

Due Process — Employee Code (Staff)

This policy implements and is consistent with the requirements set out in *Administrative Regulation — Due Process* for staff employees and is consistent with the requirements of the administrative regulation. In addition, these procedures should be read in conjunction with the *Administrative Regulation — Employee Code*.

This policy provides a method of processing the grievances of staff employees with a full-time equivalent (FTE) of 0.5 or greater in a prompt and fair manner without placing an unreasonable burden on the University.

I. Definitions

A. Business Days

Monday through Friday, excluding University holidays and University closings due to weather or other emergencies.

B. Collapsed Grievance

Process of combining Stage I and Stage II of the grievance process when the grievant sits high enough within their organizational structure.

C. Appeal Officer

The Executive Vice President for Finance and Administration will appoint an appeal officer. The appeal officer is responsible for reviewing details provided for Stage III requests and coordinating the appeal panel to review Stage III grievances.

D. Appeal Panel

As set out in *Administrative Regulation — Due Process*, the Executive Vice President for Finance and Administration will appoint an appeal board of at least 15 employees. From this board, there will be a randomly selected three (3)-person appeal panel. The appeal panel consists of employees in units outside the grievant's department assembled to participate in the Stage III appeal.

II. Policy

The proceedings outlined below are intended to be informal in nature. Procedural due process in this context does not require the features of the formal judicial proceedings employed by courts of law, such as public hearing, representation by counsel or advisor, obligation to present a defense, cross-examination of witnesses, warning as to self-incrimination and adherence to rules of evidence, implications of sanctions and/or other procedural due process items. It is not appropriate for the grievant to

include any outside spokesperson, including legal representation, in this process. Should the grievant choose to take legal action, the internal grievance process will cease. Instead, emphasis is placed on a method of getting at the facts, assuring those facts are reported accurately to the proper authority and providing a decision based on the facts.

A. The provisions of this policy are not available to temporary staff or regular staff employees with an assignment less than 0.5 FTE. Only regular staff employees with an FTE of 0.5 or greater who have successfully completed the new hire orientation period may file a grievance under this policy, unless the employee alleges termination of employment in violation of state or federal law. This policy is not applicable to faculty employees.

B. An employee may file a grievance only for the imposition of corrective action resulting in the employee's probation, suspension and/or termination of employment.

C. All employees, including the grievant, will cooperate at all stages in the investigation of a grievance. This cooperation will include, but not be limited to, appearing to answer questions and presenting truthful information.

1. Failure to appear to give information may result in corrective action.
2. Failure to present truthful information may result in corrective action.
3. Failure by the grievant to cooperate will result in dismissal of the grievance.

D. The grievant will state the grievance in writing within 14 business days of the act(s) giving rise to the grievance. In the event the grievant states the grievance after 14 business days, the dean or department head will notify the Human Resources Office of Employee Relations (Employee Relations) which will determine whether extenuating circumstances warrant receiving the grievance beyond the time limit.

1. These grievance procedures may only be used to address a complaint that a decision adversely affecting an employee's status of employment or condition of employment was reached improperly in one or more of the following circumstances:

- The decision violates University policies or procedures;
- University policies or procedures have been applied inconsistently;

E. These grievance procedures may not be used for the following:

To address an employee's dissatisfaction with a University, college or departmental policy challenged on the grounds the policy is unfair, inadvisable or inappropriate;

1. To appeal performance evaluations, merit increases, reclassifications, reductions in force and other matters which the University determines to be purely administrative discretion;
2. To address actions from individuals outside of the University;
3. To address situations over which the President lacks authority to remedy;
4. To address dissatisfaction with the grievance policy or procedure or actions of individuals participating in the grievance process; or
5. To address issues which are subject to a complaint procedure through the employee benefits plan.

F. If the grievance issue involves a charge of discrimination, harassment or other equal opportunity matter, the grievance will be forwarded to the Office of Equal Opportunity for review and investigation. The grievance process under this policy will cease.

G. During situations where a collapsed grievance may be necessary, Employee Relations will guide the grievant and department official on determining whether a collapsed grievance is applicable. If so, they will also guide in how to proceed.

III. Process — Stage I

A. The Stage I grievance is available only for corrective action level of probation and above, up to and including termination.

1. The grievant will state the nature of the grievance in writing, via the grievance form, to the appropriate departmental official (e.g., assistant dean, department chair, department director). The grievance form must be received in full within 14 business days of the act(s) giving rise to the grievance.

- Note: For assistance in determining the appropriate departmental official, please contact Employee Relations.

2. The appropriate departmental official/administrator will review the grievance form and consider any relevant facts related the grievance.

