as limiting the sharing of information to only those individuals who need to know that information because they are expected to perform a responsibility or role

associated with a hearing. If a person does not have a role or responsibility associated with a hearing, they should not receive information about or material to a hearing. The Chair of the FRB will remind FRB members, parties, witnesses, administrators, and advisors that they are obligated to maintain confidentiality of any information they obtain or receive as part of their participation in a hearing, UNLESS an individual can demonstrate that the information was in their possession as a result of means or methods outside of the hearing (e.g., direct observation, a party provided the information outside of the hearing, etc.). Breaching the confidentiality of a hearing could be the basis of independent misconduct proceedings against an individual who violated this expectation.

3.4.6 The FRB may draw adverse inferences when a faculty member that is a party or witness declines to provide information they should reasonably be expected to have.

3.4.7 - The FRB will be provided access to the investigative file during the period of time between the pre-hearing meeting and the hearing. Providing sufficient time for review is a consideration for scheduling the hearing, and may serve as a basis for choosing the maximum time of twenty (20) days. When an investigative file is particularly lengthy or complex, the FRB chair may request that the parties agree to an extension beyond twenty (20) days to permit FRB members to have more time to review. Requests for extensions and agreements to the same should be communicated in writing by the FRB Chair.

3.5 Hearing Records

3.5.1 The FRB will create a verbatim record of a hearing. That record will include an audio recording using a university-owned device and a transcript of the hearing. If a hearing is conducted by a digital meeting platform (e.g. Zoom), the recording may also include video.

3.5.2 The Chair should take care to ensure there is a back up recording or redundancy measure to avoid the loss of information.

3.5.3 The hearing recording and its transcription is the property of Southern Utah University. It is maintained as a University employment record that addresses a matter of performance and discipline. These records are governed by University Policy and relevant Utah General Retention Schedules (GRS 891, GRS 1965).

3.5.4 Access to the hearing recording or transcripts are controlled, and may be limited, by the Provost's Office and Human Resources. Parties may request access to hearing records and review them in a controlled environment with sufficient advanced notice. Typically, sufficient advanced notice will be 24 hours or one (1) business day.

3.5.5 Hearing records may be redacted to protect the identities and information of non-party employees or students consistent with University policy and relevant state and federal laws.

3.5.6 If hearing records are subject to a litigation hold, all access to the records must be authorized by the University's General Counsel or designee.

4.0 Post-Hearing Determinations

4.1 Written Determinations

4.1.1 Following the completion of a hearing, the Chair is responsible for preparing a written determination for the FRB.

4.1.2 Written determinations should be sent to the parties and key administrators within five (5) business days after the hearing. The day of the hearing does not count. The first day of the time period is the day after the hearing.

4.1.3 Written determinations should include the following information:

- (a) A clear and concise statement of the allegations giving rise to the hearing;
- (b) The date, time, and location of the hearing;
- (c) A statement explaining the supporting and refuting evidence that was considered and what information was persuasive to the FRB in reaching their conclusion;
- (d) A statement explaining that the FRB relied on the preponderance of the evidence to determine facts and conclude whether the policy(ies) were violated;
- (e) A clear and concise statement that identifies whether the Respondent has violated policies
- (f) A clear and concise statement that identifies or outlines any Sanctions that will be imposed;
- (g) A statement that explains the justification for the sanctions;
- (h) A statement that explains the FRB's determination may be appealed to the Provost;

4.1.4 Written determinations reflect the majority view of the FRB and do not require unanimity or consensus. A simple majority is all that is required for an adverse finding by the FRB.

4.1.5 All members of the FRB sign the post-hearing written determination to signify they participated in the process, but their actual vote remains confidential.