

# Problem-Grievance Resolution for Support Staff (CWA, Local 4730)

HR-09-40



## About This Policy

### Last Updated:

12-20-2016

### Responsible University Administrator:

Vice President for Human Resources

### Policy Contact:

[IU Human Resources](#)

[askHR@iu.edu](mailto:askHR@iu.edu)

## Scope

This policy applies to all Support Staff at IU Bloomington and Northwest represented by CWA, Local 4730, who have completed their probationary period.

## Policy Statement

1. This policy sets forth the policy and procedural requirements for employees to present grievances and to obtain a hearing and decision concerning such grievances.
2. The university and the union acknowledge the desirability of ensuring the fair resolution of disputes in the work place. Whenever possible, the dispute or problem should be resolved at the departmental level. However, in some instances it is recognized that this may not be possible. This policy provides an effective method and dependable problem resolution procedure.

## Procedure

### 1. Jurisdiction and exclusions

- a. This grievance procedure will not apply and may not be utilized in regards to any issues arising either in whole or in part concerning the following:
  - i. Salary increases, job assignments, and work standards. Classification determinations will be resolved by alternative procedures as outlined in the [Position Classification/Reclassification policy](#).
  - ii. Any disciplinary matter or termination during the probationary period.
- b. Grievances that may be appealed to arbitration are limited to disputes alleging a violation of a promulgated university rule, regulation, policy or grievance alleging that an employee has been terminated without just cause. Specifically excluded are grievances involving performance evaluations and disciplinary actions that do not include discharge or suspension.
- c. The campus Human Resources office, with the agreement of the affirmative action officer, will defer any grievance that primarily alleges a violation of the university's nondiscrimination or sexual harassment policy to the Office of Affirmative Action for investigation and recommendations. The time limits set forth in this policy for processing grievances will be held in abeyance for such cases until the Office of Affirmative Action has completed its investigation.
- d. If the Office of Affirmative Action is unable to resolve the dispute, or if the grievant is unsatisfied with the conclusion, the grievant retains the right to appeal to the next level of the grievance procedure within ten (10) workdays of the notification of case closure by the Office of Affirmative Action.

### 2. Time limits

- a. An initial grievance must be filed in writing within ten (10) workdays of the event giving rise to the grievance or within ten (10) workdays of the time the grievant should have first become aware of the event. In the case of a reduction in force (RIF), the ten-day work period begins when the employee is notified of the RIF or when the employee first becomes aware of or should have become aware of the violation of the RIF procedure.
- b. The time limits set forth in the various steps may be extended by mutual agreement of the parties. All such extensions will be in writing.
- c. A grievance not submitted within the specified time limit or other time limit as mutually agreed is considered waived or settled. If the university fails to respond to a grievance within the specified time limit or such other additional period of time as mutually agreed to, then the grievant may treat the grievance as denied and appeal the grievance to the next level.
- d. An employee who believes that he or she has a grievance but wants to attempt to resolve the matter through the Fair Treatment process should upon filing the grievance within the ten workday time limit request a hold until the completion of the Fair Treatment process. The hold form for such a request may be obtained at the campus Human Resources office.

### **3. Determination of appropriate grievance steps**

- a. The grievance will be filed at Level One except in those cases listed below.
  - i. Grievances concerning the involuntary termination of an employee will be directly filed with the dean, director, department head, or his/her designated department representative at Level Two of the procedure. The ten (10) workday time limit provided to an employee for filing an initial grievance will apply.
  - ii. A grievance alleging sexual harassment by the person designated to respond to the grievance should be filed at the next higher level. The ten (10) workday time limit provided to an employee for filing an initial grievance will apply.
  - iii. Either party may elevate the filing of an initial grievance to a higher, more appropriate step, with the mutual agreement of the campus Human Resources office and the union or the employee, if union representation has been waived.

