Staff Grievance Policy and Procedures

Policy Statement

When any Staff Member thinks or feels that any condition of his or her employment affects him/her unjustly, inequitably, causes a hindrance to effective operation or creates a problem, this Grievance procedure is applicable.

Staff Members, or those participating in this process, must be able to use this procedure without fear of reprisal or retaliation.

Staff Member are expected to comply with the law and University policies. In as much as instructions from University leadership and supervisors are legal, ethical and in compliance with University policy, Staff Members are expected to comply with instructions from supervisors and University leadership. If a Staff Member believes that the instructions he/she receives are illegal, unethical or against University policy, the Staff Member should contact the Executive Director of Human Resources for guidance. Unless otherwise instructed by the Executive Director of Human Resources, Staff Members may not disregard instructions from supervisors or University leadership.

Specifically excluded from this procedure are the following:

- Disputes that are being or have been processed in the courts
- Disputes involving compliance with State or Federal statutes or regulations, where other forums exist to process grievances
- Disputes which involve merit pay, salary increments, or other salary determinations
- Disagreements over performance evaluations
- Complaints of discrimination (on the basis of age (40 and over), race, color, religion, sex, sexual orientation, disability, national origin, veteran status or genetic information). These types of complaints should be submitted to the Equal Opportunity Office (Jones 106, (859) 622-8020)
In addition, Staff Members in their Orientation Period, temporary employees, volunteers and student workers are excluded from this procedure. Student workers should contact the Office of Human Resources and Student Employment Services.

Entity Affected by the Policy

All EKU Staff Members who have completed their Orientation Period
All EKU supervisors

Policy Background

This policy is a revision of policy 8.3.1P “Staff Grievance Policy”

Policy Procedures

General Procedures

The Executive Director of Human Resources will act as a neutral facilitator for the Grievance process.

A Staff Member has ten (10) Business Days from first knowledge of an actual or supposed circumstance to begin the process. All meetings will normally be scheduled during the Staff Member’s working hours.

Time limits at any step in the Grievance Procedure may be extended by mutual agreement of the Grievant and the individual responsible for administering that step of the process or at the discretion of the Executive Director of Human Resources.

At no point during the grievance procedure will meetings or hearings be recorded electronically.

Witnesses who have factual, pertinent information may be called upon at any step within the Grievance process. All Witnesses must be identified by Step II and additional Witnesses may not be added after Step II.

The Grievant may identify a member of the University community to provide support throughout the Grievance process. The Grievant Advisor must be a member of the University community, defined as current faculty, staff or student. However, members of the University community who are attorneys may not be Grievant Advisors. The Grievant
Advisor may not act as an advocate or representative of the Grievant, and may only address the Grievant during any Grievance proceedings. The Grievant Advisor and Grievant may take breaks to consult during the proceedings.

Attorneys may not attend or participate in any step of this procedure.

If a Grievant files two or more separate Grievances against the same person that raise related allegations or arise from a common set of facts the Grievances may be consolidated into one Grievance. If a Grievant files two or more separate Grievances concerning different issues and the Grievances are not consolidated, such Grievances will normally be processed and heard sequentially in chronological order determined by the date on which the initial Grievance was filed. The Executive Director of Human Resources will determine when Grievances may be consolidated.

If during any step of this procedure, the Grievant is made an offer that partially resolves his/her Grievance, the Grievant may accept the offer and discontinue the process or reject the offer and continue to the next step. Grievants may not accept an offer that partially resolves his/her Grievance and move to the next step in the procedure.

All offers of resolution will be made in writing.

Staff Members who have lost pay or employment because of disciplinary action shall begin the procedure at Step III.

**Step I**

The Grievant will communicate with the Executive Director of Human Resources within ten (10) Business Days from the first knowledge of an actual or supposed grievable circumstance to determine if a solution can be mediated without filing a formal Grievance.

If no resolution can be mediated, then the Grievant has ten (10) Business Days from the decision of "no resolution" to file a formal Grievance with his/her immediate supervisor. The Grievant shall write out the Grievance on a Step I Grievance Report Form obtained from the Executive Director of Human Resources. The Executive Director of Human Resources will assist the Grievant with understanding the Grievance Process if necessary. The Grievant should include a statement of the problem and desired relief and submit the form to his/her supervisor.

The supervisor shall return an answer, in writing, to the Grievant and copy the Executive Director of Human Resources, or his/her designee, within ten (10) Business Days. If the immediate supervisor’s answer does not resolve the situation to the Grievant’s satisfaction, the Grievant may proceed to Step II within ten (10) Business Days of receipt of the answer.

