

Problem-Grievance Resolution for Professional Staff and Support and Service Staff not Covered by a Union

HR-09-20

About This Policy

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Responsible University Administrator:

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Scope

This policy applies to Professional Staff and Support and Service Staff not covered by a union.

Policy Statement

1. In working together day-to-day, it is normal for employees to have occasional problems or complaints affecting their work-related activities. It is important to resolve these problems as quickly as possible. It is the university's view that most problems can be resolved through informal discussions between the employee and supervisor. However, in some instances this may not be possible and it is appropriate to turn to the formal grievance resolution process contained in this policy.
2. The following establishes a procedure for the fair, orderly, and timely resolution of such problems or complaints using a review process having up to four steps: [Stage 1](#) is to the immediate supervisor, [Stage 2](#) is to the dean or director of the unit, [Stage 3](#) is to the campus human resources office, and [Stage 4](#) is an advisory arbitration hearing for eligible issues.
3. Staff shall not be discriminated or retaliated against for exercising rights under this problem or grievance resolution policy.

Procedure

1. Eligibility

- a. Newly appointed staff who are still within the [new employee evaluation period](#) do not have access to the grievance procedure for issues concerning discipline, furlough, or termination. They may grieve through Stage 3 other issues that are eligible for the grievance procedure.
- b. Promoted appointed staff who are still within the [promotion evaluation period](#) are eligible to appeal grievances to Stage 4 if the issues are subject to Stage 4.

2. Grievable and non-grievable issues

- a. Discipline imposed on an employee pursuant to the Corrective Action policy may be grieved.
- b. An employee may file a grievance alleging that he or she has been or is being adversely affected by an improper application or interpretation of an employment related rule, regulation, policy, or procedure that is not specifically excluded below.
- c. The following issues are not grievable:
 - i. Complaints involving judgments such as salary increases, salary range, classification assignment, work standards, performance appraisals, performance improvement plans, organizational structures, work assignments, and staffing levels.

- ii. Complaints that attempt to change the language of a policy or procedure.
 - iii. Complaints that are subject to other university procedures, such as, equal opportunity and affirmative action policies, research misconduct policies, intellectual property determinations, environmental health and safety concerns, parking violations, or workers compensation claims.
 - iv. Such complaints should be handled through procedures established for the specific topic. These are not exhaustive lists.
- d. Grievances that may be appealed to Stage 4, arbitration, are limited to complaints alleging a violation of an employment related rule, regulation, or policy; or a grievance regarding an employee's termination pursuant to the Corrective Action policy. Disciplinary actions below the level of termination cannot be appealed to Stage 4.

3. Complaints involving affirmative action policies

- a. Complaints alleging a violation of the university's affirmative action policies ([Americans with Disabilities Act](#), [Equal Opportunity/Affirmative Action](#), and [Sexual Misconduct](#)) must be reported to the campus affirmative action office for processing through that office's procedures. Before, during, or following any stage described in this policy, an employee, supervisor, dean, or director may consult the affirmative action officer.
- b. If an employee initiates a complaint of alleged violation of these policies within his or her department, or with the campus human resources office, the department head or campus human resources office must report the complaint to the campus or university affirmative action office.
- c. A complaint alleging violation of both human resource and affirmative action policies must be filed with both the campus Human Resources Office and Affirmative Action Office. The two offices will coordinate their efforts to address and attempt to resolve the issues.
- d. The investigative office will advise those accused of violating the affirmative action policies that retaliation or the appearance of retaliation against the person who filed the complaint may constitute the basis for a separate complaint and/or discipline pursuant to the Corrective Action policy.

4. Presentation of grievances

- a. At all stages, matters must be presented in one of the following ways:
 - i. Solely by the employee. If the grievance is on behalf of two or more employees, no more than two employees can be designated as the spokesperson or group representatives to present the grievance.
 - ii. By the employee in the company of a representative or witness of the employee's choice.
- b. The university's problem-grievance procedure is an administrative procedure; therefore, the employee's representative or witness cannot be an attorney prior to Stage 4.

5. Determination of appropriate stage for filing a grievance

- a. It is the intent of this policy that grievances be resolved at the earliest step of the grievance procedure as possible. Grievances are to be filed at Stage 1 except as provided below.
- b. When the problem involves a termination, the notice of termination is regarded as a final decision of Stage 1. If the employee initiates a grievance, he or she must do so within ten (10) working days of receipt of the notice of termination. The grievance goes directly to Stage 2.
- c. The campus human resources office may elevate the initial filing of any grievance to Stage 2 or Stage 3 if it deems it appropriate to do so.

