

STAFF GRIEVANCE POLICY PROCEDURES

Terms used below have the same definition as the Staff Grievance Policy, E30.0. These procedures shall apply to staff grievances commenced in accordance with E30.0. In the event of a conflict between these procedures and the Staff Grievance Policy, the Staff Grievance Policy shall govern.

Informal Process

For the purpose of retaining the appropriate documentation noted in the various stages of the Informal Process, HR will maintain the documents in a folder (hard or soft copy) that is separate from the Principals' respective personnel files.

Formal Hearing

- A. **Staff Grievance Pool.** The Staff Grievance Pool (the "Pool") is a group of fifteen (15) staff members from which a Grievance Committee is constituted.
- 1) **Creating the Pool**
 - i. Staff Council (SC) shall solicit volunteers from among their constituents
 - ii. From among these volunteers, Staff Council Executive Committee and the AVP of Human Resources (or her/his designee) shall select and appoint 1 supervisor and 1 non-supervisor from each SC voting block (12 appointees total).
 - iii. Staff Council shall appoint 3 members chosen from among the SC membership – one from block 1 or 2, one from block 3 or 4, and one from block 5 or 6.
 - iv. The diversity of the Pool shall be considered during this process.
 - v. To facilitate a staggered turnover of members, initial appointments of members from SC Blocks 1 and 2 will be for a term of 3 years; initial appointments of members from SC Blocks 3 and 4 will be for a term of 4 years; initial appointments of members from SC Blocks 5 and 6 will be for a term of 5 years.
 - 2) Appointees shall serve for a term of three (3) years (except original appointments as noted above); term is renewable one time.
 - i. Five (5) members will be replaced annually, except when members choose to serve a second term.
 - a. Staff Council (SC) shall solicit volunteers from among their constituents in the appropriate SC voting blocks.
 - b. From among these volunteers, Staff Council Executive Committee and the AVP of Human Resources (or his/her designee) shall select and appoint 1 supervisor and 1 non-supervisor from each SC voting block.
 - c. Staff Council shall appoint 1 member chosen from among the SC membership, from an appropriate SC voting block.
 - d. The diversity of the Pool shall be considered during this process.
 - ii. SC appointees' terms shall run concurrent with the other appointees from their block.
 - 3) All Pool members shall receive training from the Office of Legal Affairs. This training is mandatory, and will be repeated as necessary, either at the request of the Pool members or as determined by the Office of Legal Affairs.

- B. Members of the Staff Grievance Committee.** Members of the Staff Grievance Committee (the “Committee”) will be chosen in accordance with the Staff Grievance Policy (the “Policy”). The Chair of the Committee will be selected by a majority vote of the committee.
- 1) Once chosen, and before performing any duties as a member of the Committee, the members shall be informed of the names of the Principals and/or their advocates. Within five (5) Business Days of receipt of the names of the Principals and/or their advocates, members shall confirm, in writing, their ability to serve and the lack of any actual and/or perceived conflict.
 - i. An actual conflict exists if the member of the Committee works in the same department, or supervises, or maintains a personal relationship with a Principal or an advocate.
 - ii. An actual conflict may also exist if the member of the Committee is familiar with the facts and circumstances of the Grievable Issue. For purposes of these procedures, familiarity with the facts and circumstances of the Grievable Issue may include but is not limited to, information obtained through discussions with co-workers, materials read relating to the Grievable Issue, or personally held positions and/or beliefs with respect to any aspect of the Grievable Issue.
 - iii. A perceived conflict exists if the member of the Committee could influence the outcome of the Committee based on personal relationships with individuals other than the Principals, this may include but is not limited to, supervisors, witnesses or advocates.
 - iv. A perceived conflict may also exist if the member of the Committee expresses support for either Principal or their respective advocates prior to performing any duties as a member of the Committee.
 - 2) The Chair of the Committee shall send to the Principals, in writing, the names of the members of the Committee. This communication may be provided electronically and is for the sole purpose of determining if a conflict exists between a member of the Committee and the Principals. The Principals shall identify any actual or perceived conflict within five (5) Business Days of receipt of the names of the members of the Committee.
 - i. Principals or their advocates shall not contact or communicate with members of the Committee.
 - ii. Any Principal or advocate that contacts or communicates with members of the Committee may forfeit their right to a formal hearing.
 - iii. Members of the Committee shall immediately inform the Chair of the Committee if attempts have been made to contact and/or communicate with them by either Principals or advocates.
 - iv. The failure of a member of the Committee to inform the Chair of the Committee that attempts have been made to contact and/or communicate with them by either Principals or advocates shall lead to the disqualification of that member of the Committee and their dismissal from the Pool. The Chair of the Committee shall select a replacement for any disqualified member of the Committee in accordance with the provisions of the Policy.
 - v. As soon as possible, but in no more than three (3) days, the Chair of the Committee, in consultation with the Associate Vice President of Human Resources (or her/his designee), shall determine if the Principal has forfeited their right to a formal hearing by contacting or communicating with members of the Committee. This determination shall be made by considering the

