

Oklahoma State University Policy and Procedures

GRIEVANCES AND COMPLAINTS FOR STAFF

3-0746

ADMINISTRATION & FINANCE

June 2007

INTRODUCTION AND GENERAL STATEMENT

1.01 Whenever there is interaction between two or more people, there is the potential for misunderstanding and difference of opinion. These misunderstandings and differences cannot always be resolved without outside assistance.

PURPOSE AND SCOPE

2.01 To the end of justice and fair play for all persons concerned, this section is to provide an avenue for the resolution of differences and misunderstandings between supervisors and those who are supervised.

2.02 These policies and procedures statements are applicable to all staff personnel assigned to all agencies of the Oklahoma State University System.

2.03 Persons holding a "joint appointment" (faculty and staff combinations) shall use the grievance procedure most germane to the nature of the complaint; e.g., if the grievance is relevant to the work assignment as a member of the staff, then the staff grievance procedure shall be used.

2.04 Any use of grammatical gender references in this policy shall be interpreted as applying equally to males and to females. Any references to Assistant Vice President for University Human Resources also include his or her designee and any references to Director of Affirmative Action also include his or her designee to expedite processing.

UNIVERSITY POLICIES AND/OR PROCEDURES

3.01 It is the policy of the Oklahoma State University that all staff who have a bona fide grievance as defined herein that cannot be resolved informally may request the formation of a Grievance Committee, which shall conduct an examination of the issues and make recommendation(s) for review by the appropriate Vice President or other senior administrator reporting directly to the President.

3.02 Staff personnel who state their interest in filing a complaint or grievance shall be given copies of written policies and procedures pertaining to the disposition of such complaints and grievances. The Office of University Human Resources will provide the copies.

3.03 Definition of Terms

A. Complaint: A complaint is a timely informal expression of dissatisfaction with particular aspects of employment outside the control of the staff member.

B. Grievance: A grievance is a timely and written complaint filed by an employee, with regard to good faith assertion of substantial administrative error relating to appointment, reappointment, disciplinary actions, dismissal, retirement or safety in working conditions. Excluded from the grievance definition are complaints concerning wages and salary judgments, performance-related dismissal during a formal probationary period of employment, and University statements concerning policies and rules.

C. Discrimination: A complainant or grievant must state whether he or she believes that discrimination due to race, color, national origin, sex, age, religion, sexual orientation or qualified disability or veteran's status is involved. **Employees are eligible to file complaints due to unlawful discrimination regardless of status as a probationary employee.**

3.04 For a complaint relating to a form of alleged illegal discrimination listed in Section 3.03, the person entering the complaint shall advise the Director of Affirmative Action of the complaint. The Director of Affirmative Action may serve as consultant to either or both parties involved. However, the Director shall serve in an advisory or informal capacity only, and shall not be requested to make an administrative decision.

PROCEDURE FOR PROCESSING COMPLAINTS

4.01 Complaints and grievances are processed as follows:

A. Step One— In an attempt to resolve complaints in a timely manner, all complaints should be considered and, if possible, resolved at the lowest administrative level starting with the immediate supervisor. If the complaint is not resolved at this point, the complainant must discuss the point(s) of dissatisfaction with the appropriate administrator at least one

level above the complainant's immediate supervisor, but not including the Vice President.

B. Step Two—If the disagreement is not resolved it may be referred to Human Resources for assistance and mediation that may lead to a suitable disposition without the need for a formal grievance process.

C. Step Three— If informal discussion between the complainant and the supervisor(s) does not resolve the issue, the complainant may submit a formal written request to the Assistant Vice President of University Human Resources requesting that a Grievance Committee be formed to consider the grievance and supporting evidence. The written request must be made within fourteen calendar days from the end of informal discussion.

D. Step Four—A Grievance Committee shall normally be selected within fifteen working days after a Staff member has filed a timely written request for the formation of the Grievance Committee.

E. Step Five— A complaint and/or a grievance shall receive prompt attention at all levels of consideration. The hearing(s) and the written report of the Grievance Committee shall normally be completed within sixty working days after the formation of the Committee, and the final decision for disposition of the matter shall be made by the appropriate Vice President or other senior administrator within thirty working days thereafter. In any case in which the Grievance Committee deems these time schedules to be inadequate, the Assistant Vice President of University Human Resources shall notify all parties involved, in writing, of the amended schedule.

