



Eastern Kentucky University

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University Policy: 8.3.1POL

Responsible Office(s): Office of Human Resources

Effective: April 27, 2012

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Staff Grievance Policy and Procedures

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 are expected to comply with Laws, Regulations, and Policies. In as much as instructions from University leadership and supervisors are legal, ethical and in compliance with Laws, Regulations, and Policies, 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 Office of Human Resources for guidance. Unless otherwise instructed by the Office 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 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 Office of Equity and Inclusion (521 Lancaster Ave, Jones Building, Suite 415, Richmond, KY, 859-622-8020).

In addition, Staff Members in their Orientation Period, Terminated Employees, temporary employees, volunteers and student workers are excluded from this procedure. Student workers should contact the Office of Human Resources and Student Employment Services.

This policy is to be read in conjunction with University Policy 1.6.2, Non-Retaliation, to prevent retaliation against any person for making an inquiry, participating in an investigation, or reporting possible non-compliance with Laws, Regulations, and Policies.

Entities Affected

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

Procedures

I. General Procedures

The Office 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 Chief Human Resources Officer.

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 2 and additional Witnesses may not be added after Step 2.

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 Chief Human Resources Officer 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. A Grievant 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.

II. Grievance Procedure Steps

A. Step 1

The Grievant will communicate with the Chief Human Resources Officer 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 1 Grievance Report Form obtained from the Office of Human Resources. The Chief Human Resources Officer 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 immediate supervisor.

The immediate supervisor shall return an answer, in writing, to the Grievant and copy the Chief Human Resources Officer, 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 2 within ten (10) Business Days of receipt of the answer.

If the Grievant’s immediate supervisor is a Vice President or individual in an executive level position, another Vice President or individual in an executive level position will be designated by the Chief Human Resources Officer to review the Grievance.

B. Step 2

The Grievant shall continue a Grievance on a Step 2 Grievance Report Form, 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 2 Grievance Report Form. A copy of the secondary supervisor's answer shall be submitted to the Chief Human Resources Officer.

If the Grievant is dissatisfied with the answer, he/she may proceed to Step 3 within five (5) Business Days of receipt of answer.

All documents for the Step 2 meeting must be submitted, by the Grievant and the University, to the Chief Human Resources Officer 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 2.

C. Step 3

The Grievant shall continue a Grievance on a Step 3 Grievance Report Form 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 2 then another Vice President, Dean (if applicable), or appropriate executive level position will be designated by the Office of Human Resources to review.

The Vice President, Dean (if applicable), or appropriate executive level position, or person designated by the Chief Human Resources Officer shall schedule and hold a meeting with 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 Chief Human Resources Officer. If the answer is unsatisfactory to the Grievant, the Grievant may proceed to Step 4 within five (5) Business Days of receipt of answer.

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

D. Step 4

The Grievant shall continue the Grievance on a Step 4 Grievance Report Form and submit it within five (5) Business Days from receipt of the Step 3 answer to the Chief Human Resources Officer. A Staff Grievance Hearing Panel will review.

A Staff Grievance Committee Pool of ten (10) or more persons will be formed, with membership consisting of Senior Staff members, based on recommendations from Staff Council and the Chief Human Resources Officer. From this Pool, the Chief Human Resources Officer 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 Chief Human Resources Officer 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 a final and binding answer to the Grievant, with copies to the Chief Human Resources Officer and to the appropriate dean or unit head and the vice president.

III. 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 office or department as a participant in the Grievance process

Failure to disqualify himself or herself or notify the Chief Human Resources Officer of potential conflicts of interest is considered a violation of this policy.

IV. 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 4.

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; and/or
- communications for scheduling, administrative, or emergency purpose 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 Chief Human Resources Officer 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 4 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 (Monday through Friday, 8:00 a.m. to 5:00 p.m.)
- **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 a 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 4 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.
- **Laws, Regulations, and Policies:** Federal or state laws, administrative regulations, and University policies, regulations, or procedures.
- **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 a Hearing Panel will be drawn. The committee's membership will consist of Senior Staff, which have been recommended by the Staff Council, and the Chief Human Resources Officer.
- **Staff Member(s):** 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.
- **Terminated Employee(s):** Individuals no longer employed with the University.
- **University:** Eastern Kentucky University, including all regional campuses.
- **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 2.

Responsibilities

- Chief Human Resources Officer
 - Oversight and administration of the policy.

Violations of the Policy

Violations will be handled on a case by case basis.

Statutory or Regulatory References

University Policy 1.2.1 Code of Ethics
University Policy 1.6.2 Non-Retaliation
University Policy 8.34 Response to Bullying and Harmful Conduct
Staff Handbook

Policy Adoption Review and Approval

Policy Revised

<u>Date</u>	<u>Entity</u>	<u>Action</u>
04/27/12	Board of Regents	Approved Revisions
08/01/2002	Board of Regents	Approved as part of Staff Handbook

Policy Issued

<u>Date</u>	<u>Entity</u>	<u>Action</u>
02/01/1992	Board of Regents	Approved