

# **Grievance and Appeals**

**Original Implementation:** Unpublished

**Last Revision:** July 26, 2022

## **Purpose**

It is the policy of the university to seek fair and equitable solutions to grievances arising from the employment relationship. This policy applies to all staff employees.

## **Definitions**

Category I Grievances consist of disciplinary actions resulting in involuntary terminations, demotions, decreases in salary, or suspensions without pay, and allegations of a violation of, or retaliation for the exercise of, constitutional rights.

Category II Grievances consist of issues pertaining to wages, hours, working conditions, performance evaluations, merit raises, job assignments, interpretation of the official personnel or administrative policies of the university as applied to the grievant, oral or written reprimands, or similar matters involving management decisions concerning the grievant.

## **General**

Grievances have been divided into two categories. A four-step grievance procedure for Category I grievances has been established for prompt and thorough consideration of employee grievances and to ensure due process of law. A shorter two-step procedure is provided for Category II grievances.

Each employee may, without prejudice or fear of retaliation, express his/her grievance through the channels outlined in this procedure for timely and thorough consideration. The university will not retaliate against an employee for the filing of a grievance under this policy; however, the filing of a grievance will not constrain the university from taking appropriate employment action.

A probationary employee may not file a grievance under Category I unless: (a) the action involves allegations of a health or safety hazard; or (b) the action involves allegations of a violation of, or retaliation for the exercise of, constitutional rights. A probationary employee may not file a Category II grievance for a disciplinary action.

## **Category I Grievances**

Each grievance must be submitted in writing using the university grievance form, which can be obtained from Human Resources. A written grievance must contain a clear and concise statement

of the grievance which refers to the applicable policy alleged to have been violated, the date the incident took place, the issue involved, and the specific relief sought by the grievant. The grievance should include any additional information to be considered in its support. Once a grievance has been submitted in writing, it may not be changed or amended after the expiration of the ten (10) day period set out in Step One of the grievance procedure. All matters pertaining to a grievance will be treated as part of the official personnel file of the grievant.

When a grievance involves an alleged violation of constitutional rights or retaliation for the exercise of constitutional rights, the burden of proof is upon the grievant to establish by a preponderance of the evidence that the decision or action placed in question by the grievance was a violation of grievant's constitutional rights or was intended as retaliation for the lawful exercise of constitutional rights by the grievant. Otherwise, the burden of proof is on the university to show good cause as to why the grieved action was taken.

The grievant may present his/her grievance individually, through legal counsel, or through a representative of an organization that does not claim the right to strike. Fees or charges (if any) to the grievant for such representation must be paid by the grievant since university monies are not authorized for such use. The director of human resources has the obligation to assist the grievant, upon request, by explaining this grievance procedure in detail.

#### Category I Grievance Procedures

1. *Step One (First-Line Supervisor)*. The grievant will use the grievance form to present the grievance in writing to the first-line supervisor within ten (10) working days from the date of the alleged action or condition giving rise to the grievance. A copy of the grievance will be sent to the director of human resources by the first-line supervisor. Within five (5) working days, the supervisor will inform the grievant of the decision in writing. A copy of the decision will be sent to the director of human resources.
2. *Step Two (Unit Head or Administrative Equivalent)*. Grievances not satisfactorily resolved in Step One may be appealed by the employee in writing to the grievant's unit head or administrative equivalent. The appeal must be made within five (5) working days following the date of the first-line supervisor's decision in Step One. Within five (5) working days, the unit head or administrative equivalent will inform the grievant of the decision in writing. Copies of the decision will be sent to: (1) the first-line supervisor; and (2) the director of human resources.
3. *Step Three (Dean or Director)*. Grievances not satisfactorily resolved in Step Two may be appealed in writing to the appropriate dean or director. The appeal must be made within five (5) working days following the date of the Step Two decision. Within five (5) working days, the dean or director will inform the grievant of the decision in writing. Copies of the decision will be sent to: (1) the first-line supervisor; (2) the unit head or administrative equivalent; and (3) the director of human resources.
4. *Step Four (Vice President or cabinet-level administrator)*. Grievances not satisfactorily

