

**Policy 5-203: Staff Employee Grievances.**

Revision 9. Effective date: February 13, 2006

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**I. Purpose and Scope**

**A. Purpose.**

This Policy applies to all Staff Members holding benefits eligible positions who have completed their probationary period. It provides an effective means of ensuring fair treatment for staff seeking to resolve work-related problems or conditions of employment believed to be unfair, inequitable, or a hindrance to effective job performance.

B. Scope.

[reserved]

**II. Definitions**

The following definitions apply for the limited purposes of this policy and any associated regulations.

- A. Final and Binding Decision—A final decision in the grievance process. The grievance is considered closed.
- B. Grievance—The act of appealing an adverse employment action as defined in Policy and Procedures 5-109, 5-110 or 5-111.
- C. Grievant/Petitioner—A Staff Member who has filed a grievance.
- D. Respondent(s)—A supervisor and/or manager who responds to a grievance.
- E. Advisor—A person that the grievant and/or respondent has chosen to assist them in the grievance process. An advisor may only be present during Step III of the grievance process.
- F. Mediation—A process by which a trained, neutral third person assists both parties in reaching a mutually acceptable resolution to a work-related grievance. Mediation is completely voluntary. Mediation will occur only when both parties willingly agree to participate. When a party is interested in exploring mediation, that party should contact the Division of Human Resources.
- G. Employment "At-will"—Staff who are "at will" do not have access to the Staff Employment Grievance process.
- H. Staff Members holding a Benefits Eligible position in the probationary period — Those Staff Members hired for, or reinstated to, a Benefits Eligible position and serving a probationary period of at least six (6) months. These Staff Members are considered "at will" employees.

- I. Staff Members holding Benefits Eligible positions who have completed their probationary period —Staff Members as defined in Policy 5-001: Employee Definitions.
- J. Temporary Non-Benefited Staff - Staff as defined in Policy 5-001: Employee Definitions
- K. Corrective Action—Includes Written Warning, Final Written Warning, Suspension Without Pay, Demotion and Involuntary Termination.
- L. Adverse Employment Action – Includes corrective actions, involuntary termination, separation, and reduction in force.
- M. Relevant employee definitions are defined in Policy 5-001.

### **III. Policy**

- A. The University encourages Staff to first discuss potential grievances with their supervisors as appropriate and to seek an informal resolution of work-related problems or conditions of employment that they believe to be unfair.
- B. The Staff Grievance process set forth in Section V. is available to all Staff Members holding Benefits Eligible positions who have completed their probationary period. The Staff Grievance process is not available to "at-will" Staff or other Staff who may be excluded from use of this policy by employment contract.
- C. This process is available for grieving adverse employment actions, which are defined as a corrective action (written warning, final written warning, suspension without pay, and demotion), involuntary termination, separation, and reduction in force.
- D. There are two aspects of a corrective action that can be grieved as outlined in this policy. First, Staff can grieve the decision of a manager to take corrective action based on the facts of the situation. Second, Staff may grieve the level of corrective action taken. The Staff Member must show that one or both of these decisions made by the manager were arbitrary and capricious.

- E. A Reduction in Force is not grievable except insofar as it is alleged that appropriate University Procedures have been violated (see Policy 5-110).
- F. There are two aspects of a Policy 5-109 separation that can be grieved. First, Staff can grieve if they believe that appropriate University Procedures have been violated (see Policy 5-109). Second, they can grieve the decision of a manager to separate the Staff Member from employment based on the facts of the situation.
- G. Information disclosed by a Staff Member shall be treated as confidential insofar as it does not interfere with the University's legal obligation to investigate allegations of misconduct and to take corrective action or as otherwise provided by law.
- H. Staff shall not be subjected to retaliation for initiating the grievance process or for participating in the grievance process as witnesses.
- I. Any Staff Member who feels s/he has been subject to sexual harassment or discrimination on the basis of race, color, national origin, ethnicity, 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 Policy 1-012.
- J. Reasonable time away from regular work duties with pay during scheduled working hours shall be provided to the parties, their representatives, or any witnesses called to testify, for reasonable time spent participating in the grievance resolution process. Prior to taking time off, Staff should first contact Human Resources to determine what constitutes "reasonable time off" given the level of grievance and the impact on the department.
- K. A proposed resolution of a grievance that involves an exception to a University policy or regulation requires the prior approval of the cognizant Vice President and the Chief Human Resources Officer, or the President, as appropriate.

- L. The timeline associated with the grievance process is strict. Exceptions may be granted by the Chief Human Resources Officer or designee for good cause. Time limits stated refer to normal working days and do not include weekends or holidays.
- M. Grievances regarding loss of employment will proceed directly to Step III, which is the choice of either a hearing by the Staff Grievance Committee or a review by a higher level supervisor. Such grievances are to be submitted to Human Resources within five (5) working days of receipt of written notice of such termination.
- N. If the Staff Member receives a decision at any step of the grievance process and does not ask for further review of the grievance within the specified time limit, that particular grievance will be closed and not considered further.
- O. Mediation
  - 1. At any stage of the grievance process, either party may request mediation to resolve a potential grievance. Mediation will only occur when both parties willingly agree to participate. Mediation is a free service offered to all Staff.
  - 2. If resolution is not reached through mediation, the grievant may withdraw the grievance or engage in the grievance process as discussed below.

#### **IV. Step 1 Grievance Discussion Between Staff Member and Immediate Supervisor**

- A. Written warnings, demotions and suspensions without pay begin at Step I. Loss of employment moves directly to Step III.
- B. Staff who wish to pursue a grievance shall initially attempt to informally resolve the grievance with their immediate supervisor. The grievant should present the grievance to their immediate supervisor within five (5) working days of the event prompting the grievance.
- C. The supervisor will respond to the grievance within five (5) working days of the discussion.