circumstances of the situation, e.g. the type of contact made and the nature of that contact.

- 3) The Chair of the Committee shall determine, in consultation with the Associate Vice President of Human Resources (or her/his designee), if any member of the Committee must be replaced due to an actual and/or perceived conflict, based on the impact (real or perceived) of the contact or communication.
- 4) If it is determined that a Member of the Committee is unable to serve, whether due to an actual or perceived conflict, the Chair of the Committee shall select a replacement Member of the Committee in accordance with the provisions of the Policy.
- 5) Once the members of the Committee confirm their ability to serve they shall not have any contact or communication with any of the Principals or advocates, either verbally or in writing, on or off campus.
 - i. A member of the Committee that contacts or communicates with any Principal or advocate shall be replaced on the committee and dismissed from the Pool by the Chair of the Committee in accordance with the provisions of the Policy.
 - ii. A member of the Committee that is contacted or receives communications from a Principal and/or advocate, shall promptly (and in no case later than the commencement of the Hearing) inform the Chair of the Committee of such contact or communication. Failure to inform the Chair of the Committee of such contact or communication shall disqualify a member of the Committee from participating in the Hearing. The Chair of the Committee shall select a replacement for the disqualified member of the Committee in accordance with the provisions of the Policy. The disqualified member will be dismissed from the Pool.

Hearing Procedures

- A. **Staff Committee Charge.** Prior to the commencement of a Committee Formal Hearing (the "Hearing"), the Chair of the Committee shall distribute a written Staff Committee Charge (the "Charge"). The Charge shall clearly identify the university policy, procedure, or practice that are alleged to have been unfairly administered, violated, misapplied, or misinterpreted, and shall be in the form attached to these procedures as Appendix 1.
 - 1) The Charge shall be in writing and shall be provided to the members of the Committee no later than twenty-four (24) hours before the commencement of the Hearing.
 - 2) If no university policy, procedure, or practice is identified, the Charge shall be dismissed and the Committee shall be disbanded.
 - 3) If no facts are alleged that the university policy, procedure, or practice was unfairly administered, violated, misapplied, or misinterpreted, the Charge shall be dismissed and the Committee shall be disbanded.
 - 4) If the Charge does not allege that a Principal has been adversely affected, the Charge shall be dismissed and the Committee shall be disbanded.
 - 5) The Committee shall limit the Hearing to those facts reasonably necessary to determine, by a preponderance of the evidence, if the Charge is substantiated.
- B. **Documentation.** The Documentation received as part of the request for a formal hearing, shall be distributed to the members of the Committee, at the same time the Charge is distributed.
 - 1) Documentation received shall be kept confidential and clearly marked as "Confidential," identified by the Principal submitting the Documentation. For example, Documentation submitted by Principal A shall be marked "Principal A Confidential".

