

Policy: 2-25 Rev: 8

Date: June 30, 2004

OBSOLETE: The functions of this policy were combined into [PPM 2-32](#) DISCRIMINATION, HARASSMENT, STAFF EMPLOYMENT GRIEVANCES: OFFICE OF EQUAL OPPORTUNITY AND EMPLOYEE RELATIONS PROCEDURES FOR ALLEGING DISCRIMINATION OR HARASSMENT AND FOR INITIATING STAFF EMPLOYMENT GRIEVANCES October 4, 2000.

Please refer to [PPM 2-32](#) for guidance in this area.

[Rev. 7](#)

Subject: STAFF EMPLOYEE GRIEVANCES AND APPEALS

I. PURPOSE

To provide an effective means of ensuring fair treatment for permanent staff employees seeking to resolve work-related problems or conditions of employment believed to be unfair, inequitable, or a hindrance to effective job performance.

II. REFERENCES

[Policy and Procedure No. 2-0](#), Personnel Definitions

[Policy and Procedure No. 2-6](#), Equal Opportunity and Nondiscrimination in Employment

[Policy and Procedure No. 2-6.A](#), Sexual Harassment and Consensual Relationships

[Policy and Procedure No. 2-9](#), Disciplinary Actions and Dismissal of Staff Employees

[Policy and Procedure No. 2-8.1](#), Reduction in Force and Severance Pay

[Policy and Procedure No. 2-32](#), Discrimination Complaints

III. DEFINITIONS

- A. Permanent Staff - Those staff employees whose employment status is expected to last nine months or longer and who are regularly scheduled to work 20 or more hours per week. Permanent staff employees may be full-time (1.0 FTE) or part-time (equal to or greater than .5 FTE but less than 1.0 FTE).
- B. Temporary Staff - Those staff employees whose employment is for a period expected to last less than nine months or whose employment is expected to last nine months or longer and who are regularly scheduled to work less than 20 hours per week (.5 FTE). Temporary employees may be full-time or part-time, receive no benefits, and are employed "at will."
- C. Probationary Staff - Those staff employees hired for, or reinstated to, a permanent full-time or part-time position and serving a probationary period. Probationary staff employees are "at will" employees.

- D. Grievance - A grievance is a work-related problem or condition of employment which an employee believes to be unfair, inequitable, or a hindrance to his/her effective job performance.
- E. Final and Binding Decision - A final administrative decision. The grievant cannot take the matter any further administratively.
- F. Employment "At-will" - Employment that is terminable by the university for any reason or for no reason at all.

IV. POLICY

- A. Notwithstanding management's prerogative to reorganize and make necessary changes in job duties and responsibilities, the University encourages employees to discuss their grievances with their supervisors and to seek an informal resolution of work-related problems or conditions of employment that they believe to be unfair.
- B. The staff employee grievance and appeal process set forth in Section V. is available to all permanent full and part-time staff employees who have completed their probationary period. The staff grievance and appeal process is not available to probationary and temporary staff employees.
- C. Any employee who feels s/he has been subject to sexual harassment or discrimination on the basis of race, color, national origin, religion, sex, age, disability, sexual orientation, or veteran's status may file a complaint with the Office of Equal Opportunity/Affirmative Action in accordance with University [Policy and Procedure No. 2-32](#).
- D. Employees shall not be subjected to retaliation for initiating this grievance and appeal process.
- E. An Employee Relations Specialist shall answer any questions regarding this policy that may be asserted by either the grievant or the respondent. The designated Employee Relations Specialist shall monitor the grievance and appeal process to ensure compliance with this policy, and ensure that the grievance is handled as expeditiously as possible at each step of the process. Employees and supervisors are also encouraged to discuss with an Employee Relations Specialist, on an informal basis, any question, problem, or complaint pertaining to University policy, procedure, or practice.
- F. Reasonable time off with pay during scheduled working hours shall be provided to the grievant, the employee's representative, or any witnesses called to testify, for reasonable time spent in preparation and/or proceedings leading to resolution of the grievance. Time spent by the grievant or representative in such activities outside scheduled working hours is noncompensable.
- G. A proposed resolution of a grievance that involves an exception to an applicable University policy or regulation requires the prior approval of the cognizant vice president or the President, as appropriate.
- H. Time limits provided for conducting the grievance procedure may be extended by the Human Resources Vice President or designee. Time limits stated refer to normal working days.