6. Time limits

- a. Regardless of which Stage the grievance is initiated, an employee must file a grievance no later than ten (10) working days of when the employee knew or should have known about the incident or problem giving rise to the grievance.
- b. If an employee fails to observe the time limits established for any Stage, the grievance will be considered resolved. If the university fails to observe the time limits established for any Stage, the employee may submit the grievance to the next Stage within the designated time limits for appeal.

- c. Time limits identified in the four stages may be extended if the employee, the department and campus human resources office agree. In addition, the campus human resources office has the authority to extend the time limits at its discretion and inform the parties.

7. Procedure for filing and processing formal grievances

a. Stage 1

- i. Employees are to submit the grievance in writing to their immediate supervisor with a copy to the campus human resources office. Failure to send the copy could be a cause for delay in processing the grievance. If the campus has a form for grievances, it must be used.
- ii. The supervisor shall send the campus human resources office an email acknowledgement of his or her receipt of the grievance.
- iii. The campus human resources office will notify both the employee and the supervisor as to whether the issue is subject to the grievance procedure.
- iv. The supervisor shall not issue a response to the grievance until he or she has received the determination from the campus human resources office that the issue is subject to the grievance procedure. The supervisor is encouraged to consult with the campus human resources office prior to issuing his or her response.
- v. The supervisor has five (5) working days from receipt of the eligibility determination from the campus human resources office to reply in writing to the employee. During this period, the supervisor and the employee shall meet and attempt to resolve the matter.
- vi. The supervisor must forward a copy of his or her written Stage 1 response to the campus human resources office at the time that it is given to the employee.

b. Stage 2

- i. If the employee regards the outcome of Stage 1 as unsatisfactory, or if the supervisor fails to respond within five (5) working days of the eligibility determination from the campus human resources office, the employee is entitled to appeal to Stage 2.
- ii. The employee must appeal in writing within five (5) working days of receipt of the Stage 1 response—or its due date—to the supervisor's dean or director or designee with a copy submitted to the campus human resources office.
- iii. The dean or director or designee has five (5) working days from receipt of the Stage 2 grievance to respond in writing and during this period will meet with the grievant to discuss and attempt to resolve the matter.
- iv. The dean or director or designee is encouraged to consult with the campus human resources office prior to issuing the Stage 2 response. A copy of the written Stage 2 response must be forwarded to the campus human resources office at the time that it is given to the employee.

c. Stage 3

- i. If the employee regards the outcome of Stage 2 as unsatisfactory, or the dean or director fails to respond within five (5) working days, the employee is entitled to appeal to Stage 3.
- ii. The employee must appeal in writing to the campus human resources office within five (5) working days of receipt of the Stage 2 response or its due date.
- iii. The campus human resources office has ten (10) working days from receipt of the Stage 3 grievance to provide the university's response in writing and during this period will meet with the grievant to discuss and attempt to resolve the grievance.
- iv. If the employee regards the outcome of Stage 3 as unsatisfactory, the campus human resources office will inform the employee if the grievance is eligible for Stage 4.

d. Stage 4

- i. If the employee regards the outcome of Stage 3 as unsatisfactory, and the grievance is eligible for Stage 4 as provided in Procedures 1. Eligibility, above, the employee may request a Stage 4 hearing which will be conducted by an outside arbitrator. The employee and the university will pay in equal shares all fees and expenses of the arbitrator and the American Arbitration Association if their services are used.
- ii. Stage 4 Hearing Procedures:
 - a. The employee must submit a written request for a Stage 4 hearing to the campus human resources office within ten (10) working days of receipt of the Stage 3 response or its due date.
 - b. An arbitrator shall be selected by the parties as follows:
 - a. The employee and the university may agree upon a local arbitrator.
 - b. If the parties cannot agree upon a local arbitrator within ten (10) working days of the request for a Stage 4 hearing, the employee may either accept the Stage 3 response as the final resolution of the grievance or may choose to have the hearing conducted by a single arbitrator selected through the American Arbitration Association (AAA).
 - c. If the employee requests an AAA arbitrator, the campus human resources office shall submit a written request to the AAA to provide the parties with a list of five arbitrators. The parties shall alternately strike names from the list, with the employee (or employee's representative) going first, until one arbitrator's name remains.
 - c. The arbitrator will conduct a hearing, write a report of the findings, and make an advisory recommendation to the president, chancellor, provost, or appropriate vice president. A copy of the written report of findings and recommendation will be provided to the employee.
 - d. The president, chancellor, provost or appropriate vice president will accept, modify, or reject the arbitrator's recommendation and will communicate in writing the final decision to the parties. This concludes the problem or grievance procedure and there are no further internal reviews or procedures.

Sanctions

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

Related Forms

[Grievance Form](#)