- D. If the grievant feels the matter cannot be prudently discussed or resolved with the immediate supervisor at Step I, the grievant should inform Human Resources that they wish to progress to Step II. In such cases, Human Resources should be notified within five (5) working days of the event prompting the grievance.

**V. Step II Grievance—Review by Higher Level Supervisor or Hearing by a Hearing Officer**

- A. A grievant has five (5) working days to request a Step II grievance (in writing):
  - 1. Upon notification of the adverse employment action, if the grievant waives Step I, or
  - 2. Upon receipt of the Step I decision, if the grievant is not satisfied, or
  - 3. Upon failure of the supervisor to respond to the Step I grievance within five (5) working days. In this case, the grievant must then make a written request to move to Step II.
- B. A Step II grievance of a first written warning is conducted by the appropriate higher-level supervisor or manager who was not involved in the Step I grievance and was not involved in the actions being grieved.
  - 1. Upon receipt of the grievance, the higher-level supervisor should render a Step II decision within five (5) working days. In cases of written warnings, this will be the final decision, and the matter will be considered closed.
- C. A Step II grievance of a final written warning will be conducted the same as a written warning, except that the Staff member may request a review by the cognizant Vice-President or designee (see "F" below).
- D. A Step II grievance of a demotion or suspension without pay consists of a hearing conducted by a "Hearing Officer" chosen from the Hearing Panel. The hearing will be conducted according to the same rules and procedures that govern a Step III grievance hearing.

- E. The Staff Member who is grieving a demotion or suspension without pay may waive a hearing and instead opt to have a Step II grievance conducted by the higher-level supervisor.
  - 1. Once a Staff Member chooses either a hearing officer or a higher-level supervisor, they may not change their decision.
- F. For final written warnings, suspensions or demotions, upon receipt of the decision by the higher-level supervisor or the hearing officer, the parties have five (5) working days to request a final review and decision by the cognizant vice-president or designee. The cognizant vice-president or designee should issue a final decision within ten (10) working days of receipt of the grievance.

## **VI. Step III—Grievance of Loss of Employment**

- A. In case of a loss of employment, the grievant may request:
  - 1. A review by a higher-level supervisor or manager who was not involved in the Step I grievance and was not involved in the actions being grieved, or
  - 2. A hearing by a Committee comprised of an objective panel of Staff Members.
  - 3. Once a Staff Member chooses either a Committee or a higher-level supervisor, they may not change their decision.
- B. Requests must be made within five (5) working days of notification of the employment action being grieved.
- C. Upon conclusion of the review by the higher-level supervisor/manager or the hearing by the Committee, they should report their findings and recommendation(s) to the cognizant Vice-President within five (5) working days.
- D. Upon receipt of the grievance, the Cognizant Vice-President will review the submitted documentation and recommendations and should issue a written decision within ten (10) working days. In the event that the Vice-President was involved in the action being grieved, another Vice-President will review the recommendations and issue a written decision.

- E. In cases where the President is a respondent or otherwise involved in the decision being reviewed, the final decision will be made by an appropriate person designated by the Chief Human Resources Officer in consultation with the Office of General Counsel.
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*Sections IV- X are for user information and are not subject to the approval of the Academic Senate or the Board of Trustees. The Institutional Policy Committee, the Policy Owner, or the Policy Officer may update these sections at any time.*

## **VII. Policies/ Rules, Procedures, Guidelines, Forms and other Related Resources**

- A. Policies/ Rules. [ *reserved* ]
- B. Procedures, Guidelines, and Forms.
  - 1. Procedures 5-203: Staff Employee Grievances
  - 2. Procedures 5-203A: University of Utah Hospitals & Clinics (UUHC) Employee Relations Staff Employee Grievance Procedure
- C. Other Related Resources. [ *reserved* ]

## **VIII. References**

- A. Policy 5-001: Personnel Definitions
- B. Policy 5-106: Equal Opportunity and Nondiscrimination in Employment
- C. Policy 5-107: Sexual Harassment and Consensual Relationships
- D. Policy 5-111: Corrective Actions and Termination Policy for Staff
- E. Policy 5-110: Reduction in Force and Severance Pay
- F. Policy 1-012: University Non-Discrimination Policy
- G. Utah Board of Higher Education Policy R831

## **IX. Contacts**



The designated contact officials for this Regulation are

- A. Policy Owner(s) (primary contact person for questions and advice): Questions about this Policy and any related Rules, Procedures and Guidelines should be directed to the Director of Employee Relations for Human Resources
- B. Policy Officer(s): Only the Vice President for Human Resources or their designee has the authority to grant exceptions to this Policy.

See Rule 1-001 for information about the roles and authority of policy owners and policy officers.

## **X. History**

Revision History.

- A. Current version. Revision 9.
  - 1. Approved by Board of Trustees February 13, 2006 with Effective Date February 13, 2006.
  - 2. Editorial Revisions
    - a. Editorially revised March 14, 2023 to move to current regulations template.
    - b. Editorially revised March 14, 2023 to replace gender-specific pronouns
    - c. Editorially revised October 28, 2021 to reflect the renumbering of Policy 5-210 to Policy 1-020
    - d. Editorially revised October 11, 2021 to reflect the changes to employee definitions as set forth in Policy 5-100.
- B. Previous versions.
  - 1. Revision 8. Effective Date. June 30, 2004
  - 2. Revision 7. Effective Date. December 14, 1998
- C. Renumbering

1. Renumbered from Policy and Procedures Manual 2-25.