### **4. Waiver of union representation**

- a. The grievant has the right at any level of the grievance to represent him/herself. However, the grievant must notify the university that union representation is being waived at the time the written grievance is filed at Level 3 (Level 2 at Northwest). This waiver is irreversible.
  1. In no event may the grievant be represented by another employee union or organization, either directly or indirectly by someone affiliated with another employee union or organization that is not the exclusive representative.
- b. When an employee waives the right to representation, the union retains the right to attend all arbitration meetings and to receive copies of all responses and other documents related to the substance of the grievance.

### **5. Meetings between union representatives and university administrators**

- a. Authorized union representatives will be allowed reasonable opportunity for discussion of complaints or grievances with university administrators during the union representative's regularly scheduled working hours subject to the following conditions:
  - i. Meetings must have the prior approval of the supervisor and will be scheduled at times that are least disruptive to operations and so that they do not interfere with essential work requirements.
  - ii. Pay will only be allowed if the meeting was held during the time the union representative would have worked had s/he not attended the meeting.
  - iii. The time paid for union representation activities is limited to actual meeting time plus travel time between the work location and meeting location during regularly scheduled work hours.

### **6. Costs of mediation and arbitration**

- a. Mediation and arbitration fees and expenses will be shared equally between the university and CWA, or the university and the grievant, if CWA representation has been waived.

## 7. Grievance steps

It is the intent of this policy that grievances be resolved at the earliest step of the grievance procedure. Grievances will be processed in accordance with the following procedure:

### a. Level One

Filed with supervisor

- i. The aggrieved employee(s) and/or the authorized union representative will present the initial grievance in writing to the immediate supervisor of the aggrieved employee(s) within ten (10) workdays of the event that gave rise to the grievance or within ten workdays from the time the grievant should have first become aware of the event.
  - a. In the event of a transfer or promotion, the grievance will be presented to the supervisor where the opening exists.
- ii. The grievance must be submitted on forms approved by the campus Human Resources office and must contain all of the following information:
  - a. The specific university policy or procedure allegedly violated
  - b. A clear and concise description of the nature of the grievance and how the action allegedly violated policy
  - c. The specific remedy requested for resolution
- iii. The employee and the supervisor will make every attempt to resolve the grievance at this level.
  - a. The grievant or union representative may request a meeting and the department will, whenever possible, accommodate such request to discuss the grievance. Such meeting will be scheduled within five (5) workdays of receipt of the grievance.
  - b. The supervisor will respond in writing to the employee and the union representative (with a copy to the campus Human Resources office and the department head) within ten (10) workdays of the conclusion of the grievance meeting or within ten (10) workdays after receipt of the grievance if no meeting is held. The supervisor is encouraged to consult with the campus Human Resources office prior to issuing the response.

### b. Level Two

Filed with dean, director, or department head

- i. If the grievant is not satisfied with the supervisor's response, then the grievant may appeal the outcome to the dean, director, department head, or his/her designated department representative within five (5) workdays of receipt of the supervisor's response or within fifteen (15) workdays of the supervisor's receipt of the Level One grievance if no response is given by the supervisor.
- ii. Grievances initiated at this level, such as terminations, are provided a ten (10) workday time limit as noted in section E. of this policy. A Level Two appeal must be submitted on approved forms and contain the information as specified in Level One of the grievance procedure including the Level One response.
- iii. The grievant or union representative may request a meeting and the department will, whenever possible, accommodate such request to discuss the grievance. Such meeting will be scheduled within five (5) workdays of receipt of the grievance.
- iv. The dean, director, department head, or his/her designee will respond in writing within ten (10) workdays of the conclusion of the grievance meeting or within ten (10) workdays of receipt of the grievance, if no meeting is held. The department head is encouraged to consult with Employee Relations prior to issuing his/her response.
  - a. The individual providing the Level Two response should be someone not directly involved in the previous level of the grievance process.

