

## **TKU Regulations on the Organization and Review Process of the Faculty Appeal Review Committee**

TKU Regulation No. 1090010116 (11/20/2020)

(英文譯本僅供參考，法規之實施概以中文版為準。)

The English version is provided for reference only. The practice of the regulations shall be based on the Chinese version.)

### **Article 1**

The Faculty Appeal Review Committee (Herein referred to as the “Appeal Committee”) was established to help guarantee faculty rights, alleviate faculty disputes, promote harmony on campus, and facilitate the function of education. Its inauguration was based on Article 22 of the *University Act*, Article 43 of the *Teacher’s Act*, the *Organizational and Arbitration Regulations for Teacher Grievance Committees* of Ministry of Education (MOE), and Article 18 of *TKU Regulations Regarding Organizations*.

### **Article 2**

The Appeal Committee shall consist of between 15 and 21 members, with the number of faculty members who do not simultaneously hold an administrative position no less than two-thirds of total number of members; members of either gender shall account for at least one-third of the total number of members.

The composition of the Appeal Committee is as follows:

1. One teacher selected from each college, Office of Physical Education, and Center for General Education and Core Curriculum.
2. Just persons, scholars and experts, and representatives from regional teacher organizations, and representatives from TKU faculty appointed by the TKU President.

Committee members serve without pay, with a term of two years, with half of the members being re-elected each year, and are not eligible for re-election.

If a member is absent for some reason, the successor member shall serve until the end of the original term.

### **Article 3**

[2-3-11]

The Chair of the Appeal Committee is selected by committee members, with a term of one year, and may be re-elected. However, the chairman of the Appeal Committee may not be the TKU President.

If the chair aforementioned is unable to host a meeting for any reason, he/ she shall designate a member to act as chair.

The Appeal Committee shall have one member to serve as the executive secretary, who shall be appointed by the TKU President from among the TKU faculty and staff with a legal background.

#### **Article 4**

Appeal Committee meetings shall be convened by the TKU President or a person designated by the TKU President.

If one half or more of the members request a meeting in writing, the convener shall convene it within 20 days of receiving the written request.

#### **Article 5**

If teachers believe that any measures employed by TKU relating to their individual rights and interests are illegal or inappropriate, and causes damage to their rights and interests may file an appeal or a re-appeal.

#### **Article 6**

Teachers who are dissatisfied with a measure taken by TKU may file an appeal with the Appeal Committee; if they are not satisfied with the decision of the Appeal Committee, they may file a re-appeal with the MOE's teacher grievance review committee.

#### **Article 7**

If TKU does not agree with the decision reached by the MOE teacher grievance review committee, it may file a re-appeal with the MOE's teacher grievance review committee.

#### **Article 8**

The filing of an appeal shall be made in writing within 30 days of the day after receiving notification or becoming aware of the measure implemented by TKU; re-appeals shall be filed within 30 days of the day after the Outcome of Appeal Letter

reaches the appellant.

If the appellant is delayed or unable to file an appeal within the period specified in the preceding paragraph due to natural disasters or other circumstances not attributable to them, they may apply in writing to the Appeal Committee to restore the original status within 10 days after the cause of the delay or inability has been eliminated. However, if the delay in filing an appeal exceeds one year, the restoration of the original status shall not be permitted. When applying for the restoration of the original status, the appellant shall also take the necessary actions for the appeal within the period in question.

In accordance with related laws, TKU shall provide the appellant with the measure being implemented in a manner that can be verified and checked. The day of delivery shall be deemed the date of receipt.

#### **Article 9**

The appeal submission shall comprise a Letter of Appeal clearly stating the following information, signed or sealed by the appellant or his/ her agent, a copy of the notification of implemented measures, and any related documents and evidence:

1. The appellant's name, date of birth, national ID number, unit and title of employment in TKU, residential address, and telephone number.
2. For a designated agent or proxy, his/her name, date of birth, national ID number, residential address, and telephone number.
3. The TKU unit responsible for implementing the original measures.
4. The date (year, month, and day) of receiving notification or becoming aware of the measure, as well as the facts surrounding the appeal and reason(s) for appeal.
5. The specific remedies sought.
6. The date (year, month, and day) of filing the appeal.
7. TKU Appeal Committee that processed the appeal.
8. Clear indication of whether the case has been filed as an administrative appeal, litigation, or labor-management dispute resolution; if the aforementioned has been filed, indicate the agency or court and the date it was filed.

When re-appealing, the original appeal letter and original Outcome of Appeal Letter shall be attached and the time and manner of delivery shall be stated.

#### **Article 10**

If an appellant's submission does not meet the requirements outlined in the previous

[2-3-11]

article, the Appeal Committee may notify the appellant to rectify the discrepancy within 20 days of being notified. If the appellant fails to provide the required information within the stated time frame, the Appeal Committee may conduct the review process without the required document.

