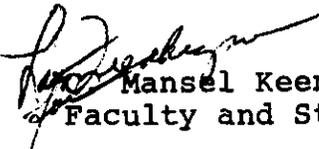


THE CALIFORNIA STATE UNIVERSITY AND COLLEGES
Office of the Chancellor
5670 Wilshire Boulevard
Los Angeles, California 90036

FSA 73-19

To: Presidents

March 7, 1973

From:  Mansel Keene, Vice Chancellor
Faculty and Staff Affairs

Subject: Executive Order No. 173, Grievance Procedures
for Academic Personnel of The California State
University and Colleges

Attached are five copies of the subject Grievance
Procedures as revised under Executive Order No. 173.
The revisions are noted on the last page of each
attached copy for easy reference.

Please provide for campus dissemination of the
revised Procedures to all academic employees.

CLS:atl

Attachment

Distribution

Vice President, Academic Affairs	(w/o attachments)
Vice President or Dean, Administration	" "
Business Manager	" "
Personnel Officer	" "
Chancellor's Staff	" "

THE CALIFORNIA STATE UNIVERSITY AND COLLEGES
Office of the Chancellor
5670 Wilshire Boulevard
Los Angeles, California 90036

To: Presidents

From: Glenn S. Dumke, Chancellor 

Subject: Executive Order No. 173, Grievance Procedures for
Academic Personnel of the California State University
and Colleges

I am pleased to attach five copies of Executive Order No. 173, revising the Grievance Procedures for Academic Personnel, along with the following documents:

1. Grievance Procedures for Academic Personnel of the California State University and Colleges (Attachment A);
2. Appendix of Code Sections (Attachment B).
3. Change sheet showing revisions from Executive Order No. 150 (Attachment C).

The revision accords to each grievant the right to be represented, subject to required notice, by a single representative, who is not an attorney admitted to practice law before any state or federal court, at grievance hearings and at other stages of the grievance process. If a grievant is so represented, then those campus officers having responsibility for the action of which the grievant complains also have a right to a single non-attorney representative. The revision appears in Sections 4.2, 10.13 and 10.15.1 of the Grievance Procedures.

Further substantive revision may be expected as a result of studies now under way by the systemwide committee to monitor grievance and disciplinary procedures.

Please arrange distribution to the various areas concerned with this matter.

GSD:atl

Enclosures (Attachments A, B & C)

Copies to: Chancellor's Staff

THE CALIFORNIA STATE UNIVERSITY AND COLLEGES
Office of the Chancellor
5670 Wilshire Boulevard
Los Angeles, California 90036

Grievance Procedures for Academic
Personnel of the California State University and Colleges
Executive Order No. 173

This Executive Order is issued pursuant to Section 42714 of Title 5 of the California Administrative Code.

1. Except as provided in this Executive Order, the Grievance Procedures for Academic Personnel of the California State University and Colleges are established effective this date, for the California State University and Colleges, and shall govern grievance proceedings with respect to academic employees according to its terms. A copy of these Procedures is attached to, and made a part of, this Executive Order.
2. As provided in these Procedures, they supersede other procedures previously in force in the California State University and Colleges.
3. These Procedures shall be made available to all academic personnel covered by its terms.
4. If, in the judgment of the President of a new or small campus of the California State University and Colleges, there are particular provisions in these Procedures which appear impractical to institute during an identified period of time, he may request the Chancellor to waive such requirements in the case of the particular Campus. The Chancellor shall review such requests and take action as appropriate.

Dated: March 5, 1973


Glenn S. Dumke, Chancellor

Grievance Procedures for Academic Personnel of the
California State University and Colleges

Sections

- 1 Purpose and Scope
- 2 Authority of President
- 3 Definitions and Grounds
- 4 Informal Solution
- 5 Initiation
- 6 Period of Limitation
- 7 Grievance Panel
- 8 Selection of Grievance Committee
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- 10 Grievance Committee Procedural Rules
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- 16 Construction

