

POLICIES

Issued: May 12, 2017
Responsible Official: Executive Vice President and Chief Operating and
Financial Officer
Responsible Office: Human Resources

Policy Statement

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The University of Memphis is committed to providing a process for employees to seek prompt resolution to grievances without fear, restraint, interference, discrimination or reprisal.

Purpose

To establish a process to assist employees regarding support staff grievances.

Definitions

Grievance

A formal complaint about one or more of the following matters:

- Involuntary demotion, suspension without pay, or termination for cause.
- Work assignments or conditions of work that violate federal law, Tennessee state law, or University policy.

President's Panel Hearing

The President's Panel Hearing is the final step in the grievance process that does not involve a TUAPA hearing. An unbiased panel is appointed by the President or designee to hear the grievance and make final recommendations to the President.

TUAPA Hearings

A hearing in conformity with the provisions of the Tennessee Uniform Administrative Procedures Act (TUAPA), Tennessee Code Annotated, Sections 4-5-301 through 4-5-322.

Support Staff

Staff who are non-exempt as defined by the Fair Labor Standards Act (FLSA).

Student workers and graduate assistants are not included in the definition of support staff.

Procedures

Eligibility

The grievance procedure is available to non-exempt employees.

Grievance Process

Every attempt should be made to resolve grievances at the lowest level possible. A staff member who has a formal grievance should complete a grievance form within 15 workdays of the date of the grievance or knowledge of the occurrence on which the grievance is based. The grievance form should be submitted to the Office of Employee Relations and Engagement (Employee Relations) who will be responsible for notifying the department and providing a copy of the grievance to the appropriate administrator.

The employee should be as specific as possible in detailing why he/she believes the action taken was wrong, inappropriate, or in error. In the case of a grievance alleging work assignments or conditions of work in violation of a statute or University policy (other than those prohibiting discrimination or harassment), the employee must indicate the specific statute or University policy allegedly violated and explain how the cited statute or policy has been violated. The employee must also specify the remedy he/she is requesting for the alleged violations.

Employee Relations will facilitate the routing of the grievance through a maximum of four levels. At each level of review (called Steps), a representative from Employee Relations will receive the grievance response. It will be reviewed with the employee, who decides at each level to either accept the response or request that the grievance advance to the next level.

At each level of review, the responding official must, within 15 workdays from the receipt of the grievance, extend to the employee the opportunity for a face-to-face meeting to discuss the grievance. That official must also provide a written response to the grievance within 15 workdays after the face-to-face meeting.

If the employee does not respond or advance the grievance to the next level in the process within fifteen (15) workdays, the grievance procedure will be terminated and the grievance disposed of in accordance with the last written decision.

The aggrieved party and any material witnesses may elect to orally testify at each Step in the grievance process and he/she may elect to be accompanied by a representative of choice from the University. The names of those individuals participating at each Step should be provided to Employee Relations prior to the meeting. This information will assist the official in planning for the meeting and securing adequate office or conference room space.

The process may be elevated to the next Step within 15 workdays from the receipt of each written response. The Steps in the grievance process range from Department Chair or Manager to Vice President or Provost.

The final level in Steps is designated as a panel of representatives appointed by the President or designee, or hearing officer/panel in the case of a TUAPA hearing.

In the case of alleged discrimination or harassment the complaint will be forwarded to the Office for Institutional Equity for investigation. If the grievant disagrees with the outcome he/she may select a President's Panel or TUAPA hearing as the final level in Steps.

Note: the grievant may not reintroduce the same grievance more than once in an attempt to illicit a more favorable response.

**President's Panel
Hearing Process**

The President or designee will select an unbiased panel that will hear the grievance within 15 workdays of the request for review. One of the members will serve as Chair and select the site for the hearing. Material witnesses will be allowed to speak on behalf of both sides as to the circumstances that led to the grievance. The Chair will be responsible for producing a written recommendation which will be provided to Human Resources, the aggrieved employee, and the appropriate supervisor within 15 workdays from the date of the hearing.

Human Resources will be responsible for forwarding the Panel's recommendation to the President who will render a final decision.

**TUAPA Hearing
Process**

This is a formal hearing in conformity with the provisions of the Tennessee Uniform Administrative Procedures Act (TUAPA), Tennessee Code Annotated, Sections 4-5-301 through 4-5-322.

Any employee declining to pursue the matter under the contested case provisions of TUAPA must sign and acknowledge a waiver of rights before proceeding to a panel hearing.

Representation

At each step in the grievance process, with the exception of TUAPA hearings, the employee may be accompanied and represented by an employee representative from the University who will serve in a non-legal capacity. Additional representatives may be allowed at the discretion of the panel chair.

Conflict Resolution

All workplace conflicts and complaints are not subject to the formal grievance process since some matters are not included in the definition of a grievance. The less formal conflict resolution process is followed for these kinds of complaints, and it is available to faculty and staff. Both the Human Resources - Employee Relations Office and the Faculty Ombudsperson located in the Faculty Senate Office, are available to assist with the process.

Matters Excluded

Only matters as defined by the grievance definition will be accepted as grievances for purposes of this policy. Matters not subject to this policy include, but are not limited to, job classification, workers' compensation, performance evaluations, written and oral warnings, terminations in accordance with reductions in force, health and safety

issues, interpersonal conflicts with other employees, and challenges to the content of University policies or procedures.

Employee Participation

Time spent by a current University employee in presenting a grievance, in assisting or representing another employee in a grievance hearing, or in offering testimony at any step in the grievance process is considered “time worked” and will be compensated as such.

Retaliation

Employees may file grievances or participate in the grievance process without fear from supervisors or others against whom a complaint may be lodged.

Retaliation against any member of the community for good faith participation in the grievance process is a violation of University policy. Retaliation will not be tolerated and will be subject to disciplinary procedures up to and including termination. Any violation of this policy should be reported to Human Resources.

Annual Report

The University will provide an annual report that summarizes the formal grievance activities.

FAQs

How do I file a complaint that does not qualify under the definition of a grievance?

Employees can address matters such as interpersonal conflicts by filing a complaint with Employee Relations. The final step in the complaint process is with the Provost or respective Vice President.

How can faculty file a grievance?

Faculty should refer to the faculty handbook located under faculty resources at <http://www.memphis.edu/aa/resources/facres/facultyhandbook/index.php>

Links

Employee Grievance/ Complaint Form

<http://www.memphis.edu/emrelations/pdf/grievance.pdf>

Revision Dates

HR5052 - Supersedes UM1564 March 22, 2018
UM1564 - Revised May 12, 2017
UM1564 - Revised July 13, 2010
UM1564 - Issued April 2, 2004
(Supersedes policy number 1:2D:05:05)

Subject Areas:

Academic	Finance	General	Human Resources	Information Technology	Research	Student Affairs
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