

National Yang Ming Chiao Tung University Faculty Appeals and Review Committee Organization and Review Guidelines

Passed by the 1st extraordinary university assembly of National Yang Ming Chiao Tung University in the academic year of 2020 on February 3, 2021

Chapter 1 General provisions

Article 1 On the basis of the University Act, Teachers' Act, Guidelines Governing Organization and Review of Teacher Appeals Committee of the Ministry of Education, and Article 25 of the University's Provisional Organization Regulations, National Yang Ming Chiao Tung University (hereinafter referred to as "NYCU") established the Teacher Appeal Review Committee (hereinafter referred to as the "Committee") and these Guidelines.

Article 2 The Committee reviews appeals submitted by faculty and researchers who dissatisfied with measures such as dismissal, suspension, nonrenewal, promotion, and other measures.

The term "faculty" in these Guidelines refers to teachers, researchers, military training instructors, project teaching personnel, project research personnel, and contract teachers and part-time teachers (hereinafter referred to as "teachers").

Article 3 Faculty, researchers, and military training instructors who consider measures administered by NYCU onto themselves as illegal or inappropriate and infringing upon their rights may appeal to the Committee.

For cases in which NYCU applied measures to the teacher according to law and the teacher should have responded but failed to within the legal period, resulting in their rights being infringed, the teacher may also apply for appeal. If the law does not specify the timeframe for responsive action, this period shall be set as 2 months from the date NYCU receives the appeal application.

In accordance with the Regulations Governing the Employment of Part-time Teachers in Tertiary Education Institutions of the Ministry of Education, if part-time teachers contend that NYCU's measures in terms of the termination or discontinuation of their employment, salary, leave, or pension are illegal or inappropriate and infringe their rights, they may appeal to the Committee in accordance with the Teachers' Act or these Guidelines to seek remedy.

Relevant regulations are prioritized for the appeals of military training instructors. Military training instructors dissatisfied with the administrative measures of NYCU may appeal to the Committee.

Chapter 2 Organization

Article 4 The Committee consists of the following members:

1. Teacher representatives: Each college, the General Education Committee, and General Education Center shall appoint a teacher who does not concurrently hold an administrative position. The number of teacher representatives who assume administrative duties following election to the Committee shall not exceed one-third of the total number of members. If this proportion is exceeded, the college shall reappoint teachers who are not concurrently holding administrative duties as substitutes.
2. Two representatives from NYCUC's Teachers' Association.
3. One impartial social representative and one scholar or expert representative appointed by the Teachers' Association.
4. An NYCUC representative selected by the president.

At least one-third of the members of the Committee shall be persons of one particular gender.

The president and members of the University Teacher Evaluation Committee may not serve as members of the Committee.

Article 5 Committee members are not paid and serve a two-year term. Each year, half of the members are elected anew. Among the members who are elected in the first year, half (determined through the drawing of lots) will serve only 1 year. Committee members may serve consecutive terms if re-elected.

Article 6 The president or their designated representative shall preside over the first committee meeting of each term of the Committee, during which the committee chairperson shall be elected. The committee chairperson shall be responsible for convening and chairing subsequent meetings.

If a written petition is submitted by at least half of the committee members, the committee chairperson shall convene a meeting within 20 days after the petition is submitted.

The committee chairperson shall be elected among committee members. The committee chairperson shall serve a one-year term and may be reappointed if re-elected. When the chairperson is unable to convene the meeting, they shall designate a committee member as the substitute chairperson. If the chairperson is unable to designate this role, the members shall elect a substitute chairperson from among themselves.

Article 7 Based on the characteristics of the appeal case, when necessary, the Committee may request that the president appoint additional temporary committee members. The term of service of the temporary committee members ends at the end of each case. Temporary committee members have the right to vote. The number of temporary committee members may not

exceed two people for each case.

Article 8 The affairs of the Committee are handled by the Secretariat Department. Members handling Committee business should specialize in law.

Chapter 3 Jurisdiction

Article 9 Faculty, researchers, or military training instructors who dissatisfied with the decisions of the Committee may appeal to the appeals committee of the Ministry of Education.

Project teaching personnel, project research personnel, and teachers of NYCU may follow the procedures of other relevant regulations to seek remedy.

If NYCU is dissatisfied with the decision of the Committee, it may appeal within the jurisdiction described in the previous two paragraphs.

Chapter 4 File an Appeal

Article 10 Appeals shall be filed in written form within 30 days from the day after the resolution was announced or communicated to the appellant (though use of double-registered mail to National Yang Ming Chiao Tung University Teacher Appeals Review Committee). Reappeal shall be conducted within 30 days from the day the Committee received the review report.