4.02 A written request for a review by a grievance committee will not be processed by the Assistant Vice President of University Human Resources unless it contains all of the following information:

A. A clear and detailed statement of the grievance along with a statement describing the specific supporting evidence;

B. The specific remedial action or relief sought with the reasons why such action is warranted;

C. A brief summary of the results of the previous discussions of the issues involved; and

D. A statement that illegal discrimination is, or is not, alleged.

GRIEVANCE COMMITTEE

5.01 Within fifteen working days after receipt of a qualified written request for the formation of a Grievance Committee and conclusion of possible mediation by University Human Resources, the Assistant Vice President of University Human Resources shall select the committee by random choice from computerized listings of staff assigned to that location. Both parties to the grievance shall be notified of the time and place for the selection, and each shall have the right to be present.

5.02 Five committee members shall be chosen, with one being selected from each of the following panels:

- A. Males
- B. Females
- C. Racial Minorities
- D. Exempt Staff
- E. Nonexempt Staff

5.03 The grievant and the responding party shall each be allowed to challenge one selection for the Grievance Committee without showing cause (peremptory challenge). Both parties shall have the right to challenge all other random selections by showing cause. The Assistant Vice President of University Human Resources shall rule on the validity of all permissible challenges for cause, such as bias, prejudice, member of same unit as a party, etc., after both the grievant and responding party have been given an opportunity to comment on the request.

5.04 All persons selected for membership on the Grievance Committee shall be expected to serve on the Committee except in cases of illness, necessary absence from the campus, prior service on a Grievance Committee in the current or immediately preceding calendar year, or other extreme hardship. The Assistant Vice President of University Human Resources shall decide whether a chosen person should be excused from service, and the Assistant Vice President may replace such a member by the same procedure used for the original selection.

5.05 In the event of serious illness, necessary absence, or extreme hardship of a Committee member during the course of a grievance hearing, the Assistant Vice President of University Human Resources may, at his or her option, or at the request

of either the grievant or the responding party, select a replacement for that unavailable Grievance Committee member by using the same procedure that was used for the original selection. In the event that a Grievance Committee member is replaced during the course of the hearing, the successor shall review the record of the proceedings to become familiar with the positions of the parties and with their evidence previously submitted to the Committee.

5.06 The members of the Grievance Committee shall select a Chair from their group. The Assistant Vice President of University Human Resources shall serve as a non-voting advisor to the Committee, except when the Assistant Vice President is a party to the grievance. In such an event, the Director of Affirmative Action shall serve as the advisor. In cases in which illegal discrimination is alleged, the Director of Affirmative Action shall serve as advisor to the Chair and to the Committee in matters dealing with affirmative action and equal opportunity.

GRIEVANCE HEARING

6.01 The Assistant Vice President of University Human Resources shall exercise reasonable discretion in attempting to schedule a hearing at the earliest convenient time and date that all affected parties can be in attendance.

6.02 The Assistant Vice President of University Human Resources shall advise the Grievance Committee as to the nature of the charge and the procedures for grievance review in order to promote fairness and equity for all persons involved. The Assistant Vice President shall remain neutral in the matter at all times, and may serve as a resource person on procedural questions upon request of the grievant, the responding party, or both.

6.03 The Assistant Vice President of University Human Resources shall be responsible for obtaining a hearing room, and shall notify all appropriate parties of the time, date, and place of all hearings. Attendance at the hearings shall be limited to persons who have an official connection with the case as determined by the Chair. The grievant and the responding party may choose to be accompanied at the hearings by either an advisor, colleague, friend, or legal counsel. Others whose participation in the hearing is considered essential in order to assist the Committee in establishing the facts in the case shall appear before the Committee only long enough to give statements and to answer questions from the grievant, responding party or Committee members.

6.04 The Chair of the Grievance Committee shall set forth the rules of procedure for the hearing in accordance with the guidelines below. The Chair may, for good cause

and with concurrence of a majority of the Committee, authorize minor deviation from the guidelines or format. In cases of deviation, the principal parties shall be notified of the deviation. 6.05 The grievant shall be heard first in all phases of the grievance hearing(s) and shall be primarily responsible for the presentation of the evidence supporting the grievance.

6.05 Counsel or a representative may advise the principals but shall not be permitted to participate directly in the proceedings, testify, or question witnesses except as noted in section 6.13 below.

6.07 A reasonable time limit should be established for opening and closing statements, and shall be announced prior to, or at the time of, the beginning of the hearing. Both parties shall make opening statements to the committee to acquaint it with the issues to be presented and an overview of the evidence to be presented. Closing statements should review the evidence actually presented to the committee, together with logical arguments for the party's position.

6.08 The length of hearing sessions may be established in advance, and every effort shall be made to conduct the hearing sessions as expeditiously as possible, with fairness to both parties and attending witnesses.