1.0 Purpose and Scope

- 1.1 All grievance procedures previously adopted for faculty members and academic employees are hereby revoked except as provided in Section 1.3.
- 1.2 The Grievance Procedures herein provided are established pursuant to Section 42714, Title 5, California Administrative Code, 1/ and are intended to apply to every California State University and College.
- 1.3 Grievance proceedings under the Interim Procedures for Handling Grievances and Personnel Complaints of Academic and Administrative Personnel (issued in 1961) or under Executive Orders 56, 80, 112 or 150, which were commenced but not concluded by March 5, 1973, shall continue under the procedures of the respective Interim Procedures or Executive Order, except that the Chancellor's Review Panel shall be advisory to the Chancellor and the Chancellor shall make the final decision. A proceeding shall be considered to have been commenced under Executive Order 56 or 80, as the case may be, on the date a formal request for a grievance proceeding was filed with the appropriate campus officer or agency.
- 1.4 It shall not be the function of any Grievance Committee to act as an appellate personnel committee. If a Grievance Committee finds a prior committee or administrator substantially departed from required procedures, and such departure was substantially prejudicial to the grievant, or that substantial evidence favorable to the grievant was ignored, or that under the circumstances, it was arbitrary to take the action of which the grievant complains, the Committee shall report its findings to the President with a recommendation either:
 - 1.4.1 that the appropriate faculty committee or administrator reconsider the matter and make a recommendation to the President in accordance with established procedure; or
 - 1.4.2 that such action as the Committee specifies be taken by the President.
- 1.5 These Procedures may be utilized by all full-time academic employees, both tenured and probationary of the California State University and Colleges, including those on leave of absence with or without pay.
- 1.6 The purpose of these Procedures is to provide an equitable means of correcting actions taken by the California State University and Colleges which directly aggrieve academic employees. It is intended that a grievance proceeding be

1/Specific code sections referred to in these procedures are set out in the Appendix.

initiated only in the gravest situations involving serious injustice to an academic employee.

When a grievance hearing is initiated, it thus may be assumed that a major problem is manifest. For this reason, the Grievance Procedures are deliberately precise. However, it must be emphasized that a grievance hearing is in no sense a trial. Attempts to resolve the areas of discontent by informal discussion shall precede, continue through, and preferably be a reason for terminating a grievance proceeding.

2.0 Authority of the President

- 2.1 All determinations and findings under these Procedures made at the Campus level by anyone other than the President are in the nature of recommendations to the President, who shall have final authority at the Campus level.
- 2.2 The functions of the President as described in these Procedures, may be delegated by him to designees who are employees of the Campus, and who shall exercise those functions in his name. However, the President shall be responsible for any action taken under his authority. All references in these Procedures to the "President" mean the President of the Campus at which the grievant is employed and include such designees.

3.0 Definition and Grounds

- 3.1 As used in these Procedures, a "grievance proceeding" is a proceeding initiated by an academic employee who claims that he was directly wronged in connection with the rights accruing to his job classification, benefits, working conditions, appointment, reappointment, tenure, promotion, reassignment, or the like. Such an action seeks correction of that asserted wrong. Such an asserted wrong may grow out of an arbitrary action, out of a substantially unfair departure from duly established procedures, or because substantial evidence favorable to the grievant was ignored. It does not arise from an unarbitrary exercise of discretion made pursuant to applicable procedures, nor does it arise from a minor defect in procedure, that is, one which probably did not affect an ultimate substantive decision. A grievance complains of a campus decision or action; it does not lie against any individual. A grievance proceeding is to be distinguished from a disciplinary action proceeding which does not give rise to correction of the effects of the wrongdoing, but instead looks to a dismissal, demotion, or suspension, or the imposition of some lesser sanction upon the wrongdoer.
- 3.2 A grievance proceeding may not be initiated for an asserted wrong arising out of either a disciplinary action proceeding or a grievance proceeding where the academic employee seeking

to initiate the grievance was either the person charged or the grievant in the prior proceeding.