- I. Both parties have the right to be accompanied by a person of their choosing including legal counsel during the formal (Steps II and III) appeal process, who shall act in an advisory capacity only.
- J. The following issues are non-grievable under the staff grievance and appeal process unless applicable policies are alleged to have been violated:
 - (1) Wages and salaries
 - (2) Classification actions
 - (3) Reduction in Force except insofar as it is alleged that appropriate University procedures ([PPM 2-8.1](#)) have been violated
 - (4) Termination during probation and/or extension of the probationary period
 - (5) Performance evaluations
 - (6) Reassignment of job duties and responsibilities
 - (7) Reorganization that does not result in loss of pay
- K. Grievances regarding involuntary termination of employment will proceed directly to Step III, Appeal to the Staff Grievance Committee, bypassing Steps I and II. Such appeals are to be submitted in writing to Human Resources Vice President within five (5) working days of written notice of such termination.
- L. If the employee receives a decision at any step of the grievance procedure and does not ask for further review of the grievance within the specified time limit, that particular grievance will not be considered further.

V. PROCEDURE

A. Step I - Discussion Between Employee and Immediate Supervisor

1. Permanent employees who wish to pursue a grievance shall initially attempt to informally resolve the grievance with their immediate supervisor.
2. The grievant should present the grievance orally to his/her immediate supervisor within five (5) working days of the event prompting the grievance. The supervisor should respond to the grievance within ten (10) working days of the discussion. If the grievant feels the matter cannot be prudently discussed or resolved with the immediate supervisor, the grievant should contact an Employee Relations Specialist for progression to Step II, as set forth in Section V.B.
3. If the grievance cannot be resolved through informal discussions, the grievant may seek formal review of the grievance in accordance with Section V.B. of this policy.

B. Step II - Formal Review by a Higher Level Supervisor

1. If the supervisor's decision in Step I is not satisfactory to the grievant, or if no response is received within ten (10) working days, the grievant may file a formal grievance with the Employee Relations Department.
2. The formal grievance must be in writing, signed by the grievant and submitted to the appropriate office within fifteen (15) working days of receipt of the supervisor's response, or expiration of the ten (10) day response period. The written grievance must:
 - a. identify the work-related problem or condition of employment which the employee believes to be unfair, inequitable, or a hindrance to his/her effective job performance;
 - b. recite a concise statement of the facts surrounding the grievance; and
 - c. specify the remedy/redress sought.
3. Upon receipt of the written grievance, the Employee Relations Specialist shall refer the grievance to the appropriate level of supervision or management that has not been involved in Step I.
4. The supervisor or manager to whom the grievance is referred shall meet with the grievant and review the written grievance and all appropriate documentation related to the grievance. S/he shall discuss the grievance with the individuals involved as appropriate, and render a written decision based on the facts of the case. The Step II decision will be forwarded to the grievant, the grievant's immediate supervisor, and the Employee Relations Specialist within ten (10) working days from receipt of the grievance by the reviewing supervisor or manager.
5. If the grievant is not satisfied with the Step II decision, s/he may appeal such decision to the Staff Grievance Committee. The appeal must be submitted within five (5) working days of receipt of the Step II decision to the Secretary, Staff Grievance Committee, c/o the Human Resources Vice President. The appeal must be in writing and set forth the reasons why the decision at Step II is not acceptable.

C. Step III - Appeal to the Staff Grievance Committee

1. The purpose of the Staff Grievance Committee is to hear appeals filed by grievants who are dissatisfied with the Step II decision, and review involuntary terminations.
2. The Staff Grievance Committee will be composed of two (2) Hearing Panel Chairs, one each from the University (main campus) and University Hospital, and twelve (12) members-at-large nominated by the Personnel and Elections Committee in consultation with the Staff Advisory Council (UUSAC) based on criteria jointly established by the Human Resources Department and the Office of General Counsel and appointed by the President of the University. The Human Resources Vice President shall appoint a Committee Secretary to schedule hearings, assign the Hearing Panel Chair and panel members for each hearing, provide written notification and instruction to all parties,

distribute documents pertaining to the grievance to all parties, record the hearing, and perform other administrative tasks as required.