- 2) No member of the Committee shall disclose to any non-member of the Committee, either verbally or in writing, any of the contents of the Documentation.
 - 3) Documentation shall include a list of witnesses who have agreed to be called by either Principal as well as any additional written documents intended to be introduced by the witnesses at the Hearing.
 - 4) The Committee shall determine, by majority vote, the witnesses it will hear and the documents it will receive at the Hearing. This determination shall be provided to the Principals and/or advocates prior to the commencement of the Hearing. In contemplating the witnesses to be heard, the Chair may request additional information from either Principal on the nature of the respective witnesses' role or experience in relation to the grievance.
 - 5) Documentation shall only be used for the purpose of determining if a university policy, procedure, or practice was unfairly administered, violated, misapplied, or misinterpreted as outlined in the Charge.
 - 6) Members of the Committee shall not make any copies (or duplicate by the use of any means including but not limited to the taking of photos) of the Documentation. If copies of the Documentation are required, the member of the Committee shall ask the Chair of the Committee for such copy. The Chair of the Committee shall have the sole discretion to determine if copies of the Documentation are made. All materials, including those provided and notes of committee members, will be collected and returned to the Chair of the Committee and retained by Human Resources in accordance with the provisions of the RIT Records Management Policy (C22.0).
 - 7) Principals and/or advocates shall not receive the Documentation submitted by the other party to the Hearing, but may be questioned by members of the Committee based on all the Documentation received by all parties to the Hearing.
- C. **Hearing.** The location and time of the Hearing shall be determined by the Chair of the Committee in consultation with the Associate Vice President, Human Resources (or her/his designee). Members of the Committee, Principals, and advocates shall be informed of the location and time of the Hearing, at least three (3) Business Days prior to the commencement of the Hearing.
- 1) Hearings shall be closed and private.
 - 2) The Committee, by majority vote, can determine if it will hear witness testimony during the Hearing, as well as the number of witnesses it will allow to testify.
 - i. All evidence and testimony shall be used only for the purpose of determining if a university policy, procedure, or practice was unfairly administered, violated, misapplied, or misinterpreted as outlined in the Charge.
 - ii. If the Committee determines that it will not hear witness testimony during the Hearing, the Hearing shall take place for the sole purpose of accepting additional documentary evidence from the Principals and/or advocates. If no additional documentary evidence is received from the Principals and/or advocates, the Hearing shall be closed in accordance with the Policy and these procedures.
 - 3) When determining the location and time of the Hearing consideration should be given to the location and work schedules of the Principals, advocates, and witnesses.
 - 4) The delay or postponement of a Hearing shall be based solely on the discretion of the committee.
 - 5) The Committee shall determine, by majority vote, whether or not to delay or postpone a Hearing.

- i. When determining whether or not to delay or postpone a Hearing the Committee shall consider the amount of time between the commencement of the informal grievance process and the proposed date for the formal Hearing, the nature of the Grievable Issue, whether or not evidence can be obtained through means other than witness testimony, and the number of requests already granted for postponement.
 - ii. Given the Policy's desire to foster prompt and equitable resolution of concerns and grievances, requests for delay or postponement of a Hearing shall be rarely granted.
- 6) Hearings shall be audio recorded. Audio recordings shall be maintained in accordance with the provisions of the RIT Records Management Policy (C22.0).
- 7) Hearings may be video recorded at the request of a Principal and/or advocate. A request for video recording shall be made by a Principal and/or advocate at least three (3) Business Days prior to the commencement of the Hearing. The Committee shall determine, by majority vote, whether or not to grant the request for video recording.
 - i. Given the closed, private, and confidential nature of the Hearing, requests for video recording shall only be granted as reasonable workplace accommodations for the Principals and/or advocates, or under extraordinary circumstances.
 - ii. The Associate Vice President, Human Resources, in consultation with the Office of Legal Affairs, shall determine the existence of extraordinary circumstances.
 - iii. Any video recording shall be maintained in accordance with the provisions of the RIT Records Management Policy (C22.0).
- 8) Principals and/or advocates are allowed in the Hearing room for the entirety of the Hearing. Any witnesses identified to testify at the Hearing shall only be allowed in the Hearing room during their testimony and questioning. Upon the completion of their testimony and questioning, witnesses shall be excused from the Hearing room.
- 9) The Committee shall solicit questions, in writing, to be asked and considered during the Hearing from the Principals and/or advocates at least three (3) Business Days prior to the commencement of the Hearing. The solicitation of questions does not require the Committee to ask all questions submitted. The Committee shall determine, by majority vote, the number and manner of questions to be asked and the member(s) of the Committee designated to ask the questions of the Principals, advocates, and/or witnesses.
- 10) All questioning of Principals, advocates, and/or witnesses shall be by the selected member(s) of the Committee. Principals and/or advocates may direct questions relating to the procedures applicable to the Hearing to the Chair of the Committee.
- 11) In addition to the questions submitted by the Principals and/or their advocates, members of the Committee may also ask their own questions, provided that the questions are directly related to the Grievable Issue and the Chair of the Committee consents to such questioning.
 - i. When determining if members of the Committee may ask their own questions, the Chair of the Committee shall consider the number of questions already asked of the parties, the time already devoted to the Hearing, and whether or not the additional questions are repetitive in nature or likely to result in information relevant to the Grievable Issue.
- 12) The Chair of the Committee shall determine, based on the number of witnesses and questions to be asked, the order in which the evidence and/or testimony will be received.