- 3.3 Only final decisions are subject to review by a grievance proceeding; grievance proceedings may not be brought to review recommendations of faculty committees or of administrators. A final decision may be the subject of only one grievance proceeding by any grievant. The President or his designee shall determine whether a particular decision complained of is a final decision, and whether it was the subject of a previous grievance proceeding commenced by the same grievant. A grievance proceeding may not be brought to review such determinations of the President or his designee.
- 3.4 As used in these Procedures, "college working day" shall mean any day during the college year, other than a Saturday, Sunday, or campus academic holiday as that term is used in 5 California Administrative Code Section 42800.
- 3.5 As used in these Procedures, "campus" shall mean any of the institutions included within the California State University and Colleges as specified in Section 23601 of the Education Code.

4.0 Informal Solution

- 4.1 No grievance proceeding may be initiated unless, in an attempt to resolve the problem, the grievant has made a reasonable attempt to resolve the problem amicably on an informal basis.
- 4.2 At such informal discussions, the only persons present shall be the grievant, his representative if any, the campus officer or officers who have responsibility for the campus action of which the grievant complains, and a single representative for such officer or officers; provided, that no representatives may be present unless the grievant notifies the officer or officers in writing at least three college working days before the discussion of his intention to have a representative present and of the name, address and telephone number of the representative. No person who is an attorney admitted to practice law before any state or federal court may attend such discussions as a representative.
- 4.3 Any statements made in the course of such discussions shall not be admissible in the subsequent grievance proceeding, should it be initiated.

5.0 Initiation

- 5.1 A grievance proceeding shall be initiated by written Notice of Grievance sent by the grievant or grievants to the President. Such notice shall:
 - 5.1.1 Contain a concise statement of the facts giving rise to the grievance.
 - 5.1.2 State the relief sought.

- 5.1.3 List the persons with whom discussions were had or attempted on the problem in an attempt to resolve it on an informal basis.
- 5.2 On the same date the Notice of Grievance is sent to the President, a copy of the notice shall be sent to:
 - 5.2.1 The appropriate department chairman,
 - 5.2.2 The appropriate Dean
 - 5.2.3 The Academic Vice President or equivalent officer and the President shall be so notified.
- 5.3 A more detailed written statement of the case may be sent by the grievant or grievants to the President with copies to the persons designated in Section 5.2 of these Procedures within 10 college working days of the date on which the Notice of Grievance was sent.

6.0 Period of Limitation

- 6.1 If the grievance results from a single event, a grievance proceeding shall not be initiated more than 20 college working days after the grievant has learned of the event, provided that a grievance proceeding may not be instituted more than one calendar year after the occurrence of such event, regardless of the date of discovery. A grievance may result from a series of events over a period of time. In such case, these Procedures may not be used later than 20 college working days after the grievant has learned of the most recent of these events, provided that a grievance proceeding may not be instituted more than one calendar year after the occurrence of the most recent of such events, regardless of the date of discovery.

7.0 Grievance Panel

- 7.1 Each Campus shall have a Grievance Panel.
- 7.2 The Grievance Panel shall consist of all tenured academic employees of the Campus holding the rank of professor or associate professor, holding full-time appointments, and assigned at least two-thirds time to teaching or research, or both.

8.0 Selection of Grievance Committee

- 8.1 Within three college working days following the day of receipt of the Notice of Grievance, the President shall cause a Grievance Committee of three members to be selected by lot from among the members of the Grievance Panel. The grievant, members of his department or equivalent administrative unit, and persons directly involved in the action or decision which is the subject of the grievance as well as persons who made recommendations as to such actions or decisions shall be excluded from membership in the Panel during this selection.

The grievant and the persons receiving notice pursuant to Section 5.2 of these Procedures shall be notified in advance of the date, time and place of selection and may be present at the time of selection if they wish to excuse or challenge any persons selected.