The timeframe of the process in the previous paragraph begins from the date on which the Committee received the appeal form.

If the appellant accidentally appeals to units other than the Committee, the date on which that unit received the appeal will be considered as the date of appeal.

According to law, NYCU should use trackable means to communicate its measure to the appellant. The date of arrival of the notice is considered the date on which the appellant was informed.

If the appellant's application is delayed beyond the appeal timeframe in paragraph 1 as a result of natural disasters or force majeure, the appellant may submit a written application to the Committee communicating the reason for the delay within 10 days after the unforeseen event has ended. However, if the delay has exceeded 1 year, the Committee will not resume review of the appeal. While the appellant submits an application to resume the review, they should concurrently initiate the appeal during this timeframe.

Article 11 If the appellant does not live close to the location where the committee meeting is held, when the legal timeframe is calculated, their travel time shall be taken into account. However, if the appeal representative lives close to the location where the committee meeting is held and may act on behalf of the appellant during the review period, this does not apply.

Accounting for travel time in the previous paragraph is conducted in accordance with

the Regulations of Calculating Administrative Appeal Timing for Transportation.

Article 12 If two or more people coappeal a measure based on the same reasons and facts, Articles 21 to 27 of the Administrative Appeal Act are applied.

Article 13 To submit an appeal, the appeal form should specify the following items and be signed or stamped by the appellant or their representative. Documents stating the original measure and other relevant documents and evidence shall be attached.

1. The name, date of birth, ID number, department (unit), title, residence address, phone number, and email account of the appellant.
2. If the appellant has a representative, their name, date of birth, ID number, residence (or business address), and phone number.
3. The unit that administered the original measure (hereinafter referred to as the “original disciplinary unit”).
4. The date on which the appellant received or learned about the measure and facts and reasons for the appeal.
5. The desired remedy or remedies.
6. The date on which the appeal is filed.
7. Statement of whether a petition, lawsuit, or labor dispute has been filed regarding the appeal cased. If applicable, please specify the date and the handling organization or court.

For those who file an appeal in accordance with the second paragraph of Article 3, the items listed in subparagraphs 3 and 4 in the previous paragraph refer to the units that should respond accordingly. The date of application to the unit, legal regulations, a copy of the original application, and proof of receipt from the administering unit shall be provided.

Article 14 If the procedure and form do not comply with the legal procedure and format for filing an appeal but can be rectified, the appellant shall be notified to rectify them within 20 days. If no rectification is completed by the deadline, the Committee may continue their review.

Chapter 5 Review of the Appeal

Article 15 Within 10 days from the day after the Committee receives the appeal form, the Committee should inform the unit of NYCU that administered the original disciplinary measure in writing, attaching a copy of the appeal and relevant documents, and request them to provide an explanation. The process is as follows.

1. Within 20 days from day after receiving the written request, the original disciplinary unit should submit an explanatory document with relevant additional documents to the Committee and also send a copy of the explanation to the appellant. If the original

disciplinary unit determines the appeal to be valid, it may withdraw or alter the original disciplinary measure and notify the Committee accordingly.

2. If the unit that administered the original measure does not provide an explanation by the aforementioned deadline, the Committee shall issue a reminder in the form of a letter. If the explanation is not sufficiently detailed, the Committee may afford them more time to provide a more detailed explanation. If by the end of that deadline, the explanation has not been provided or is not sufficiently detailed, the Committee may proceed directly to review.

If a correction is made, the time period in the first paragraph begins on the second day after the correction. If no correction is made, the time period begins the second day after the timeframe for correction ends.

Article 16 After an appeal is submitted and before the review report is delivered, the appellant may withdraw the appeal in writing. If the appeal is withdrawn, the Committee should terminate review of the appeal and inform the appellant and the original disciplinary unit. Once the appellant withdraws the appeal, they may not apply for another appeal based on the same reasons and facts.

Article 17 If the appellant accidentally appeals to a unit other than the Committee, the receiving unit shall transfer the matter to the Committee within 10 days of receipt of the appeal form and notify the appellant.

Article 18 In the case that the decision on appeal, in whole or in part, is based on the existence or nonexistence of certain legal relations to be determined in another administrative appeal, lawsuit, or settlement procedure within a labor–management dispute, the Committee may halt the review process and notify the appellant in writing before the end of the appeal, lawsuit, or settlement procedure within a labor–management dispute. After the cause for the interruption of the review has been addressed, when notified by the appellant, original disciplinary unit, or through other means, the Committee shall resume the review and inform the applicant in writing.

