

**Procedure 5-203A University of Utah Hospitals & Clinics (UUHC)
Employee Relations Staff Employee Grievance. Revision 0.** Effective
date: September 19, 2017

I. Purpose and Scope

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.

II. Definitions

The definitions provided for this policy.

- 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, and 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. Procedure

A. Complaint Procedure

1. Complaint Procedures: Receipt of Complaint

Receipt by Employee Relations of a signed complaint form and statement of allegations that seeks a remedy available under Policy 5-203 commences the Step II or Step III complaint process. If Employee Relations accepts the complaint for action in accordance with Policy 5-203, Employee Relations

shall notify the immediate supervisor and the appropriate hearing officer or higher-level manager in Step II. In Step III cases, the complaint will be provided to the immediate supervisor and either the higher-level manager or the hearing committee (once constituted). If the responding party is at a vice presidential level, another vice president will be selected as the “cognizant” vice president for purposes of this process. In cases where the President is a respondent in a case or otherwise involved in the decision being reviewed, the final decision will be made by a person designated by the Chief Human Resources Officer in consultation with the Office of General Counsel.

2. Complaint Procedures: Mediation/Negotiation

At the initial request of the parties, or at any state of the grievance process, Employee Relations may help arrange for the parties to attempt to resolve the case through mediation. Employee Relations will also advise employees of resources available to resolve workplace issues that fall outside the purview of Policy 5-111 or Policy 5-203.

3. Complaint Procedures: Step I Grievance

The employee may pursue a Step I grievance with the immediate supervisor and should notify Human Resources. The employee may also move directly to Step II. All grievances involving loss or diminution of employment go directly to Step III.

4. Complaint Procedures: Step II Grievance

a. A Hearing Officer selected from the experienced members of the Hearing Panel will conduct the hearing according to the same rules in effect for a Step III committee hearing.

b. The higher-level manager may choose the method for gathering and evaluating information related to the complaint as long as it is thorough and fair. For example, the manager may choose to conduct a hearing

which the parties and witnesses would attend or may meet with them separately.

- c. Employees who receive notification from Human Resources that they may take some “reasonable time off” to prepare for the hearing must coordinate with their supervisors to determine schedule adjustments and to assure minimal impact to department operations.
- d. Upon Completion:
 - i. Written Warnings- the decision is final and will be forwarded to the employee, the immediate supervisor, and Employee Relations.
 - ii. Final Written Warnings or Suspensions Without Pay- the parties will have the option to request final review by the cognizant vice president or designee by submitting a request to Employee Relations. Employee Relations will forward the complaint and the recommendation of the hearing officer/higher-level manager to the cognizant vice president or designee for review and final decision. The final decision should be forwarded to Employee Relations and to the parties.

5. Complaint Procedures: Step III Grievance – Higher Level Manager Review

- a. The higher-level manager may choose the method for gathering and evaluating information related to the complaint as long as it is thorough and fair. The manager may choose to conduct a hearing which the parties and witnesses would attend or may meet with them separately.
- b. Employees who receive notification from Human Resources that they may take some “reasonable time off” to prepare for the hearing must coordinate with their supervisors to determine schedule adjustments and to assure minimal impact to department operations.

B. Hearing Committee

1. Unless a complaint has been previously withdrawn, dismissed, settled, or otherwise resolved, the matter may proceed to a hearing. The employee may request a formal hearing before a hearing committee by submitting a request in writing to Employee Relations within five (5) business days of the action being appealed.
2. Selection of a Hearing Committee
 - a. When a timely request for a formal hearing is filed, Employee Relations shall convene a hearing committee.
 - b. The hearing committee (“Hospital Committee”) shall be composed of five (5) persons, one (1) of whom will serve as the Hospital Committee Chairperson (“Chair”), plus one (1) alternate.
 - c. The Chief Hospital Human Resources Officer or designee will select the Hospital Committee members from a panel (“Panel”) of qualified UUHC staff members (“Qualified Staff”) and appoint one (1) of the Hospital Committee members to serve as Chair.
 - i. “Qualified Staff” means a Staff Member as defined in Policy 5-001, who is employed with UUHC, and who satisfies the following criteria:
 1. Has not received a Written Warning in the past five years
 2. Has never received a Final Written Warning
 3. Has worked for UUHC for at least two (2) years as a benefited staff member; and
 4. Is willing and able to serve on the Hospital Committee as necessary
 - d. When selecting the members of a Hospital Committee the Chief Hospital Human Resources Officer or designee shall select each member based on the following factors:

- i. How often the members have served on a Hospital Committee
 - ii. Whether the member has any reason for perceived or actual bias
 - iii. Whether the member has any scheduling conflict; and
 - iv. Provide diversity and a balance of both management and staff level employees
- e. The Chief Hospital Human Resources Officer or designee is responsible for appointing Qualified Staff to serve on the Panel. The Chief Hospital Human Resources Officer or designee will appoint Qualified Staff to serve on the Panel using the following process:
- i. Employees shall be nominated by Managers, Directors, and Executive Directors
 - ii. Employees who are nominated will be evaluated by the Chief Hospital Human Resources Officer or designee to ensure that the Qualified Staff criteria is met.
 - iii. Employees will serve three (3) year terms.
 - iv. Employees may serve additional terms of three (3) years assuming they are nominated again and continue to meet the criteria for Qualified Staff.
- f. Hospital Committee members may be disqualified for good reason at the discretion of the Chief Hospital Human Resources Officer or designee.
- g. Disqualified Hospital Committee members will be replaced by the alternate Hospital Committee from the Panel as provided in section B.2 above.
- h. Once appointed, the Hospital Committee members will also serve as the Hospital Committee for any related hearing conducted by the OEO/AA.

C. Hearing Procedure

1. To facilitate the work of the Committee, an Employee Relations representative shall: (a) serve as the Secretary to the Committee (“Secretary”); (b) provide it with the complaint, a copy of the action being appealed, and information submitted by the parties, if any; (c) make appropriate physical arrangements; (d) give notice of the time and place of the hearing to the parties, (e) distribute the hearing procedures to the parties; (f) provide for making an electronic record of all oral testimony received and oral arguments made during the hearing; and (g) provide any other support services the Committee may request. The Secretary may not participate in the Committee’s deliberations and shall have no vote.
2. The Committee and each party may request the appearance of witnesses at the hearing. Each party is responsible to make arrangements directly with the witnesses that the party would like to appear and to notify the witnesses of the time and place of the hearing. Neither the Committee nor the Secretary will issue subpoenas or otherwise summon or request witnesses to appear on behalf of either party. Neither party may designate or call a witness who has agreed to appear for the other party, but may instead cross-examine that witness through the Chair. No party is entitled to meet with or take a deposition of another party’s witness prior to the hearing. No party is entitled to written responses to questions from another party or another party’s witness.
3. Whenever possible, advance notice of witnesses who will appear at the hearing shall be given to all parties at least nine (9) calendar days prior to the scheduled hearing.
4. The Committee and each party may request the production of documentary evidence by submitting a written request to the Secretary, who shall make all reasonable efforts to provide relevant documents prior to the hearing.

5. Hearings will not be delayed to accommodate requests for documents through other processes, such as the process provided by the Government Records Access and Management Act (“GRAMA”).
6. Whenever possible, all materials submitted for consideration by any party or otherwise considered by the Committee shall be made available to all parties at least nine (9) calendar days 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.
7. The parties shall be notified in writing of the date of the hearing and shall be provided with a copy of these procedures at least ten (10) calendar days prior to the hearing.
8. Hearings shall be closed to the public.
9. Both parties may be accompanied and counseled by an advisor of their choice who may be an attorney, and who may participate in the hearing as described below. The parties must notify the Committee of the advisors selected at least nine (9) calendar days prior to the hearing. Failure to do so may lead to rescheduling of the hearing.
10. Both parties and all witnesses will be required to provide their evidence under oath.
11. Both parties shall personally make narrative opening statements of their positions on the issues and the facts. Each opening statement shall also describe the relief sought. Thereafter, either the party or advisor, if any, but only one of them, shall conduct any examinations and cross-examinations and make a closing statement at the conclusion of the hearing. Each party is also required to answer all questions approved by the Chair.
12. At the hearing, the parties or their advisors, as determined above, shall have the right (through the Chair) to question witnesses, including the other party,

to present evidence and call witnesses on their own behalf, in accordance with these procedures. The Committee members may also ask questions of any participant in the hearing at any time.

13. Attendance at the hearing:

- a. If the employee who requested the hearing fails to attend the hearing without prior notification and good cause, the hearing committee will be dissolved and the original employment action will stand.
- b. If good faith efforts to contact the employee prior to the hearing date are unsuccessful and it is reasonably believed that the employee will not attend, the hearing may be suspended. If the employee contacts Employee Relations by the time of the hearing or appears at the appointed time, the hearing will be rescheduled. Otherwise, the hearing committee will be dissolved and the original employment action will stand.
- c. It is the responsibility of the employee who requested the hearing to ensure that Employee Relations has an accurate and current email address and telephone number for the employee throughout the grievance process. The employee is responsible to check for email periodically but at least every 48 hours throughout the grievance process.
- d. If the respondent fails to attend, the hearing will be suspended until a University representative can be identified to fill this role.