#### **Article 11**

Within ten days of the day after receiving the Letter of Appeal, the Appeal Committee shall notify the unit of TKU that took the original measure to provide an explanation in writing, attaching a copy of the appeal letter and relevant documents.

Within 20 days of the day after receiving the notification mentioned in the previous paragraph, the unit of TKU that took the original measure shall prepare an explanatory letter along with all related documents and submit it to the Appeal Committee, and shall also send a copy of the explanatory letter to the appellant. However, if the unit of TKU that took the original measure considers the appeal to be justified, it may revoke or modify the original measure, and notify the Appeal Committee of this change.

If, by the time limit, the unit of TKU that took the original measure has not yet submitted an explanatory letter, it shall be notified by letter from the Appeal Committee; if the explanation is insufficient, the unit shall be given a limited time for further explanation. If no explanation is submitted or the explanation is insufficient after the deadline, the Appeal Committee may proceed to review the case.

During the period mentioned in the first paragraph, for those who have corrected in accordance with the provisions of the preceding article, the calculation shall start from the day following the correction; for those who have not corrected, the calculation shall start from the day following the expiration of the correction period

#### **Article 12**

After the appeal is filed and before the Outcome of Appeal Letter reaches the appellant, the appellant may withdraw the appeal. If the appeal is withdrawn, the Appeal Committee shall terminate the review process and notify the appellant and the unit of TKU that took the original measure in writing.

Appellants who withdraw an appeal are not allowed to lodge another appeal based on the same matter.

### **Article 13**

If the appeal case reviewed in whole or in part is based on the determination of whether there is a legal relationship established by the administrative appeal, litigation, or labor-management dispute resolution procedure, the Appeal Committee may suspend the review and shall notify the appellant in writing before the end of the administrative appeal, litigation, or labor-management dispute resolution process; after the reason for suspension is eliminated, the Appeal Committee shall continue the deliberation upon notification from the appellant or the unit of TKU that took the original measure, or upon its own knowledge, and shall notify the appellant in writing.

If a teacher files an administrative appeal according to the *Administrative Appeal Act* and then subsequently files an appeal according to these regulations, the Appeal Committee shall suspend the review and notify the appellant in writing; after the reason for suspension is eliminated, the Appeal Committee shall continue the review upon notification from the appellant or the unit of TKU that took the original measure, or upon its own knowledge, and shall notify the appellant in writing.

### **Article 14**

The Appeal Committee shall hold its meetings in principle as non-public confidential.

During the review, the Appeal Committee may pass a motion to summon the appellant, the persons concerned, scholars and experts, or any persons appointed by TKU to take part in the review and to provide first-hand explanations.

If the appellant or the unit of TKU that took the original measure applies to attend and explain with a valid reason, the Appeal Committee may specify a time and place and notify them to attend and explain.

When attending and explaining according to the provisions of the first two paragraphs, one or two assistants may be present with them.

When it is necessary to have on-site understanding of an appeal case, the Appeal Committee may pass a motion to set up a panel consisting of at least three representative members to do so and to report at the Committee meeting.

### **Article 15**

If Appeal Committee members have any of the following circumstances, they shall recuse themselves and not participate in the review.

[2-3-11]

1. Any of the circumstances prescribed in Article 32 of the *Administrative Procedure Act*.
2. Having an interest in the appeal case.

In cases where there is a reasonable suspicion of bias with facts on the part of the examination committee members regarding the appeal case, the appellant may apply to the Appeal Committee for recusal with the reasons and facts.

The application in the preceding paragraph shall be resolved by resolution at a committee meeting.

During the review process, unless the committee determines, otherwise, committee members are not permitted to externally communicate with the appellant, with anyone representing the appellant's interests, or anyone else with vested interests in the case.

If the Appeal Committee members do not recuse themselves of their own accord for the circumstances prescribed in the first paragraph and is not applied for recusal by the parties, the committee shall order them to recuse according to its authority.

#### **Article 16**

Except in the case of suspensions of appeal cases in accordance with Article 13, the Appeal Committee's review decision shall be made within two months of the day after receiving the Letter of Appeal; if necessary, an extension is limited to one time only and cannot exceed one month.

If the appellant is required to submit extra documents as per Article 10, the two-month period of review mentioned above will begin on the day after the Appeal Committee receives all required documents; if the appellant does not provide the requested documents, the review process will begin the day after the end of the submission period for extra documents; if the review process is suspended in accordance with Article 13, the two-month time period for review will start over anew when the review resumes.

Before compiling an Outcome of Appeal Letter, the Appeal Committee may recommend halting the enforcement of the original measure against the appellant at the committee meeting.