6.09 The parties shall develop their positions through witnesses and documents. Witnesses may be cross-examined. Rebuttal evidence is permitted. Additional witnesses may be called by the Committee if they regard such evidence as probably relevant to the case.

6.10 In preparation for the hearing, the principal parties shall provide the Assistant Vice President of University Resources with the names of potential witnesses and two copies of all exhibits that may be distributed at least 48 hours in advance of the first hearing session.

A. Potential witnesses will be notified of the hearing session by the grievant or by the responding party, and the witnesses shall be scheduled as close to the time of call as possible to avoid undue waiting. The principal parties are responsible for contacting, and arranging for the attendance of, their own witnesses in all cases.

B. Principal parties will provide copies of all documents to be distributed at the hearing. This will include a copy for each member of the committee, a copy for the other party, and one for the official file.

6.11 All testimony pertaining to the grievance hearing shall be held in confidence by all parties and should not be discussed with others unless there is a compelling official need.

6.12 Only evidence relevant to the grievance may be introduced. The question of relevance shall be decided by the Chair of the Committee.

6.13 In cases of termination of employment of a Staff member, the University recognizes the seriousness of such action and intends that, if legal counsel is retained by the grievant, the utilization of counsel shall include opportunity for counsel to participate directly in all appropriate portions of the hearing, including the presentation of the grievant's case to the Committee. The respondent may also be represented by legal counsel with the same opportunities for participation.

6.14 In order to have a record of the proceedings, a confidential tape recording of the grievance hearing(s) shall be made available and accessible to the parties involved, to members of the Grievance Committee, to the appropriate Vice President, to the President, to the members of the Board of Regents, and to all authorized representatives on a need-to-know basis.

A. Either party to the grievance may request that the Grievance Committee endeavor to provide a written transcript of the testimony. The total cost of the preparation of such transcript shall be paid by the party making the request. The cost of the transcript shall be the prevailing fee charged by court reporters in Payne County for such service.

B. At the conclusion of all hearing sessions, and after the final report of the Grievance Committee is submitted, the confidential tapes and all other relevant material will be sealed and preserved by University Human Resources. These materials shall be destroyed after five (5) years unless one or both parties submit a written reasonable request to the Assistant Vice President of University Human Resources to preserve them for a longer period of time.

6.15 At any point in the grievance proceedings prior to the time at which the Grievance Committee has issued its final report in the case, the grievant may withdraw any portion or all of the grievance. In all cases of withdrawal, the grievant shall not have the privilege of reopening the same grievance at any time in the future.

GRIEVANCE COMMITTEE REPORT

7.01 At the conclusion of the final hearing session, the Committee shall establish a date, time and place to go into closed session for the purpose of deliberating the evidence, and committee findings and recommendations in the case. Attendance at the closed sessions shall be limited to Committee members unless a recalled witness is to be present, in which case both parties to the grievance shall be notified and may attend.

7.02 The Grievance Committee shall issue a written report in which it will state its findings and recommendations for resolving the case.

7.03 The report of the Committee will include a brief summary of the hearing and recommendation(s) for disposition of the grievance including

- A. A statement of the purpose of the hearing.
- B. The issues considered.
- C. The findings of fact.
- D. Recommendation(s) for disposition of the grievance.

7.04 The Grievance Committee shall submit its preliminary report to Assistant Vice President of University Human Resources in a non-discrimination case, or to both Assistant Vice President of University Human Resources and the Director of Affirmative Action in a discrimination case. The Assistant Vice President and Director will review the preliminary report for policy compliance. When the form of the report is in compliance with this policy, the report will be forwarded to the appropriate Vice President, or to the appropriate senior administrator reporting directly to the President. The Assistant Vice President of University Human Resources will provide copies of the report to the grievant, the responding party, their counsel, if any, and to all members of the Grievance Committee. The Assistant Vice President of University Human Resources will keep a copy in a permanent file.

REVIEW AND FINAL DETERMINATION OF GRIEVANCE

8.01 The final report of the Grievance Committee as well as any documentation provided by the grievant or the responding party and the tape recordings will be forwarded to the appropriate Vice President or senior administrator. After review, in consultation with the President, the appropriate Vice President or other senior administrator will determine the outcome of the grievance and issue a final decision. Unless otherwise previously effective, the decision will be implemented and considered final and binding.

8.02 The appropriate Vice President or other senior administrator will render and communicate the final decision in the case within 30 working days to the members of the Grievance Committee, to the grievant, to the responding party, their counsel, if any, and to the Assistant Vice President of University Human Resources. Should the decision be contrary to the findings of fact and recommendations of the Grievance Committee, the Vice President or senior administrator will include a statement of the reasons the findings of fact or recommendation(s) of the Grievance Committee were not accepted.

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