If the Grievant’s immediate supervisor is a Vice President or someone in an executive level position, another Vice President or someone in an executive level position will be designated by the Executive Director of Human Resources to review the Grievance.
Step II

The Grievant shall continue a Grievance on a Step II Grievance Report Form (available from the Executive Director of Human Resources) including a statement of the problem and desired relief and submit it to the next higher level of supervision within five (5) Business Days of the immediate supervisor’s response.

The next higher level supervisor along with the department head (if the next higher level supervisor is not the department head) shall schedule and hold a meeting with the immediate supervisor and the Grievant, who may be accompanied by a Grievant Advisor, and provide an answer to the Grievant in writing within ten (10) Business Days from receipt of the Step II Grievance Report Form. A copy of the secondary supervisor’s answer shall be submitted to the Executive Director of Human Resources.

If the Grievant is dissatisfied with the answer, he/she may proceed to Step III within five (5) Business Days of receipt of answer.

All documents for the Step II meeting must be submitted, by the Grievant and the University, to the Executive Director of Human Resources three (3) Business Days before the scheduled meeting.

New or additional information that changes the scope or nature of the original Grievance may not be added after Step II.

Step III

The Grievant shall continue a Grievance on a Step III Grievance Report Form (available from the Executive Director of Human Resources) and submit it within five (5) Business Days to the appropriate Vice President and Dean (if applicable) or appropriate executive level position. If the Vice President, Dean (if applicable), or appropriate executive level position serves as the next higher level supervisor or department head referred to in Step II then another Vice President, Dean (if applicable), or appropriate executive level position will be designated by the Executive Director of Human Resources to review.

The Vice President, Dean (if applicable) appropriate executive level position, or person designated by the Executive Director of Human Resources shall schedule and hold a meeting with the Executive Director of Human Resources, the Grievant, his/her Grievant Advisor and, appropriate supervisors and return an answer in writing to the Grievant within fifteen (15) Business Days. A copy of the answer shall be submitted to the Executive Director of Human Resources. If the answer is unsatisfactory to the Grievant, the Grievant may proceed to Step IV within five (5) Business Days of receipt of answer.

All documents for the Step III meeting must be submitted, by the Grievant and the University, to the Executive Director of Human Resources three (3) Business Days before the scheduled meeting.
Step IV

The Grievant shall continue the Grievance on a Step IV Grievance Report Form (available from the Executive Director of Human Resources) and submit it within five (5) Business Days from receipt of the Step III answer to the Executive Director of Human Resources.

Staff Grievance Committee/Hearing Panel

A Staff Grievance Committee Pool of ten (10) or more persons will be formed, with membership consisting of tenured faculty members and Senior Staff members, based on recommendations from Faculty Senate, Staff Council and the Executive Director of Human Resources and confirmation from the President. A Senior Staff Member is a Staff Member who has five (5) or more years of full-time employment experience with the University.

From this Pool, the Executive Director of Human Resources will convene a Hearing Panel consisting of three (3) members. The Hearing Panel members will decide amongst themselves who will serve as chair.

The Hearing Panel members and Executive Director of Human Resources shall work together to schedule and hold a hearing within fifteen (15) Business Days from the date the Hearing Panel is convened to include the Grievant, Grievant Advisor, witnesses, supervisors, and University representatives for the purpose of determining the facts. Within five (5) Business Days after the hearing the Hearing Panel shall present an Advisory Opinion to the President of the University. The President may accept, amend or discard the Hearing Panel’s opinion in determining a final answer. The President shall present a final and binding answer to the Grievant within five (5) Business Days from receipt of the Advisory Opinion with copies to the Executive Director of Human Resources and to the appropriate dean or unit head and the vice president.

Conflicts of Interest

In addition to compliance with the University’s Code of Ethics policy, a Hearing Panel member should disqualify himself or herself in a proceeding in which the Hearing Panel member’s impartiality might reasonably be questioned, including but not limited to instances where:

- The Hearing Panel member has a personal bias or prejudice concerning a participant in the Grievance process or has personal knowledge of disputed facts concerning the proceeding;
- The Hearing Panel member was directly involved in the matter in controversy, or a subordinate whom the Hearing Panel member previously supervised is involved in the matter, or the Hearing Panel Member was a witness to the matter;
- The Hearing Panel member or a person in his/her family is related to a participant in the Grievance process; or
The Hearing Panel member is in the same Department as a participant in the Grievance process.

Failure to disqualify himself or herself or notify the Executive Director of Human Resources of potential conflicts of interest is considered a violation of this Staff Grievance Policy and Procedures policy.

Restricted Communications

Discussions or offers of resolutions or partial resolutions may not be presented by the Grievant, University, or any participants in the Grievance process for consideration by the Hearing Panel as a basis for any decision in Step IV.

