

## 中國醫藥大學教師申訴評議委員會設置辦法

### China Medical University Regulations for the Establishment of the Teacher Appeal and Review Committee

#### 第一條 目的及依據：

本校為保障教師權益，疏解教師糾紛，促進校園和諧，高度發揮教育功能，特依教師申訴評議委員會組織及評議準則及本校組織規程第二十條規定，設中國醫藥大學教師申訴評議委員會(以下簡稱申評會)。

Purpose and Basis:

In order to protect the rights and interests of faculty members, resolve faculty-related disputes, promote campus harmony, and realize the educational mission, China Medical University has established the Teacher Appeal and Review Committee (hereinafter referred to as "the Committee") in accordance with the Guidelines Governing Organization and Review of Faculty Appeals Committee and Article 20 of the university's organizational regulations.

#### 第二條 組織：

一、申評會之委員，由教師代表十人、教師會代表一人、學者專家一人、社會公正人士一人、行政主管代表二人，共十五人擔任之，其中未兼任行政職之教師不得少於委員總數三分之二；任一性別委員應占委員總數三分之一以上；教師會代表由本校教師會推薦。校級教師評審委員會委員不得擔任申評會委員。

二、申評會委員由校長遴聘之，任期一年。委員於任期中因故出缺時，依前款規定辦理遞補，繼任委員之任期至原任期屆滿之日止。

三、申評會之委員會議，由校長指定一人擔任召集人。委員會議若經委員總數二分之一以上之書面請求，召集人應於二十日內召集之。

四、申評會主席，由委員互選產生並主持會議；主席因故不能主持會議時，由其指定委員一人代理主席；主席未指定時，由委員互推一人代理之。校長不得擔任主席。

五、申評會委員為無給職。

六、申評會委員應親自出席會議，經委員總數二分之一以上出席，始得開議；評議決定應經出席委員三分之二以上同意行之；其他事項之決議，以出席委員過半數之同意行之。

七、申評會為前款決議時，迴避之委員不計入出席委員人數。

Organization:

1. The Committee shall consist of 15 members, including ten teacher representatives, one representative from the Faculty Association, one scholar or expert, one member of the general public with recognized integrity, and two administrative supervisors. Among them, at least two-thirds shall be faculty members not concurrently holding

administrative positions. Each gender shall constitute no less than one-third of the total number of members. The representative from the Faculty Association shall be recommended by the Faculty Association of the university. Members of the University-Level Faculty Review Committee shall not serve as members of the Teacher Appeal and Review Committee.

2. Committee members shall be appointed by the President and serve a term of one year. In the event of a vacancy during the term, a replacement shall be appointed in accordance with the provisions of the preceding paragraph, and the new member shall serve the remainder of the original term.
3. The convener of the Committee shall be designated by the President. If a written request to convene a meeting is made by more than half of the Committee members, the convener must call a meeting within 20 days.
4. The chairperson of the Committee shall be elected by the Committee members from among themselves and shall preside over the meetings. If the chairperson is unable to preside, a proxy shall be designated by the chairperson; if no designation is made, a proxy shall be elected by the Committee members. The President may not serve as chairperson.
5. Committee members shall serve without remuneration.
6. Committee members must attend meetings in person. A meeting shall only be held with the attendance of more than half of all Committee members. A resolution requires the consent of at least two-thirds of those present. Other decisions shall be adopted by a majority of those present.
7. In cases where a member is required to recuse themselves, they shall not be counted among the attending members for purposes of quorum and resolution.

### 第三條 申訴要件：

- 一、本校專任教師對學校或主管機關有關其個人之措施，認為違法或不當，致損害其權益，經由行政程序處理仍無法解決者，得提出申訴。
- 二、教師因學校對其依法申請之案件，於法定期間內應作為而不作為，認為損害其權益者，亦得提起申訴；法令未規定應作為之期間者，其期間自學校受理申請之日起為二個月。
- 三、前二款申訴，依法得提起訴願或訴訟者，亦得於各該法定期間內提起之，但申評會得依第五條第五款及第六款規定停止申訴評議。

#### Requirements for Filing an Appeal:

1. A full-time faculty member who deems that a measure taken by the university or a competent authority concerning the individual is illegal or inappropriate and results in harm to their rights or interests, and who has been unable to resolve the matter through administrative procedures, may file an appeal.