If the appellant first filed an appeal according to the Administrative Appeal Act and then appealed according to these Guidelines, the Committee should halt the review and inform the appellant in writing. After the cause of the interruption of the review has been addressed, and when the Committee has been informed by the appellant, the original disciplinary unit, or competent authority or becomes aware of the situation through other means, the Committee shall resume the review and inform the appellant in writing.

Article 19 Members of the Committee should attend the committee meeting in person. Committee meetings can only commence with the attendance by at least one-half of the committee members. To pass a decision for review, at least two-thirds of the committee members

who participated in the vote must vote in agreement. To determine other matters, at least half of the members who participated in the vote must vote in agreement.

When making decisions as per the procedures in the previous paragraph, members who are recused are not counted in the number of members present.

Article 20 The committee meeting shall not be made open to the public.

When reviewing the appeal case, the Committee may vote to request that the appellant, related personnel, scholars, experts, or personnel of relevant units attend the meeting and provide information.

When the appellant or personnel representing the original disciplinary unit apply and have appropriate reasons to attend the committee meeting in person, the Committee may designate a time and place at which they can attend and provide relevant explanations.

Personnel attending the committee meeting to provide explanations in accordance with the regulations detailed in the previous two paragraphs should be accompanied by one or two other people.

When the appeal case requires onsite investigation, after voting is held in the committee meeting, three to five members may be selected to investigate and report to the Committee.

Article 21 Members of the Committee with any of the following conditions should recuse themselves from taking part in the review.

1. Items listed in Article 32 of the Administrative Procedure Act.
2. They are a stakeholder in the appeal case.

The appellant may propose the recusal of any committee member through submission of reasons and facts proving in support of the biased position of the committee member. The application of the previous paragraph will be voted on at the meeting of the Committee.

Committee members that meet the conditions in paragraph 1 but do not recuse themselves and are not requested to be recused by the applicant should be recused by the Committee.

During the review process, except when voting at the committee meeting, committee members may not be in contact with the appellant, their representatives, or their stakeholders outside these procedures.

Article 22 The appellant or their representative may request that the Committee to read, transcribe, copy, or record relevant materials or files, or prepay to acquire copies, photocopies, or abridged versions of documents. However, this is limited to only essential documents to protect the appellant or their representative's legal interests.

The process of the matter described in the previous paragraph is conducted under the

regulation of Articles 49 to 51 of the Administrative Appeal Act.

Chapter 6 Resolution

Article 23 The Committee's resolution shall be made within 3 months following the receipt of the appeal form, excluding appeals in which the review process is halted as stated in Article 18 of these Guidelines. If necessary, this period may be extended, in which case the appellant shall be notified. Each appeal may only be extended once for a maximum of 2 months.

If the appellant makes revisions to the appeal form according to Article 14, the period stated in the previous paragraph shall begin from the day following the revision; if the appellant does not make revisions, the period stated shall begin from the day following the deadline of the stipulated revision period. If the review process is halted according to Article 18, the period stated is recounted beginning from the day the review process is resumed. If additional reasons are provided as part of the appeal during the review decision period, the period shall begin from the day after the final additional reason was provided.

Article 24 If an appeal meets any of the following criteria, the Committee shall not entertain the case and attach reasons as to why the case was not entertained:

1. The appeal form does not meet the requirements of the Guidelines and cannot be rectified or if the appellant fails to rectified the appeal form during the designated revision period after notification.
2. The appeal was submitted after the deadline of the time period specified in Article 10.
3. The appellant is ineligible.
4. The original disciplinary measure no longer exists, or the outcome of the appeal will not result in any substantial benefits for the appellant.
5. The unit that should take action has taken measures or resolved to do so for the appeal filed in accordance with the second paragraph of Article 3.
6. A reappeal is submitted based on the same reasons or facts as appeals that have been resolved or withdrawn.
7. The original measurement was an administrative punishment, and the appellant submits an application requesting the Committee, in accordance with second paragraph of Article 18 of the Guidelines, to continue their review.
8. The appeal involves matters that are beyond the scope of the teachers' appeals procedure.

If the appellant intended to respond but mistakenly submit an appeal within the

jurisdiction of the chairperson of the Committee, the case will be transferred to the appropriate unit within the jurisdiction of the responding unit, and the appellant will be notified.

Article 25 When several appeals submitted separately are based on the same or same type of facts or legal reasons, the Committee may merge them for combined review.