- 8.2 Service as a member of the Grievance Panel, as a member of the Grievance Committee, and as a member of the ad hoc panel described in Section 8.4 of these Procedures, unless excused by the President for good cause, is part of the normal and reasonable duties of each employee designated in Section 7.2 of these Procedures during the periods of the year when he is required to furnish services to the college.
- 8.3 The grievant and those persons listed in Section 5.2 of these Procedures may excuse up to two persons from those selected for the Committee without cause. Each may challenge any person selected for membership on the Committee because he is related to the grievant or to any person directly involved in the action or decision which is the subject of the grievance or to any person who made recommendations as to such actions or decisions, or because of past association with such persons which would prejudice his judgment to the degree that it appears that a fair hearing could not be had. The President shall determine whether the facts present grounds for disqualification and his decision shall be final.
- 8.4 If the list of Panelists becomes exhausted before all three members of the Committee can be appointed, the President of the closest neighboring campus of the California State University and Colleges to the campus attempting to select a Committee shall, upon request by the President of the campus where the grievance has been filed, select by lot from the Grievance Panel at that neighboring campus an ad hoc panel of 20 persons. Utilizing this panel, the procedures provided in Section 8.1-8.3 of these Procedures will be implemented by the President of the campus where the grievance has been initiated. Should this ad hoc panel become exhausted, it shall be replenished by the means by which it was established.

9.0 Initial Determination

- 9.1 The Grievance Committee shall determine on the basis of the Notice of Grievance and any written statement of the case submitted pursuant to Section 5.3 of these Procedures whether there are sufficient facts asserted to make it appear that grounds for a grievance proceeding exist, and that a hearing should be held. An affirmative determination shall be made only if all criteria and procedural requirements stated in Sections 1, 3, 4, 5 and 6 of these Procedures have been fully met.

9.2 The initial determination shall be made by majority vote of the Grievance Committee and written notice thereof sent to the President and to the persons listed in Section 5.2 of these Procedures within five college working days of the appointment of the third member of the Grievance Committee. Should that fifth day end without such determination and written notice having been made, the President shall make the initial determination and send notice thereof to the persons listed in Section 5.2 of these Procedures within the next two college working days. Should the President not make and announce such decision within the allotted time, the matter shall proceed to hearing as though an affirmative determination had been made and announced on the seventh college working day after appointment of the third member of the Grievance Committee.

9.3 If the initial determination is negative, the Notice of Initial Determination shall state the reasons for that negative decision, and there shall be no further proceedings under these Procedures.

9.4 If the initial determination is affirmative, the Notice of Initial Determination shall state the date, time, and place when and where the hearing on the grievance shall occur. The date selected shall be within fifteen college working days of the date of the announcement. Once set, it may only be extended by the Chairman of the Grievance Committee (see Section 10.2 of these Procedures) for reasons which, in his opinion, are compelling. In setting the date, and granting extensions, the time restriction in Section 11.3 of these Procedures should be kept in mind.

10.0 Grievance Committee Procedural Rules

10.1 Decisions of the Grievance Committee, except rulings made by its chairman (see Sections 10.3 and 10.4 of these Procedures), shall be by majority vote of the three members.

10.2 Upon first convening, the Grievance Committee shall elect a Chairman and acquaint itself with these Procedures.

10.3 Unless overruled by a majority of the Grievance Committee, rulings of the Chairman shall be final on all questions except those pertaining to the initial determination and the substance of the findings and recommendations of the Committee which are sent to the President. All other provisions of these Procedures pertaining to the authority of the Chairman shall be subject to this section.

10.4 The Chairman may establish such other rules, within the general guidelines of these Procedures, as he deems necessary.

- 10.5 The Grievance Committee, through its Chairman, may obtain advice, as needed, from the Office of the Chancellor.
- 10.6 Two members of the Grievance Committee, one of whom must be the Chairman, shall constitute a quorum for transaction of the business of the Committee. No member who is absent during any part of the hearing may participate in the preparation of findings and recommendations of the Committee without first listening to the tape recording of the portion of the hearing conducted in his absence.
- 10.7 The Chairman of the Grievance Committee shall arrange for tape recording, but not a transcription, of the hearing. No other recording of the hearing shall be permitted.
- 10.8 Once a grievance has been set for hearing pursuant to Section 9.4 of these Procedures, the grievant may withdraw all or any part of his grievance only with the consent of the Grievance Committee. Once the hearing has been completed, the grievant cannot withdraw his grievance, even though the Committee has not yet formulated its findings and recommendations.
- 10.9 At the hearing, the grievant shall present his evidence, following which other evidence shall be received. The grievant shall have the burden of persuasion.
- 10.10 Where more than one grievant complaining of a wrong arising out of the same set of facts has a hearing pending, the hearings may be consolidated with the approval of all such grievants and of the Grievance Committee first appointed to hold such hearings. The consolidated hearing shall be conducted by that Grievance Committee.
- 10.11 The grievant and those persons listed in Section 5.2 of these Procedures shall be permitted to be present at all proceedings of the hearing whenever any evidence is being presented, and, subject to recognition by the Chairman of the Grievance Committee, shall be permitted to:
 - 10.11.1 Examine all evidence presented to the Grievance Committee.
 - 10.11.2 Present evidence available to them and to question witnesses. Written statements may be accepted in evidence by the Grievance Committee but only from persons unable, in the opinion of the Grievance Committee, to attend the hearing. Such inability shall be found only in cases of serious illness or death of the witness or a member of his family, physical absence from the area due to preexisting plans which cannot conveniently be changed, and the like.