#### **Article 17**

In any of the following circumstances, the appeal filed shall be deemed as a decision not to accept:

1. The Letter of Appeal is not in compliance with the legal procedure and cannot be corrected, or if it is not corrected within the notified deadline after being given a chance to do so.
2. File an appeal after the period specified in Article 8.
3. The appellant is not qualified.
4. The original measure is no longer in place or the appeal is no longer of substantial benefits.
5. For appeals filed according to Article 5, the unit of TKU that originally implemented the measure has already taken the measure.
6. Re-file an appeal based on the same facts and reasons for a case that has already been decided or withdrawn.
7. According to paragraph 2 of Article 13, continue the review of the case, where the original measure is an administrative punishment.
8. Other matters not within the scope of teacher's appeal for relief as provided by law.

#### **Article 18**

When the Appeal Committee deems it necessary, it may establish a review panel (prior to the start of the official review) made up of three to five committee members. The panel shall examine all submitted documents, investigate the facts, document all related laws and applicable regulations, and present their findings during an Appeal Committee meeting.

#### **Article 19**

The Appeal Committee shall consider the course of the appeals case, the damage suffered by the appellant and the compensation sought, the reasons of both parties in the appeal, the impact on the public interest and other relevant circumstances for the purpose of review and decision.

#### **Article 20**

If an appeal is lodged without any stated reasons, the Appeal Committee shall make a decision to reject it.

#### **Article 21**

For an appeal with valid reasoning, the Appeal Committee shall make a decision based on valid reasoning, and if there are any remedial measures, they shall be clearly

[2-3-11]

stated in the main text of the Outcome of Appeal Letter.

### **Article 22**

The Appeal Committee members shall personally attend the committee meetings. For a meeting to commence, at least one-half of all Committee members must be present. Review shall not begin unless at least half of the members are present. Review decisions may only be passed after being approved of by at least two-thirds of all Committee members. For all other resolutions to be passed, at least one-half of all members must grant their approval.

When the committee meeting makes a resolution as provided in the preceding paragraph, the members who recuse themselves shall not be counted as present members.

### **Article 23**

The Appeal Committee shall first resolve the conclusion of the review and draft the Outcome of Appeal Letter, then submit it for discussion and approval. The Outcome of Appeal Letter shall be signed by the chairman.

The decisions of the Appeal Committee shall be made by secret ballot. The process of review and the individual opinions of the members shall be kept strictly confidential.

The results of the ballot aforementioned shall be recorded in the minutes of the meeting; the ballots shall be sealed on the spot and signed by the chairman of the meeting and the appointed oversight member, and shall be properly preserved by the Appeal Committee.

### **Article 24**

The Appeal Committee shall appoint personnel to compile records related to the review process; if requested, the differing opinions held by committee members throughout the review or regarding review decisions shall be listed in the meeting records.

### **Article 25**

The Outcome of Appeal Letter shall contain the following information:

1. The appellant's name, date of birth, national ID number, unit and title of employment in TKU, and residential address.
2. The agent or proxy's name, date of birth, national ID number, and residential



address.

3. The unit of TKU that implemented the original measure.
4. The main text, facts and reasons; if it is a decision not to accept, the facts need not be recorded.
5. The signature of the Committee Chair. If, when the Outcome of Appeal Letter is being compiled, the Chair is for some reason unable to perform his duties, the Chair's substitute shall sign the document, stating the reason for the Chair's absence.
6. The date (year, month, day) of compilation of the Outcome of Appeal Letter.

The Outcome of Appeal Letter shall include a note that if the appellant does not agree with the review decision, he/she may file a second appeal with the MOE's teacher's grievance review committee within 30 days from the date of delivery of the assessment report.

#### **Article 26**

The original Outcome of Appeal Letter shall be made in the name of TKU, and in a manner that fully provides evidence for verification, within 15 days after the Outcome of Appeal Letter is completed, shall be delivered to the appellant and the original unit of TKU, and a copy shall be delivered to the Office of Human Resources for record keeping.

If the appeal case involves an agent or proxy, unless there is a restriction on sending information to the agent, the Outcome of Appeal Letter aforementioned shall be sent to the agent or proxy; if there is more than one agent or proxy, the Letter shall be sent to just one of these agents / proxies.

#### **Article 27**

If the regulations permit a second appeal, and the appellant or the original unit of TKU has not filed a second appeal within 30 days from the date of delivery of the Outcome of Appeal Letter, the appeal decision shall be deemed final.

#### **Article 28**

After the original measures have been repealed, the unit of TKU responsible for implementing the measures shall re-implement them, in accordance with the decision of the review decision.

#### **Article 29**

[2-3-11]

The explanations for appeals and re-appeals, and the necessary documents in accordance with the regulations of these Regulations shall be written in Chinese; if the documents are cited in foreign languages, it shall be translated into Chinese, and should be accompanied by the original foreign language materials.

For the information submitted in an appeal or second appeal case, if it is submitted in the form of tape recordings, video tapes, or electronic emails, a written copy shall be attached, and it shall indicate the time and place obtained, as well as a statement that it was not illegally recorded or intercepted.

### **Article 30**

This set of regulations will take effect on the date of its publication after being passed in an administrative affairs meeting. The same applies to any later amendments made.