resolved in Step Three may be appealed in writing to the appropriate vice president or cabinet-level administrator of the university. The appeal must be made within five (5) working days of the date the Step Three decision was rendered by the dean or director. The vice president or cabinet-level administrator, in their sole discretion, may personally consider the grievance or elect to appoint a delegate to consider the grievance. When the subject of the grievance is the termination of the grievant, a hearing will be held if requested by the grievant in their appeal to the vice president or cabinet-level administrator. If no hearing is requested by the grievant, a written decision by the vice president or their delegate will be rendered within ten (10) working days following the receipt of the appeal. Copies of the decision will be sent to: (1) the first-line supervisor; (2) the unit head or administrative equivalent; (3) the dean or director; and (4) the director of human resources. The decision of the vice president or cabinet-level administrator, or their delegate, is final.

The time limits set forth in the Category I Grievance Procedures must be observed by both the grievant and the appropriate supervisory and administrative personnel. Failure of the grievant to abide by the given timelines will constitute a withdrawal of the grievance. Failure of supervisory or administrative personnel to timely respond to a grievance will constitute authorization for the grievant to process the grievance to the next step.

In administering these procedures, the director of human resources has the authority to designate at which step a grievance may begin or skip steps, dependent upon the grievant's reporting line. For grievances against a vice president or cabinet-level administrator, the president or their designee will serve as the sole and final level of appeal.

#### Category I Hearing Procedures

Where a grievance concerns termination of the grievant and has been properly requested by the grievant in *Step Four*, the vice president or cabinet-level administrator will either personally commence the hearing or appoint a delegate who will commence the hearing within fifteen (15) working days following the date of the receipt of the appeal. The hearing will be closed to the public and may be conducted by video conference. The grievant, the institutional representative, and the university's vice president or cabinet-level administrator/delegate all have the right to be advised by legal counsel or a representative of an employee organization that does not claim the right to strike. Any such legal counsel or representative is permitted to provide support, guidance, or advice to their client, but may not directly participate in the hearing.

At least five (5) business days prior to the scheduled hearing, the grievant and institutional representative will submit a list of its witnesses (including a short description of the testimony each witness is expected to provide) and a copy of its documentary evidence to the director of human resources. The director of human resources will provide the list of witnesses and a copy of the documentary evidence to all parties. Formal rules of evidence do not apply to the hearing, and the vice president or cabinet-level administrator/delegate may exclude evidence they deem irrelevant or superfluous. Each party is responsible for securing the attendance of their own

witnesses at the hearing.

At a minimum, the hearing will be audio recorded. A party requesting a typed transcript of the proceedings will be responsible for all associated costs. The hearing will consist of opening statements by the grievant and the institutional representative, testimony by witnesses called by the grievant and the institution, cross examination of witnesses, and presentation of any relevant exhibits. At the conclusion of the testimony, both parties will be permitted to make a closing statement. The vice president or cabinet-level administrator/delegate will then close the hearing and issue a written decision to the grievant within ten (10) working days. Copies of the decision will be sent to: (1) the first-line supervisor; (2) the unit head or administrative equivalent; (3) the dean or director; and (4) the director of human resources. The decision of the vice president or cabinet-level administrator, or their delegate, is final.

## **Category II Grievances**

Category II grievances are matters of employee-management disagreement other than those specifically defined as Category I grievances. Category II grievances are not authorized to be processed through the formal Category I grievance procedure.

### **Category II Grievances Procedures**

1. *Step One.* A Category II grievance may be informally presented to the first-line supervisor for discussion and consideration.
2. *Step Two.* If a Category II grievance is not satisfactorily resolved by the first-line supervisor, the employee should present the complaint in writing using the grievance form to the appropriate unit head or director for final consideration and action. If the grievance is against the unit head or director, it will be presented to the appropriate dean or supervisor of the unit head or director for final consideration. The written grievance and the written response of the unit head or director will be treated as part of the official personnel file of the employee. Copies of the written grievance and written response will be sent to: (1) the first- line supervisor; and (2) the director of human resources.

**Cross Reference:** U.S. Const. amend. V; U.S. Const. amend. XIV; Tex. Const. art I, § XIX

**Responsible for Implementation:** President

**Contact for Revision:** Human Resources

**Forms:** Formal Grievance Forms are available in Human Resources

**Board Committee Assignment:** Academic and Student Affairs Committee

**Revision History:** April 30, 2019  
April 12, 2016  
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