14. The Committee shall not be bound by strict rules of legal evidence or procedure and may consider any evidence deemed relevant. Regardless of whether or not a party is represented by an advisor, the Committee may ask questions at any time of either party, and the parties (not their advisor) shall respond to the questions of the Committee.

15. The Committee shall not receive or consider “motions” or requests from the parties regarding exceptions to these guidelines or other matters. Any

requests will be directed to the Secretary, who will forward them to Human Resources for consideration.

16. The Office of General Counsel may provide a staff attorney to be present at hearings in order to provide guidance for the Committee on substantive law and procedural matters.
17. Human Resources may provide a staff member to be present at the hearings in order to provide assistance as needed.
18. Committee Chairs and other committee members are prohibited from discussing any matter related to the hearing with the parties or the witnesses, or with others who are not involved in the hearing process, before or after the hearing. Violations of confidentiality shall result in dismissal from the Committee and possible disciplinary action.
19. The parties shall not communicate directly to each other about the complaint.
20. Committee deliberations and voting shall be conducted in closed sessions from which all other persons are excluded. Upon request of any member of the Committee, votes shall be taken by secret written ballot.
21. Standard of Review: The Committee shall not substitute its judgment for the judgment of the supervisor in question. Rather, it is the Committee's responsibility to determine:
 - a. Was there a substantial violation or defect in the application of policy by the supervisor in taking the employment action against the complainant? Did any such violation or defect operate to deny the complainant basic fairness and due process?
 - b. Was the decision to take action justified within the bounds of reason, or was the decision arbitrary and capricious? (Did the supervisor give due consideration to the relevant facts and principles before taking the action?)

- c. Was the level of disciplinary action within the bounds of reason, or was the decision arbitrary and capricious? (Did the supervisor provide an explanation for the action that included a rational connection between the facts, principles, and action?)
 - 22. The employee has the burden of establishing by a preponderance of the evidence that a procedural defect, if any, operated to deny basic fairness and due process.
 - 23. A majority vote by the members of the Committee who attended the hearing shall be required for decisions. The Chair shall be entitled to vote on all questions.
 - 24. Prior to the hearing, Committee members shall review and consider all materials submitted by the parties carefully. Hearings shall be limited in time. Each party will have 45 minutes to present an opening statement, evidence, and a closing statement. This includes the time consumed by questions posed by or on behalf of the party and the answers to those questions, whether on direct or cross-examination. This does not include any time used for the Committee's questions. The Secretary will keep the time and periodically inform the parties of the time used. If there is more than one hearing on a matter, or if the hearing or deliberations continue over more than one session, the same members are to be present for all sessions.
 - 25. The Committee shall make its findings of fact and its recommendations to the cognizant vice president within five (5) working days after the conclusion of the hearing.
 - 26. Employee Relations shall send a copy of the Committee's findings and recommendations to the cognizant vice president or designee and to both parties.
- D. Vice Presidential Decision
- The cognizant vice president or designee shall consider all of the

documentation, including the findings and recommendations of the Committee. The vice president or designee may not base a decision on new information not presented at the hearing unless the nature of that information is fairly communicated to the parties and a reasonable opportunity to respond is given to the parties. The vice-president or designee may seek advice from advisors who were not involved in taking the action or making the decision under review. The Office of General Counsel staff attorney who advised the Committee may advise the vice president or designee on substantive law and procedural matters. Written notification of the vice president's or designee's decision should be communicated within ten (10) working days to the parties. The decision of the vice president or designee is final and binding.

IV—VII Regulations Resource Information.

User Note: Parts IV-VII of this Regulation (and all other University Regulations) are Regulations Resource Information – the contents of which are not approved by the Academic Senate or Board of Trustees, and are to be updated from time to time as determined appropriate by the cognizant Policy Officer and the Institutional Policy Committee, as per Policy 1-001 and Rule 1-001.

IV. Policies/ Rules, Procedures, Guidelines, Forms and other Related Resources

- A. Policy 5-203
- B. Procedures, Guidelines, and Forms. [*reserved*]
- C. Other Related Resources. [*reserved*]

V. References

- A. [*reserved*]

VI. Contacts

The designated contact officials for this Regulation are

- A. Policy Owners (primary contact person for questions and advice): Associate Vice President for Faculty and the Associate Vice President for Health Sciences.
- B. Policy Officers: Sr. Vice President for Academic Affairs and the S. Vice President for Health Sciences.

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

VII. History

Revision History.

A. Current version. Revision 0.

Editorially revised to remove gendered language on April 11, 2022.