- a. The term of appointment for Hearing Panel Chairs shall be a period of two (2) years. The term of appointment for members-at-large shall be for a period of three (3) years. Vacancies occurring after the start of the term may be filled by additional appointments to complete the unexpired term. Hearing Panel Chairs and members of the Committee are eligible for reappointment.
 - b. Hearing Panel Chairs and members will receive appropriate training regarding the formal hearing process and Committee Standards of Review prior to hearing a grievance. Training shall be jointly conducted by the Office of General Counsel and the Human Resources Department.
3. Hearings shall be conducted according to the following procedures:
- a. The date upon which a hearing is to be held shall normally be determined within twenty (20) working days after the Secretary's receipt of the appeal.
 - b. When a Hearing Panel is to be convened, the Secretary shall assign a Hearing Panel Chair and six (6) members to hear the appeal. A hearing panel member shall be excused from participation in any grievance deliberation where he or she may be influenced by personal relationships with the parties, by bias concerning the circumstances, giving rise to the complaint, or by any other material influence which would appear to inhibit the member's ability to render an unbiased judgement. The grievant shall have the opportunity to strike one of the names of the members-at-large from the list. The supervisor shall also have the opportunity to strike one of the names of the members-atlarge from the list. Thus, each Hearing Panel shall consist of a Chair, and no fewer than four (4) members-at-large.
 - c. The Secretary shall ensure the Hearing Panel Chair and the panel members have neither been involved in the grievance at any of the steps leading to the appeal hearing nor have a vested interest in the outcome.
 - d. Prior to the hearing, the Secretary shall send all parties to the hearing a copy of the employee's written grievance; the supervisor's response from Step II, the request for review of the supervisor's decision; and any additional pertinent documentation pertaining to the case.
 - e. At least fifteen (15) working days prior to the date of the hearing, the grievant shall make available to the Secretary, a list of his/her witnesses and all documents to be reviewed at the hearing. The respondent must submit a list of witnesses and all documentation to be reviewed at the hearing at least ten (10) working days prior to the date of the hearing.
 - f. All materials submitted for consideration by any party or otherwise considered by the committee shall be made available to all parties at least one week prior to the scheduled hearing. In exceptional circumstances, the committee may allow a party

to submit evidence or materials at the time of the hearing.

- g. The hearing, except for Hearing Panel deliberations, shall be recorded by the Secretary, and a copy made available to either party to the grievance upon request.
- h. Hearings shall be closed to the public.
- i. Each Hearing Panel must have a quorum present to hold a hearing. A quorum consists of one (1) Hearing Panel Chair, and four (4) panel members. The Secretary of the Committee is responsible for selecting the Hearing Panel Chair and the panel members for each hearing. If there is more than one hearing in a matter, or if the hearing continues over more than one session, the same members are to be present for all sessions.
- j. At the hearing, the parties shall have the right to question witnesses, to present evidence and call witnesses on their own behalf, in accordance with the Committee's procedures established for the conduct of hearings.
- k. Hearing Panels shall not be bound by strict rules of legal evidence or procedure and may consider any evidence they deem relevant.
- l. The Office of General Counsel shall serve as a resource to the Committee, and a staff attorney may be present at hearings to provide guidance on substantive law and procedural matters.
- m. Hearing Panel Chairs and other Committee members are prohibited from discussing any grievance with the parties or the witnesses, or with others before or after the hearing. Violation of confidentiality shall result in dismissal from the Committee.
- n. Hearing Panel members shall deliberate in closed sessions to review the facts presented during the hearing and to vote by simple majority to determine whether: (1) there was a reasonable basis for the supervisor to take the action and (2) the disciplinary action taken was reasonable. In addition, the Hearing Panel may examine the procedures followed at any or all stages in the formal review process to determine whether such procedures were consistent with this policy and without substantial defects which operated to deny the grievant(s) basic fairness and due process. The burden of establishing by a preponderance of evidence that procedural defects, if any, operated to deny basic fairness and due process rests upon the grievant(s).
- o. The panel shall report in writing its findings and recommendations within twenty (20) working days after the conclusion of the hearing to the cognizant vice president or the president if the cognizant vice president had previously acted or been involved.
- p. If either the grievant or the respondent fails to attend the hearing without prior notification and good cause, the Hearing Panel may proceed with the hearing and take testimony and evidence, and reach a decision on the basis of such testimony

and evidence.

D. Step IV - Review and Decision by the Cognizant Vice President or President

1. The cognizant vice president or president, if appropriate, shall consider all of the documentation s/he feels will be helpful, including the findings and conclusions of the Hearing Panel, and may seek advice from other appropriate persons, before making a decision. Based upon such review, and without conducting further hearings, the vice president or president, if appropriate, shall, within ten (10) working days, take one of the following actions:
 - a. Accept the Hearing Panel's findings and recommendations.
 - b. Return the report to the Committee Secretary, requesting that the Hearing Panel reconvene to reconsider or clarify specific matters, materials, and issues, and forward to the vice president a second report of its findings and recommendations relating to the specific matters referred by the vice president or president, if appropriate, for further consideration.
 - c. Reject all or parts of the Hearing Panel's findings and conclusions, stating reasons and actions to be taken therefore.
2. Written notification of the vice president's decision or the president's decision, if appropriate, shall be communicated within ten (10) working days to the parties concerned.
3. The decision of the vice president or president, if appropriate, is final.

Approved: Board of Trustees 12/14/98
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