2. If a faculty member believes that their rights or interests have been harmed due to the university's failure to act within the statutory period on an application filed in accordance with the law, they may also file an appeal. Where no statutory period for action is stipulated, a two-month period shall apply, starting from the date the university accepts the application.
3. For appeals as described in the preceding two paragraphs, the appellant may also pursue administrative appeal or litigation within the respective statutory period. However, in such cases, the Committee may suspend its review according to 5. and 6. of Article 5.

#### 第四條 申訴之提起：

一、教師申訴：分申訴及再申訴二級。

二、申訴向申評會提出，不服申評會之評議決定者，得向教育部中央教師申訴評議委員會提起再申訴。

三、申訴之提起，應於收受或知悉措施之次日起三十日內以書面為之；再申訴應於申訴評議書達到之次日起三十日內以書面為之。

四、前款期間，以受理之申評會收受申訴書之日期為準。

五、教師不服教育部有關其個人權益之措施者，向教育部中央教師申訴評議委員會提起申訴，以再申訴論。

六、申訴應具申訴書，載明下列事項，由申訴人或代理人簽名或蓋章，並應檢附原措施文書、有關之文件及證據：

(一)申訴人姓名、出生年月日、身分證明文件字號、服務學校及職稱、住居所、電話。

(二)有代理人者，其姓名、出生年月日、身分證明文件字號、住居所、電話。

(三)為原措施之學校或主管機關。依第三條第二款提起申訴者，為應作為之學校或主管機關。

(四)申訴之事實及理由，收受或知悉措施之年月日。依第三條第二款提起申訴者，為向學校或主管機關提出申請之年月日。

(五)希望獲得之具體補救。

(六)提起申訴之年月日。

(七)受理申訴之學校或主管機關申評會。

(八)載明就本申訴事件有無提起訴願、訴訟或勞資爭議處理；其有提起者，應載明向何機關或法院及提起之年月日。

(九)再申訴時，應檢附原申訴書、原申訴評議書，並敘明受送達原申訴評議書之時間及方式。

七、提起申訴不合法定程式，其情形可補正者，申評會應通知申訴人於二十日內補正。

Filing an Appeal:

1. The faculty appeal comprises two levels: an initial appeal and a subsequent re-appeal.
2. Appeals shall be submitted to the Committee. If the appellant disagrees with the Committee's decision, they may file a re-appeal with the Central Teacher Appeal and Review Committee of the Ministry of Education.
3. A written appeal shall be filed within 30 days from the day following the receipt of the measure. A written re-appeal shall also be filed within 30 days from the day following the receipt of the Committee's written decision.
4. The date on which the appeal is received by the Committee shall be the official date of filing.
5. If a faculty member is dissatisfied with a measure taken by the Ministry of Education concerning their personal rights or interests, a re-appeal may be filed directly with the Central Teacher Appeal and Review Committee of the Ministry of Education.
6. Appeals must include a written appeal letter including the following information, signed or sealed by the appellant or their legal representative, with the original document of the measure, relevant documents, and supporting evidence:
  - (1) The appellant's name, date of birth, ID number, affiliated institution and job title, residential address, and phone number.
  - (2) If there is a legal representative, their name, date of birth, ID number, residential address, and phone number.
  - (3) The original decision-making school or competent authority. For appeals filed under 2. of Article 3, the university shall be listed as the responsible school.
  - (4) The facts and reasons for the appeal, including the date of receipt of the measure. For appeals under 2. of Article 3, the date the application was submitted to the school shall be listed.
  - (5) The specific remedy being sought.
  - (6) The date the appeal is being filed.
  - (7) The name of the Committee of the school or competent authority receiving the appeal.
  - (8) A statement indicating whether administrative appeal, litigation, or labor dispute resolution has been pursued regarding the matter. If so, the name of the authority or court and the date of filing shall be provided.
  - (9) In the case of a re-appeal, the original appeal letter and the decision shall be attached, along with a statement of the date and manner of receipt of the original appeal decision.
7. If an appeal does not comply with the required formal procedures but is correctable, the Committee shall notify the appellant to make corrections within 20 days.