Hearing Panel members shall not initiate, permit, or consider communications made to the Hearing Panel outside the Grievance proceedings concerning a pending or impending Grievance, except as follows:

- Communications necessary to perform their responsibilities and duties
- Communication for scheduling, administrative, or emergency purposes, which does not address substantive matters;

If a Hearing Panel member receives an unauthorized communication bearing upon the substance of a Grievance, the member shall promptly notify the Grievant, University representative and the Executive Director of Human Resources of the substance of the communication and provide the parties with an opportunity to respond.

Any partial resolutions offered to the Grievant during the prior steps will not be presented or disclosed to the Hearing Panel. In addition, no other information, discussions or comments that occurred during the prior Grievance steps will be presented or disclosed to the Hearing Panel. Only the information presented on the Step IV Grievance Report Form and any supporting documentation submitted by the Grievant and University will be presented to the Hearing Panel.

A Hearing Panel member shall not investigate facts in a Grievance independently, and shall consider only the evidence presented and any facts that may be pertinent.

Definitions

Advisory Opinion

An opinion rendered by the Hearing Panel to the President. It is a recommendation which the President may consider while making a final decision. The Advisory Opinion is determined by a simple majority vote and may not include dissenting or concurring opinions from the Hearing Panel.
**Business Days**  
Day(s) when University offices are open for business.

**Grievance**  
An actual or supposed circumstance regarded as just cause for a complaint.

**Grievance Form**  
Documents used to submit to formal grievance proceedings by the Grievant.

**Grievant**  
Staff Member filing the Grievance.

**Grievant Advisor**  
A member of the University community, defined as current staff, faculty, or student, identified by the Grievant at any stage in the Grievance Process. The Grievant Advisor may only address the Grievant and may not act as an advocate or representative. Attorneys in the University community are excluded from being Grievant Advisors.

**Hearing Panel**  
The body that presides over Step IV of the Grievance procedure. Its membership consists of members of the University community that have been appointed to the Staff Grievance Committee Pool. Members must receive appropriate training prior to serving on the panel.

**Orientation Period**  
The first three (3) months (90 working days) are considered an orientation period during which the Staff Member and the University have an opportunity to evaluate the employment relationship.

**Senior Staff**  
A full-time Staff Member who has five (5) or more years of full-time employment experience with the University.

**Staff Grievance Committee Pool**  
A ten or more person University committee pool and all alternates from which Hearing Panel will be drawn. The committee’s membership will consist of tenured faculty and Senior Staff, which have been recommended by the Faculty Senate, Staff Council, and the Executive Director of Human Resources. The Executive Director of Human Resources shall then forward the list to the President for confirmation.

**Staff Member**  
As it pertains to this policy, Staff Members are employees of the University who do not have faculty rank, are out of their Orientation Period and are not temporary employees, volunteers or student workers.

**Witnesses**  
Person(s) identified by the University and/or Grievant who provides factual information related to the Grievance. All
witnesses must be identified by the University and Grievant by no later than Step II.

Responsibilities

Staff Member
- Communicates with the Executive Director of Human Resources within ten (10) Business Days from the first knowledge of an actual or supposed grievable circumstance to determine if a solution can be mediated without filing a formal Grievance
- Filing Grievance with his/her immediate supervisor within ten (10) Business Days from the decision of “no resolution”
- Notifying appropriate parties within the appropriate time frames (Executive Director Human Resources) of their desire to move the Grievance forward at end of each step of the process
- Knowledge of University policies

Executive Director of Human Resources
- Scheduling Grievance proceedings
- Administering this Policy
- Acts as a neutral facilitator for the Grievance process

Supervisors, Directors/Chairs and Vice Presidents
- Hearing and responding to the Grievance at each step and as outlined within this Policy.
- Knowledge of University policies
- Schedules meetings according to particular step

Hearing Panel
- Conducting Step IV Grievance Hearings
- Attending training
- Keeping Grievance proceedings confidential
- Notifying the Executive Director of Human Resources of any potential conflicts of interest
- Notifying the Executive Director of Human Resources of any potential violations of the restricted communications clause
- Rendering an opinion based on facts heard in the Step IV proceeding(s) only
• Writing and issuing an Advisory Opinion to the President. The Hearing Panel chair will be responsible for submitting the Advisory Opinion to the President

Witness(es)

• Providing factual, truthful and complete information

### Violations of the Policy

Violations of the Conflict of Interest and Restricted Communications clauses are subject to discipline. Other violations of this policy will be handled on a case by case basis.

### Interpreting Authority

Executive Director of Human Resources

### Statutory or Regulatory References

Not applicable.

### Relevant Links

N/A
Policy Adoption Review and Approval

Approved by the EKU Board of Regents on February 1, 1992 and on August 1, 2002 as part of the Staff Handbook.

Policy revised and approved by EKU Board of Regents on 4/27/12.