- 10.11.3 Present an oral or written argument, or both, prior to the conclusion of the hearing.
- 10.12 The Chairman of the Grievance Committee shall:
 - 10.12.1 Call witnesses before the Committee as requested by the grievant and those persons listed in Section 5.2 of these Procedures and by members of the Grievance Committee,
 - 10.12.2 Maintain an orderly hearing and permit no person to be subjected to abusive treatment. He may eject or exclude anyone who refuses to be orderly.
- 10.13 Representation shall be permitted at grievance hearings and at other stages in the grievance process at which the grievant may be present. Representation at informal discussions held pursuant to Sections 4.1 - 4.3 is subject to the provisions of Section 4.2. Representation at a grievance hearing shall be subject to the grievant's notifying the President or his designee in writing, at the earliest practicable date, and, at any event, at least three college working days before the hearing commences, of his intention to be represented. No person may represent the grievant or the persons listed in Section 5.2 who is an attorney admitted to practice law before any state or federal court. At any hearing, only one representative may be present for the grievant and only one representative may be present for all of the persons listed in Section 5.2.

10.14 At the hearing, the members of the Grievance Committee may ask questions of any witness or other person present at the hearing.

10.15 Persons Who May Attend Hearings; Confidentiality.

10.15.1 Hearings shall be closed to everyone other than members of the Grievance Committee, the grievant, the President, those persons listed in Section 5.2 of these Procedures, the representatives, if any, authorized by Section 10.13, the tape recorder operator, if any, witnesses while they are presenting evidence, and the representatives of not more than two recognized faculty organizations as provided in this Section.

10.15.1.1 The grievant and the President may each authorize one person who is a representative of a recognized professional faculty organization or the Academic Senate or Council of the Campus to attend the hearing as an observer.

10.15.1.2 It is the policy of the California State University and Colleges that evidence, proceedings, findings and recommendations (but not the final decision of the President) are confidential and shall not be made public by the Campus or by any participant in a hearing, including the faculty organization or Senate or Council observers, except as any of the foregoing may be filed in court or introduced in evidence in an administrative or court proceeding brought to review an action taken pursuant to these Procedures. In the event these matters should become public, however, the President may authorize such public statements as are appropriate. This policy of confidentiality shall not preclude the Campus from taking any action following appropriate procedures against any person or entity on the basis of evidence developed at the hearing.

10.16 Pursuant to Section 1.4 of these Procedures, if a Grievance Committee finds that a prior committee or administrator substantially departed from required procedures, and such departure was substantially prejudicial to the grievant, or that substantial evidence favorable to the grievant was ignored, or that, under the circumstances, it was arbitrary to take the action of which the grievant complains, the Committee shall report its findings to the President with a recommendation either:

10.16.1 that the appropriate faculty committee or administrator reconsider the matter and make a recommendation to the President in accordance with established procedure; or

10.16.2 that such action as the Committee specifies be taken by the President.

10.17 The hearing shall not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely. Evidence which is merely repetitious or cumulative shall be excluded.