## 第五條 申訴評議：

一、申評會應自收受申訴書之次日起十日內，以書面檢附申訴書影本及相關書件，通知為原措施之單位提出說明。原措施之單位應自書面通知達到之次日起二十日內，擬具說明書連同關係文件送申評會。但原措施之單位認為申訴為有理由者，得自行撤銷或變更原措施，並函知申評會。

二、原措施之單位未依期限提出說明者，申評會應予函催；其說明欠詳者，得再予限期說明，屆期仍未提出說明或說明欠詳者，申評會得逕為評議。

三、第一款規定之期間，於依前條第七款規定補正者，自補正之次日起算；未為補正者，自補正期限屆滿之次日起算。

四、申訴提起後，於評議書送達申訴人前，申訴人得撤回之。申訴經撤回者，申評會應終結申訴案件之評議，並以書面通知申訴人、原措施之單位。申訴人撤回申訴後，不得就同一原因事實重行提起申訴。

五、申訴案件全部或一部之評議決定，以訴願、訴訟、勞資爭議處理之法律關係是否成立為據者，申評會於訴願、訴訟、勞資爭議處理程序終結前，得停止評議，並以書面通知申訴人；於停止原因消滅後，經申訴人、原措施單位或主管機關通知，或申評會知悉時，應繼續評議，並以書面通知申訴人。

六、教師依訴願法提起訴願後，復依教師法提起申訴者，申評會應停止評議，並以書面通知申訴人；於停止原因消滅後，經申訴人或主管機關通知，或申評會知悉時，應繼續評議，並以書面通知申訴人。

七、申評會開會時，以不公開為原則。評議時，得經會議決議邀請申訴人、關係人、學者專家或有關機關指派之人員到場說明。申訴人得申請到場說明，申評會得指定時間地點通知其到場說明。

八、申評會委員有下列情形者，不得參與評議：

(一)有行政程序法第三十二條所定各款情事之一，或於申訴案件有利害關係，應自行迴避者。

(二)有前目所定情形不自行迴避，而未經當事人申請迴避者，應由申評會依職權命其迴避者。

(三)有具體事實足認申評會委員就申訴案件有偏頗之虞，經申訴人舉其原因及事實向申評會申請委員迴避，申評會決議應迴避者。

九、申評會委員於評議程序中，除經申評會決議外，不得與當事人、代表其利益之人或利害關係人為程序外之接觸。

### Appeal Review Procedure:

1. Within 10 days from the day following receipt of the appeal letter, the Committee shall forward a copy of the appeal letter and related documents in writing to the original decision-making unit, requesting a written explanation. The original unit shall submit the written explanation along with relevant documents to the Committee within 20 days from the date of receipt of the request. However, if the

original unit deems the appeal to be justified, it may revoke or amend the original measure on its own initiative and inform the Committee in writing.

2. If the original unit fails to provide an explanation within the specified period, the Committee shall issue a written reminder. If the explanation is deemed insufficient, the Committee may set another deadline for submission. If no adequate explanation is received by the deadline, the Committee may directly proceed the decision.
3. If corrections are required under 7. of the preceding article, the 10-day period specified in 1. shall begin on the day following the completion of the correction. If no correction is made, the period shall begin on the day following the expiration of the correction period.
4. After an appeal is filed but before the decision is delivered to the appellant, the appellant may withdraw the appeal. Upon withdrawal, the Committee shall terminate the review process and notify both the appellant and the original unit in writing. Once an appeal is withdrawn, it may not be refiled on the same grounds and facts.
5. If the decision of the Committee, in whole or in part, depends on the outcome of administrative appeals, litigation, or labor dispute resolution procedures, the Committee may suspend its review until those procedures are concluded, and shall notify the appellant in writing. Once the reason for suspension no longer exist, the review shall resume upon notification by the appellant, the original unit, or the competent authority, or upon the Committee's own awareness, with written notification to the appellant.
6. If a teacher files an administrative appeal under the Administrative Appeal Act and subsequently files an appeal under the Teachers' Act regarding the same matter, the Committee shall suspend its review and notify the appellant in writing. Once the cause for suspension is removed, the review shall resume upon notification by the appellant or competent authority, or upon the Committee's own awareness, with written notification to the appellant.
7. Committee meetings shall be held non-publicly in principle. During the review process, the Committee may resolve to invite the appellant, related parties, scholars or experts, or representatives from relevant units to provide explanations. The appellant may also request to present an explanation in person. The Committee may specify the time and place for such presentation and notify the appellant accordingly.
8. Committee members shall not participate in the review under the following circumstances:

- (1) If any of the situations stipulated in Article 32 of the Administrative Procedure Act apply, or if the member has a conflict of interest in the case and should recuse themselves.
  - (2) If a member with such a conflict fails to voluntarily recuse themselves and no recusal request has been filed by the parties involved, the Committee shall order the member to recuse themselves ex officio.
  - (3) If there are concrete facts showing the possibility of bias on the part of a member, and the appellant presents reasons and facts to request the member's recusal, the Committee may resolve that the member should recuse themselves.
9. Unless otherwise resolved by the Committee, members shall not have any off-the-record contact with the parties, their representatives, or other interested persons during the review process.

第六條 評議決定：

- 一、申評會之評議決定，除依第五條規定停止評議者外，自收受申訴書之次日起，應於三個月內為之；必要時，得予延長，並通知申訴人。延長以一次為限，最長不得逾二個月。
- 二、前款期間，於依第四條第七款規定補正者，自補正之次日起算；未為補正者，自補正期限屆滿之次日起算；依第五條規定停止評議者，自繼續評議之日起重行起算；於評議決定期間補具理由者，自收受最後補具理由之次日起算。
- 三、申訴有下列情形之一者，應為不受理之評議決定：
  - (一)申訴書不合法定程式不能補正，或經通知限期補正而屆期未完成補正。
  - (二)提起申訴逾第四條第三款規定之期間。
  - (三)申訴人不適格。
  - (四)原措施已不存在或申訴已無實益。
  - (五)依第三條第二項提起之申訴，應作為之單位已為措施。
  - (六)對已決定或已撤回之申訴案件就同一原因事實重行提起申訴。
  - (七)依第五條第六款規定繼續評議，其原措施屬行政處分。
  - (八)其他依法非屬教師申訴救濟範圍內之事項。
- 四、分別提起之數宗申訴係基於同一或同種類之事實上或法律上之原因者，申評會得合併評議，並得合併決定。
- 五、申評會於評議前認為必要時，得推派委員三人至五人審查，委員於詳閱卷證、研析事實及應行適用之法規後，向申評會提出審查意見。
- 六、申評會應審酌申訴案件之經過、申訴人所受損害及所希望獲得之補救、申訴雙方之理由、對公益之影響及其他相關情形，為評議決定。
- 七、申訴無理由者，申評會應為駁回之評議決定。原措施所憑之理由雖屬不當，但依其他理由認原措施為正當者，應以申訴為無理由。

八、申訴有理由者，申評會應為有理由之評議決定，其有補救措施者，並應於評議書主文中載明。

九、申評會之評議決定，以無記名投票表決方式為之；其評議經過及個別委員意見，應對外嚴守秘密。

十、前款表決方式及表決結果，應載明於當次會議紀錄；表決票應當場封緘，經會議主席及委員推選之監票委員簽名，由申評會妥當保存。委員於評議中所持與評議決定不同之意見，經其請求者，應列入委員會議紀錄。

十一、評議書應載明下列事項：

(一)申訴人姓名、出生年月日、身分證明文件字號、服務學校及職稱、住居所。

(二)有代理人者，其姓名、出生年月日、身分證明文件字號、住居所。

(三)為原措施之學校或主管機關。

(四)主文。

(五)事實及理由。其係不受理決定者，得不記載事實。

(六)申評會主席署名。申評會做成評議書時主席因故不能執行職務者，由代理主席署名，並記載其事由。

(七)評議書作成之年月日。

(八)評議書應附記如不服評議決定，得於評議書送達之次日起三十日內，向教育部中央教師申訴評議委員會提起再申訴。

十二、評議書以學校名義行之，作成評議書正本，並以足供存證查核之方式，於評議書作成後十五日內，將評議書正本送達申訴人及原措施單位。申訴案件有代理人者，除受送達之權限受有限制者外，評議書之送達，向該代理人為之；代理人有二人以上者，送達得僅向其中一人為之。

十三、評議決定有下列情事之一者，即為確定：

(一)依規定得提起再申訴，而申訴人、原措施之學校於評議書送達之次日起三十日內未提起再申訴。

(二)再申訴評議書送達於再申訴人。

Review Decisions:

1. Except when the review is suspended in accordance with Article 5, the Review Committee shall render a decision within three months from the day following receipt of the appeal. When necessary, the period may be extended once for a maximum of two months, and the appellant shall be notified.
2. The aforementioned period shall be recalculated from the day following the correction date under 7. of Article 4; if no correction is made, the period shall be counted from the day following the correction deadline. If the review is suspended in accordance with Article 5, the period shall recommence from the day the review resumes. If supplemental reasons are submitted during the review period, the period shall recommence from the day following the receipt of the final supplemental reasons.