- 13) Principals and/or their advocates may make an opening statement.
 - i. The opening statement shall be limited to facts relating to the Grievable Issue and shall adhere to any time limitations imposed by the Chair of the Committee.
 - ii. The committee chair will notify principles and/or their advocates prior to the hearing how much time they have been allotted for their opening statement.
 - 14) Principals and/or their advocates may make a closing statement.
 - i. The closing statement shall be limited to the evidence introduced at the Hearing and shall adhere to any time limitations imposed by the Chair of the Committee.
 - ii. A party to the Hearing does not need to make an opening statement in order to make a closing statement.
 - iii. The committee chair will notify principles and/or their advocates prior to the hearing how much time they have been allotted for their closing statement.
 - 15) The Committee may, by majority vote, conclude the Hearing. Once concluded, no additional testimony, evidence, or documents shall be considered.
 - i. Upon the conclusion of the Hearing, the Committee shall deliberate considering all the Documentation, evidence, and testimony provided by the Principals and/or advocates, and determine if the grievance is substantiated or not substantiated.
 - ii. If the Committee determines, based on a preponderance of evidence, and all the Documentation, evidence, and testimony provided by the Principals and/or advocates, that a university policy, procedure, or practice was unfairly administered, violated, misapplied, or misinterpreted, it shall sustain the grievance.
 - iii. If the Committee determines, based on a preponderance of evidence, and all the Documentation, evidence, and testimony provided by the Principals and/or advocates, that a university policy, procedure, or practice was not unfairly administered, violated, misapplied, or misinterpreted, it shall not sustain the grievance.
- D. **Reports/Decisions.** The Committee shall deliver a written report with its determination of the Grievable Issue to the Principals, Associate Vice President, Human Resources, the appropriate vice president/dean, and the president of the university (the "Report"). The Committee's determination shall be by majority vote and shall be based on a preponderance of the evidence.
- 1) The Report shall follow the format of Appendix 1.
 - 2) The Report shall clearly state if the grievance is substantiated or not substantiated.
 - 3) The Report shall be signed by all members of the Committee, including any members of the Committee that did not vote with the majority of the members of the Committee.
 - 4) The Report shall not make any recommendations as to past, present, or future actions to be taken by the Principals or the university.
 - 5) Once the Report has been delivered, the Committee shall be disbanded. Given the closed, private, and confidential nature of the Hearing, members of the Committee shall be encouraged to continue to maintain the confidentiality of the Hearing and the Documentation submitted by the Principals.
 - 6) All records will be maintained by Human Resources according to C22.0 Record Retention Guidelines.

APPENDIX 2

Notification of Staff Grievance Hearing

DATE: (DATE SENT)

TO: (PRINCIPLES)
(ADVOCATES)

CC: (GRIEVANCE COMMITTEE MEMBERS)
(AVP HUMAN RESOURCES)

FROM: (NAME), Grievance Committee Chair

RE: Grievance filed by (NAME)

The Staff Grievance Committee will convene a hearing on (DATE) at (TIME) in (LOCATION) to determine if (UNIVERSITY POLICY, PROCEDURE, OR PRACTICE) was unfairly administered, violated, misapplied, or misinterpreted.

____ You will be given ____ minutes to present an Opening Statement. Your Opening Statement must be limited to facts relating to the Grievable Issue. If you wish, your advocate may present your Opening Statement.

____ Testimony will be heard from the following witnesses:

- WITNESS #1
- WITNESS #2
- Etc.

All questioning of Principals, advocates, and/or witnesses shall be by Grievance Committee members only. If you have questions you would like asked of any witness, you must submit them to the Grievance Committee Chair by (DATE / TIME). The Committee will determine which, if any, of the submitted questions will be asked.

____ No witnesses will be called to testify. The Hearing is for the sole purpose of accepting additional documentary evidence from the Principals and/or your advocates.

____ The Hearing will be audio recorded. If you require a reasonable workplace accommodation, such as an interpreter or video recording of the Hearing, you must submit a request, including the reason for the accommodation, to the Grievance Committee Chair by (DATE / TIME). The Committee shall determine whether or not to grant the request for the accommodation.

____ You will be given ____ minutes to present a Closing Statement. Your Closing Statement must be limited to the evidence introduced at the Hearing. If you wish, your advocate may present your Closing Statement.