10.18 Arguments by the grievant concerning the legal (as distinguished from factual) applicability, or legal validity of any statute, regulation, resolution of the Board of Trustees, Standing Order, or Chancellor's Executive Order, shall not be addressed to the Grievance Committee, but to the President, as soon as the hearing has concluded. The President shall seek advice on the matter from the Office of General Counsel. The advice received from that office shall be considered by the President before a final campus decision is rendered.

11.0 Findings and Recommendations

11.1 Following conclusion of the hearing, the Grievance Committee shall meet in executive session, with all other persons excluded. In this session, the Committee shall prepare its findings of fact and recommendations to the President for settlement or solution of the grievance.

11.2 The Grievance Committee shall make its written report to the President of the Campus, with a copy to the grievant. The tape recording of the hearing and the Committee's file on the matter shall be forwarded to the President at this time.

11.3 The President must receive the Grievance Committee report within 30 college working days from the date

of the Notice of Initial Determination. In any case in which such report is not received by the end of the 30th day, the Grievance Committee shall be foreclosed of jurisdiction in the case. In such case, the Chairman shall immediately furnish to the President the Notice of Grievance and any statement prepared pursuant to Section 5.3, the President shall make such decision in the case as he deems wise, and no further action may be taken in the matter pursuant to these Procedures.

- 11.4 In its deliberations, no evidence other than that either received or discussed at the hearing shall be considered by the Grievance Committee.

12.0 Presidential Action

- 12.1 Upon receipt of the report of the Grievance Committee, the President of the Campus shall review the findings and recommendations of the Grievance Committee and decide upon the action to be taken in the matter. The decision of the President shall concur with the recommendations of the Grievance Committee except in rare instances when, in the opinion of the President, compelling reasons exist for a different result.
- 12.2 In the event that the President's decision is not in accord with the Grievance Committee's recommendations, the President and the Grievance Committee shall make an effort to resolve their differences regarding disposition of the case. If no such resolution occurs, the compelling reasons for the President's decision shall be detailed in his written Notice of Decision.
- 12.3 Within five college working days of the time he receives the recommendation of the Grievance Committee, or as soon thereafter as possible, the President shall send his Notice of Decision to the grievant and to the Grievance Committee unless he returns the matter to the Grievance Committee for clarification, further proceedings as appropriate, or reconsideration of its recommendations, in which cases the five college working days shall run from the date the Grievance Committee returns its further report to him. A Grievance Committee may change its recommendations from those forwarded to the President pursuant to Section 11.2. The President then shall make his decision.
- 12.4 The decisions of the President in each case are final at the campus level.

13.0 Record

- 13.1 If the President's decision is not in accord with the Grievance Committee's recommendations and an appeal

is properly filed with the Chancellor, or if the grievant subsequently commences legal action seeking judicial review of his grievance, the grievant, under supervision and at his own expense, may obtain a written transcript of the tape recording of the hearing, provided that he first sign an agreement with the Campus, and furnish the Campus with a copy of the transcript when it is completed. This agreement shall provide that use of such a copy shall be limited to subsequent administrative and judicial proceedings held in connection with the matter, that the tape or its contents shall not otherwise be made public in any way, and that any violation of this agreement shall be unprofessional conduct as that term is used in Education Code Section 24306.

- 13.2 In keeping with the policy stated in Section 10.15.1.2 of these Procedures, in no case other than that described in Section 13.1 shall a transcript of the tape recording of the hearing be furnished to the grievant. Neither the tape recording itself, nor a copy thereof, shall be furnished to the grievant.

14.0 Review by the Chancellor

- 14.1 Any grievant who has received a Notice of Decision on his grievance from a campus President which does not concur with the final recommendations of the Grievance Committee, may appeal to the Chancellor by directing a Request for Review to him with a copy to the campus President. The Request should have attached copies of the report of the Grievance Committee and the Notice of Decision of the President, and should state the dates of each and the grounds claimed for review (see Section 14.4 of these Procedures). The Request must be postmarked within ten college working days of the date of distribution of the President's Notice of Decision.
- 14.2 If more than one grievant was affected by the grievance decision of the President of the Campus, the Chancellor's action on a Request for Review shall be limited to the grievant or grievants making the appeal unless the Chancellor, in his discretion, makes it applicable to other grievants affected by the grievance decision from which an appeal was taken.
- 14.3 Upon receiving a copy of the Request for Review addressed to the Chancellor, the President of the Campus shall immediately furnish the Chancellor with copies of the:
- 14.3.1 Grievance Committee's report,