3. The Review Committee shall render a decision of non-acceptance under any of the following circumstances:
  - (1) The appeal fails to meet statutory procedures and cannot be corrected, or correction is not made within the specified period after notification.
  - (2) The appeal is not filed within the time limit stipulated in 3. of Article 4.
  - (3) The appellant is not a legally qualified party to file the appeal.
  - (4) The original measure no longer exists or the appeal has no substantive benefit.
  - (5) For appeals filed under 2. of Article 3, the responsible unit has already taken the necessary action.
  - (6) An appeal with the same cause of action has already been decided or withdrawn.
  - (7) The review resumes under 6. of Article 5 and the original measure constitutes an administrative disposition.
  - (8) Other matters that do not fall within the scope of teacher appeal relief under the law.
4. When multiple appeals are filed separately but are based on the same or similar factual or legal grounds, the Review Committee may consolidate the reviews and decisions.
5. Before rendering a decision, the Review Committee may, when necessary, appoint three to five members to conduct a preliminary review. These members shall examine the files, analyze the facts, and relevant legal provisions, and submit a review report to the Committee.
6. The Review Committee shall consider the course of the appeal, the harm suffered by the appellant, the requested remedy, arguments from both parties, public interest, and other relevant factors when rendering a decision.
7. If the appeal is found to be groundless, the Review Committee shall issue a decision to dismiss the appeal. If the reasons cited in the original measure are inappropriate but the measure is deemed legitimate for other reasons, the appeal shall also be dismissed.
8. If the appeal is found to be justified, the Review Committee shall render a decision accordingly. If any remedy is to be provided, it shall be specified in the main text of the decision.
9. The Review Committee's decision shall be made by secret ballot. The review process and the opinions of individual members shall be kept confidential.
10. The voting method and results under the preceding paragraph shall be recorded in the meeting minutes. Ballots shall be sealed immediately after voting, signed by the chairperson and an appointed vote-monitoring member, and properly kept by the

Review Committee. Any dissenting opinions held by a member shall be recorded in the minutes upon request.

11. The review decision shall include the following information:
  - (1) The appellant's name, date of birth, ID number, affiliated institution and job title, and residential address.
  - (2) If there is a legal representative, their name, date of birth, ID number, and residential address.
  - (3) The university or competent authority that imposed the original measure.
  - (4) The main text (disposition).
  - (5) Facts and reasons. In cases where the appeal is not accepted for review, the facts may be omitted.
  - (6) Signature of the Chairperson of the Review Committee. If the Chairperson is unable to perform their duties, the acting Chairperson shall sign, along with the reason for substitution.
  - (7) The date the review decision is made.
  - (8) A note indicating that if the appellant disagrees with the review decision, a re-appeal may be filed with the Central Teacher Appeal Review Committee of the Ministry of Education within thirty days from the day following the receipt of the review decision.
12. The written decision shall be issued in the name of the university. A formal copy of the decision shall be produced and delivered to both the appellant and the original decision-making unit within fifteen days after the decision is made, using a method that ensures verifiable delivery. If the appellant has an agent whose authority is not restricted, the decision shall be delivered to the agent. If there are multiple agents, delivery to one shall suffice.
13. The review decision becomes final under the following circumstances:
  - (1) If a re-appeal is permitted but neither the appellant nor the original decision-making unit files a re-appeal within thirty days from the day following the receipt of the decision.
  - (2) If the re-appeal decision is delivered to the re-appellant.

第七條 本辦法未盡事宜，悉依教師法、教師申訴評議委員會組織及評議準則之規定辦理。

Matters not covered in these Regulations shall be handled in accordance with the Teachers' Act and the Guidelines Governing Organization and Review of Faculty Appeals Committee.

第八條 本辦法經校務會議審議通過，陳請校長發布後實施；修正時亦同。

These regulations shall take effect after approval by the University Affairs Meeting and subsequent promulgation by the President. Amendments follow the same procedure.