- The department official may request further clarification/information. The grievant will be permitted up to five (5) business days to clarify the grievance.

3. The decision of the departmental official will be given in writing to the grievant within 10 business days after receipt of the grievance and/or after all clarification/further information is received.

4. Copies of the Stage I grievance request and decision will be forwarded to Employee Relations.

IV. Process – Stage II

A. The Stage II grievance is available only for corrective action level of probation and above, up to and including termination, and may be utilized as an appeal when the grievant is not satisfied with the outcome of Stage I.

1. The grievant may appeal in writing, via the grievance form, to the Chief Human Resources Officer (CHRO).

2. The appeal will be made within 10 business days after receiving the Stage I decision or, if no decision is received within that time, the grievant may request follow-up directly from the CHRO.

3. Stage II is limited to issues that have been identified at Stage I. If new issues are raised at Stage II, Employee Relations will determine whether the issues are, in fact, new and whether to permit these issues to be addressed.

4. Employee Relations will investigate the appeal and forward a recommendation for disposition to the dean, appropriate vice president or other administrative officer of operational jurisdiction within 10 business days after receipt of appeal.

- The 10 business days response period may be extended by Employee Relations, as applicable.
- Note: If an extension is necessary, the grievant will be notified in writing.

5. The dean, appropriate vice president or other administrative official will render a decision in writing to the grievant within 10 business days after receipt of the recommendation of the CHRO or their designee.

6. A copy of the decision will be forwarded to Employee Relations and the department chair, or all administrative parties previously involved in Stage I.

V. Process – Stage III

A. The Stage III grievance is available only for corrective action level of suspension and above, up to and including termination. This may be utilized as an appeal when the grievant is not satisfied with the outcome of Stage II.

1. If the grievant is not satisfied with the Stage II decision, the grievant may, within 10 business days of receipt of the Stage II decision, request a review by a grievance appeal panel in accordance with the procedures outlined in this policy.

2. In order to proceed to Stage III, the grievance must be limited to corrective action of a suspension or termination of employment in violation of University *Human Resources Policies and Procedures* and:

- In instances where the CHRO or their designee recommends the removal of the corrective action as a result of a Stage II grievance review, and the designated decision-maker elects not to implement that recommendation; or
- Something new related to grievant's case was discovered after the Stage II decision was rendered.

3. The request for a review will be in writing, via the grievance form, stating specifically the nature of the grievance and explaining the basis for the appeal, (not merely a restatement of 3b above) and will be directed from the grievant to the Executive Vice President for Finance and Administration (EVPFA).

4. The EVPFA will forward the request for a review to the CHRO. The CHRO will forward the request to the appeal officer who will review the request to determine whether the grievance meets the qualifications, as mentioned in (3) above for a Stage III review.

5. Notice from the appeal officer regarding the Stage III request will be provided to the grievant within 10 business days after notice request.

- If the request is not appropriate, the appeal officer will return the request to the grievant who may, within the next three (3) business days, submit an amended request for review. The amended request will be reviewed in the same manner. Failure to amend a request will terminate the grievance.
- If the request is deemed appropriate to be reviewed by a grievance appeal panel, procedures will be followed as outlined below in the Grievance Appeal Procedures section.

6. Allegations not previously presented at Stage I and/or Stage II of the grievance process will not be heard during the Stage III review. However, any such allegations will be referred to the appropriate resource for further investigation, and the Stage III review will continue.

7. Outcome decisions will be provided based on the Grievance Appeal Procedures noted below. Decisions rendered by the Stage III appeal panel are final and may not be appealed.

VI. Grievance Appeal Procedures

A. A grievance appeal panel consists of three (3) impartial members who are appointed by the EVPFA. If any member of the panel is employed within the department of the grievant, the EVPFA will appoint a replacement.

B. The grievant may submit a statement in support of the Stage III review request. This statement must be submitted within 10 business days of the response to the notice request.

C. Upon receipt of the statement from the grievant, the University, through the General Counsel, may provide a response within 10 business days.

D. The grievance appeal panel will review the grievance, accumulate and study the relevant facts within seven (7) business days of receiving grievant's statement and any response from the University.

E. The grievance appeal panel will prepare a written document consisting of the findings, accompanying rationale and recommendation of outcomes to the CHRO.

F. The CHRO will provide the EVPFA with the grievance appeal panel's recommendation in writing.

G. The EVPFA will, upon receiving the grievance appeal panel's recommendation, render a final decision within 10 business days, which will be communicated in writing to the grievant and all administrative parties previously involved in Stage I and II grievance decisions, as well as the General Counsel, the CHRO and Employee Relations.