- 14.3.2 Written arguments presented to the Grievance Committee, if any,
 - 14.3.3 President's Notice of Decision with attachments, if any, and
 - 14.3.4 Tape recording of the hearing.
- 14.4 Review by the Chancellor may be requested only on one or more of the following grounds:
- 14.4.1 Arbitrary action by the President in not accepting the Grievance Committee's recommendations,
 - 14.4.2 Substantially unfair departure from these Procedures which affected the President's decision,
 - 14.4.3 Substantial evidence favorable to the grievant which was ignored by the President.
- 14.5 Based upon the materials submitted pursuant to Sections 14.1 and 14.3, an officer designated by the Chancellor shall make an initial determination of whether there are sufficient facts asserted to make it appear that grounds for review exist and that the Chancellor should cause the matter to be reviewed. An affirmative determination shall be made only if the procedural requirements of Section 14.1 of these Procedures have been complied with, and the criteria in Section 14.4 of these Procedures are satisfied. Normally this determination shall be made within five working days.
- 14.6 If it is determined that the matter should be reviewed, the Chancellor shall cause a Chancellor's Review Committee of three persons to be convened from a Chancellor's Review Panel previously selected with the concurrence of the Chairman of the Academic Senate, CSC. The convening shall be by lot.
- 14.6.1 Any person selected for service on the Chancellor's Review Committee may disqualify himself. A person selected for service on the Committee shall disqualify himself because of relationship to, or past association with, the grievant or any person substantially involved in the grievance, when the past association or substantial involvement was of a kind which would prejudice his judgment to the degree that it appears he could not give a fair review to the matter. Anyone believing that a person selected for service on the Committee should disqualify

himself may draw this to the attention of that Committee member.

- 14.7 The Chancellor's Review Committee will ordinarily meet within ten college working days of the date of the Chancellor's letter of notification. If the grievant has requested a transcript and wishes the Chancellor's Review Committee to read all or any part of it, the time of meeting shall be deferred until the transcript is available. The Committee shall review all materials presented to it by the Chancellor, except that it need not listen to the tape recording of the hearing unless the grounds for review make that necessary. It shall not receive new evidence or argument, or conduct hearings, and its members shall be bound by the policy of confidentiality stated in Section 10.15.1.2 of these Procedures. As to questions of California State University and Colleges' policy, the Committee shall utilize the consultative services of the Vice Chancellor for Faculty and Staff Affairs or his designee. As to questions on the law, it shall refer such questions to the Office of General Counsel, and shall be bound by the advice received from that office.
- 14.8 The Chancellor's Review Committee shall arrive at its recommendation by majority vote.
- 14.9 The Chancellor's Review Committee shall make a written recommendation to the Chancellor that:
 - 14.9.1 The President's decision should be upheld, in whole or in part, or
 - 14.9.2 The Grievance Committee's recommendations should be adopted in whole or in part.
- 14.10 The written recommendation to the Chancellor shall be accompanied by all the Committee's materials on the case. A copy of the recommendation shall be sent to the grievant and to the President of the Campus.
- 14.11 Normally the Chancellor's Review Committee will submit its written report within ten college working days of the conclusion of Committee deliberations, and the Chancellor shall then make a decision in the matter. Normally, the Chancellor will make his decision in ten college working days.
- 14.12 Following the Chancellor's decision, which shall agree with the Committee's recommendation except in rare instances and for compelling reasons which shall be stated in writing in the Chancellor's Notice of Decision, the grievant shall have no further appeal within the California State University and Colleges' system.

14.13 The Chancellor's Notice of Decision shall be sent to the President of the Campus where the grievance originated and to the grievant.

14.14 The functions of the Chancellor, as described in these Procedures, may be delegated by him to individual designees who are members of his staff. All references in these Procedures to the Chancellor include such designees. However, the Chancellor shall be responsible for any action taken under his authority.