### c. Level Three

Joint Conference with the campus Human Resources office

- i. If the grievant is not satisfied with the Level Two response, or if no response is received from the department within the prescribed time limits, then the grievant may appeal to Employee Relations within five (5) workdays of receipt of the Level Two response or within fifteen (15) workdays of the dean's, director's or department head's receipt of the Level Two grievance if no response is given by the dean, director, or department head.
  - ii. The Level Three appeal will be submitted by the grievant or union representative in writing to the campus Human Resources office on approved forms and contain the information as specified in Level One of the grievance procedure including Level One and Two responses.
    - a. The grievant also must indicate on the grievance form whether s/he is waiving the right to union representation and will be presenting his/her own grievance at each of all the subsequent steps. This waiver is irreversible.
  - iii. Within ten (10) workdays of the receipt of the appeal, the campus Human Resources office will promptly schedule a joint conference to further discuss and attempt to resolve the grievance. Such joint conferences will be attended by not more than three (3) representatives for each of the parties in addition to the grievant. The university will provide the grievant and the authorized union representatives with a written summary of the university's position within ten (10) workdays after the date of the joint conference unless the parties jointly agreed to extend the time limits to conduct further investigation.
- d. Mediation (optional)
- i. In conjunction with the grievance procedure, if the grievance has not been settled at the conclusion of Level Three, then either the University or Union, or the grievant if Union representation has been waived, may request mediation. This is intended to be an optional step in the grievance procedure that requires the mutual agreement of both parties. The time limits for appealing the grievance to the next level are held in abeyance until the mediation process is completed. The mediation will be conducted in accordance with the following guidelines. These guidelines will be provided to mediators selected by the parties. Nothing in the agreement will be interpreted or construed to modify any other provisions of the grievance procedure.
  - ii. Notification and time limits
    - a. The university or CWA may request mediation of a pending grievance by notifying the other party in writing within ten (10) workdays of the Level Three response.
    - b. As soon as possible after the written request for mediation, the parties will jointly select a mediator and schedule a mediation meeting at the earliest possible date.
    - c. If no settlement is reached as a result of the mediation meeting, the grievance may proceed to arbitration, provided that the grievance issue is not excluded from arbitration by any other policy provision. The time limit for requesting arbitration will apply effective from the date of the grievance mediation session.
  - iii. Jurisdiction and Exclusions
    - a. Any grievance under the parties' grievance procedure that has been discussed at Level Three may be mediated with the exception of cases involving an employee termination.
    - b. By agreeing to schedule or participate in the mediation meeting, the university does not acknowledge that the case is properly subject to arbitration and reserves the right to raise this issue.
  - iv. Mediation hearing procedures, rules and outcome
    - a. The proceedings before the mediator will be informal, and the rules of evidence do not apply. No record, stenographic or tape recording of the mediation meeting will be made. The mediator's notes are confidential, and the content will not be revealed.
    - b. All written material that is presented to the mediator or the other party will be returned to the party presenting the material at the end of the mediation meeting.