Article 26 When deemed necessary, before the Committee begins their review, it may select three to five committee members to review evidence, analyze facts, identify applicable laws, and to present their opinion regarding the review to the Committee.

Article 27 The Committee should consider the appeal case process, damage sustained by the appellant, desired remedy of the appellant, reasons of both parties, effect on public welfare, and other relevant conditions during its decision-making.

Article 28 When an appeal provides no reason, the Committee should dismiss it through a deciding process.

When an original disciplinary measure was administered based on improper reasons, the appeal without reasons shall be dismissed because other reasons may exist in support of the original resolution.

Article 29 When the appeal has accompanying reasons, the Committee should review and make decisions based on these reasons. When remedial measures are decided upon, the Committee should note them in the main body of the review report.

When the review decision in the previous paragraph is to dismiss the original measure and request that the original disciplinary unit administer a different disciplinary measure, the Committee should designate a timeframe for its implementation.

For appeals filed under the conditions detailed in the second paragraph of Article 3, if the Committee determines that the appeal is valid, the Committee should order the unit to administer measures accordingly within a designated period.

Article 30 The voting method for the Committee's decisions shall be in the form of an inquiry of objections, show of hands, or secret ballot. The review process and opinions of individual members shall be kept strictly confidential by attendees and Committee workers.

The voting method and results detailed in the preceding paragraph shall be recorded in the meeting minutes. If voting is conducted, following its conclusion, the ballots shall be sealed in situ, signed by the chairperson and a monitor selected from among the committee members, and stored by the Committee.

Article 31 The Committee shall appoint personnel to compile the files to be attached to the review records. Committee members whose opinions differ from the review decision may request to have their opinions recorded in the meeting record.

Article 32 The review report should specify the following items:

1. The name, date of birth, ID number, service unit and title, place of residence, and phone number of the appellant.
2. The name, date of birth, ID number, place of residence, and phone number of the representative, if any.
3. The original disciplinary unit.
4. The report content.
5. Facts and reasons. If the case is not entertained, the facts may be omitted.
6. Signature of the chairperson of the Committee. When the review report is written, if the chairperson cannot provide their signature due to force majeure, a substitute chairperson shall sign the report and communicate the reason.
7. The date on which the decision is made.

The review report should specify that if the appellant is dissatisfied with the resolution, they may submit a reappeal to the reappeal organization specified in Article 9 of these Guidelines within 30 days from the day of receipt of the review report. For people who may not submit for reappeal, the review report should specify that they may, based on the characteristics of the incident, raise a petition or lawsuit to the relevant competent authorities within the duration specified within relevant law.

Article 33 The review report shall serve as the original copy of the review decision in the name of NYCU and be sent to the appellant and original disciplinary unit through traceable means within 15 days from the day on which the review decision was made.

If representatives or proxies are involved in the appeal case, with the exception of people who have a limited right to receive the report, the review report shall be delivered to either the representative or proxy. If the representatives or proxies involved consist of two or more people, the Committee may only deliver the report to one of them.

Article 34 The review decision is final when one of the following conditions is met:

1. The appellant or NYCU does not file for reappeal or remedy within 30 days beginning the day after the review report is delivered.
2. The reappeal review report is delivered to the reappellant.

After the resolution is passed, NYCU shall proceed with its implementation.

When the original disciplinary measure is withdrawn, if the original disciplinary unit is directed to administer new measures, it should follow the review decision.

Chapter 7 Supplementary provisions

Article 35 Appellants who disagree with the procedures of the Committee should seek remedy according to law in conjunction with the review decision.

Article 36 Regarding proxies, unless otherwise specified in these Guidelines, the regulations in Articles 32 to 40 in the Administrative Appeal Act shall apply.

Regarding the delivery of the appeal documents, unless otherwise specified in these Guidelines, regulations in Articles 71 to 74 in the Administrative Litigation Act shall apply.

Article 37 Descriptions and documents required for appeal and reappeal formatted according to these Guidelines shall be written in Mandarin. If the documents include text in a foreign language, the text shall be translated into Mandarin, and the original foreign language documents shall be attached. If data provided in an appeal are in the form of tape, videotape, or email, a transcript shall be provided. In addition, the time and place where the recording was obtained shall be specified, and a declaration that no illegal recording or interception was involved.

Article 38 These Guidelines and amendments shall be approved by the university assembly before implementation. Any amendments shall be made accordingly.

Article 39 Regarding appeal cases that are in the middle of review prior to the implementation of these Guidelines, the subsequent appeal procedures will follow these Guidelines.