15.0 Review by the Board of Trustees.

15.1 On its own motion, the Board of Trustees may review a grievance.

15.1.1 Applications for such review shall be directed to the Chairman of the Committee on Faculty and Staff Affairs of the Board of Trustees, c/o The Chancellor's Office of Faculty and Staff Affairs.

16.0 Construction of These Procedures.

16.1 "Shall" is mandatory and "may" is permissive.

16.2 Section headings do not in any manner affect the scope, meaning or intent of the provisions of these Procedures.

16.3 These Procedures shall be considered complied with despite technical departures from them or errors in their application, unless in the opinion of the President or the Chancellor, the technical departures or errors were substantially prejudicial to persons directly involved or to the Campus.

16.4 In applying the singular language of these Procedures to consolidated hearings, the singular number shall include the plural.

16.5 All notices, requests, reports, and statements sent pursuant to these Procedures shall be sent by U.S. mail. The date postmarked on the envelope shall be the governing date, unless the date of receipt is expressly specified in these Procedures.

APPENDIX

Title 5, California Administrative Code Section:

42714. Grievance Procedures for Academic Personnel. The Chancellor shall prescribe, and may from time to time revise, Grievance Procedures for Academic Personnel of the California State University and Colleges. These Procedures may be utilized by all full-time tenured and probationary academic employees, including those on leave of absence with or without pay. The Trustees may, on their own motion, review grievance matters under this Section. The Chancellor shall report to the Board on procedures issued or revised pursuant to this Section.

Education Code Section:

24306. A permanent or probationary academic or nonacademic employee may be dismissed, demoted, or suspended for the following causes:

- (a) Immoral conduct.
- (b) Unprofessional conduct.
- (c) Dishonesty.
- (d) Incompetency.
- (e) Physical or mental unfitness for position occupied.
- (f) Failure or refusal to perform the normal and reasonable duties of the position.
- (g) Conviction of a felony or conviction of any misdemeanor involving moral turpitude.
- (h) Fraud in securing appointment.
- (i) Drunkenness on duty.
- (j) Addiction to the use of narcotics or habit-forming drugs.

GRIEVANCE PROCEDURE CHANGES

BROADENING OF THE PROVISION FOR REPRESENTATION OF THE GRIEVANT
AND OTHER PERSONS INVOLVED IN THE GRIEVANCE PROCESS

Sections 4.2, 10.13 and 10.15.1 of the Grievance Procedures for Academic Employees of The California State University and Colleges are revised as follows:

"4.2. At such informal discussions, the only persons present shall be the grievant, his representative if any, and the campus officer or officers who have responsibility for the campus action of which the grievant complains, and a single representative for such officer or officers; provided, that no representatives may be present unless the grievant notifies the officer or officers in writing at least three college working days before the discussion of his intention to have a representative present and of the name, address and telephone number of the representative. No person who is an attorney admitted to practice law before any state or federal court may attend such discussions as a representative.

Section 10.13 is revised as shown immediately below and Subsections 10.13.1, 10.13.2 and 10.13.3, and any references thereto, are deleted.

"10.13. Except-as provided-in this-section, no-person shall be-represented-by another person. Such-r-Representation shall be permitted only-if at grievance hearings and at other stages in the grievance process at which the grievant may be present. Representation at informal discussions held pursuant to Sections 4.1 - 4.3 is subject to the provisions of Section 4.2. Representation at a grievance hearing shall be subject to the grievant's notifying the President or his designee in writing, at the earliest practicable date, and, at any event, at least three college working days before the hearing commences, of his intention to be represented. No person may represent the grievant or the persons listed in Section 5.2 who is an attorney admitted to practice law before any state or federal court. At any hearing, only one representative may be present for all of the persons listed in Section 5.2.

"10.15.1. Hearings shall be closed to everyone other than members of the Grievance Committee, the grievant, the President, those persons listed in Section 5.2 of these Procedures, the representatives, if any, authorized by Section 10.13, the tape recorder operator, if any, witnesses while they are presenting evidence, and the representatives of not more than two recognized faculty organizations as provided in this Section.