- c. The issue mediated will be the same as the issues the parties have failed to resolve through the grievance procedure.
  - d. The mediator will conduct the mediation meeting by utilizing any of the customary techniques associated with mediation, including the use of separate caucuses.
  - e. Attendance at the mediation meeting will be limited to the local union president of CWA, Local 4730 or designee, CWA international representative, the campus director of Human Resources, the grievant, and other individuals chosen by CWA or the university that are directly involved in the grievance and whose presence is required. Neither party will be represented by an attorney at the mediation meeting .
  - f. The mediator has no authority to compel resolution of the grievance. The mediator may be requested by either party to issue an advisory recommendation or decision that will be provided to both parties. The parties may accept the resolution proposed by the mediator. The settlement or any settlement resulting from the mediation meeting will not be precedent setting unless there is a written understanding that it will be a precedent.
  - g. Neither at the arbitration hearing concerning the grievance that was mediated, nor at any other arbitration hearing, may either party refer to the presentations made at any mediation meeting by the other party, the fact that a mediation meeting was held concerning the grievance, or any statement by a mediator at my mediation meeting.
  - h. The parties will meet and develop a panel of mutually agreeable mediators and agree upon a method of selecting mediators for specific cases.
- e. Arbitration
- i. If the union or grievant is not satisfied with the Level Three response, or the university does not provide an answer within the time limits, and if the grievance involves a violation of the university rule, regulation, policy or a charge of unfair employment termination, the union or grievant may give notice of the intent to proceed with a formal arbitration hearing.
  - ii. Notification and Time Limits
    - a. The notice for a formal hearing in accordance with this step of the procedure must be submitted to the campus Human Resources office not more than ten (10) workdays following the date of the Level Three response or the final mediation session, whichever is later.
    - b. The written request must be submitted on approved forms and contain the information as specified in Level One including the responses from other Levels.
  - iii. Selection of Arbitrator
    - a. Twenty (20) days after receipt of the notice to arbitrate, the union international representative, or grievant if union representation has been waived, and the representative of the university will select an arbitrator from a list of arbitrators jointly agreed upon by the university and the union.
      - a. If such a panel of arbitrators does not exist, the arbitrator will be selected from a list of five (5) arbitrators, provided by the American Arbitration Association, who are not currently or previously employed by Indiana University.
    - b. An arbitrator will be selected by alternately striking off names from the list. The union, or grievant if union representation has been waived, will make the first strike until one name remains. The remaining person will be designated as arbitrator, and the university will advise the American Arbitration Association of the selection.
  - iv. Pre-arbitration hearing conference
    - a. After the selection of the arbitrator and the scheduling of the hearing date, the union international representative or union counsel, or grievant if union representation has been waived, and the university counsel or the campus Human Resources Director will meet and attempt to reduce the issue to writing, stipulate facts, authenticate proposed exhibits, and reach any other understandings that will expedite the hearing process.

- b. If either party requests a stenographic record of the proceedings, the cost of the transcript for the arbitrator will be equally split between the parties. Each party may order a copy at its own expense.
  - c. By mutual agreement of University Human Resource Services and the union, or the grievant if union representation has been waived, a grievance may be submitted to Expedited Arbitration, in accordance with the rules and procedures established by the American Arbitration Association. If expedited Arbitration is utilized, legal counsel will represent neither party.
- v. Authority of arbitrator
- a. The arbitrator will not rule on any matter that is specifically excluded from the grievance procedure or make any recommendation that conflicts, overturns, or modifies in whole or in part, a policy, practice, or procedure approved by the Board of Trustees of Indiana University or with any Indiana state law or federal law or any administrative regulation issued under the law by the appropriate statutory authority.
  - b. The arbitrator will make a written report of findings and advisory recommendation to the president, chancellor, provost or appropriate vice president responsible for the organizational unit where the grievance originated or the grievant is assigned. A copy of the arbitrator's report will be provided to the grievant.
- vi. Final decision
- a. The president, chancellor, provost or appropriate vice president will accept, modify, or reject the recommendation. This decision is final and binding on all parties.

## Definitions

The following meanings apply in interpreting and utilizing the procedures in this policy.

*Grievance* means a specific complaint initiated by a non-probationary employee, group of such employees or such employee's (s) authorized representative alleging that his or her employment has been, or is being, adversely affected by an improper application or interpretation of a university rule, regulation, policy, procedure, or practice or by a specified action of a supervisor that is contrary to university policy. Excluded are those topics described in section C. of this policy.

The grievance must contain a description of the alleged violation with the pertinent facts, the specific law or university policy or procedure that was violated, and the requested resolution.

*Grievant* means an appointed Support Staff employee who has successfully completed the probationary period, group of such employees, or such employee's (s) authorized representative and who has filed a grievance in accordance with this policy.

*Workdays* are days that the campus offices are open and available to conduct business. Excluded days include weekends and holidays recognized by the university.

## Sanctions

Managers, supervisors, and employees who violate this policy are subject to corrective action, up to and including separation.

## History

### December 2016

Revised to incorporate provisions of the 2016-2019 Agreement between Indiana University and CWA Local 4730.

## Related Forms

[Grievance Form](#)