OM 3.1.13 General Grievance Procedures

I. Preamble

The objective of these grievance procedures is to provide employees with a fair and expeditious means of resolving complaints they have regarding their working relationships or employment conditions. This objective is pursued through the use of both informal discourse and, if necessary, a formal hearing process.

This grievance procedure is available to all regular employees. No employee shall be penalized because he/she has recourse to these grievance procedures.

II. Definition of a Grievance

A grievance exists when there is:

- a claimed violation, misinterpretation or inequitable application of existing rules, procedures or regulations,
- a claimed failure to apply existing rules, procedures, or regulations, or
- a claimed treatment that was transparently unfair, arbitrary or capricious and such action adversely impacts the employment relationship.

III. Procedures

A. Any employee with a grievance may meet with a member of the Office of Human Resources for advice and counsel. If such a meeting transpires, the Office of Human Resources shall hold both the fact of the meeting and its substance in strict confidence.

B. An employee with a grievance should promptly consult with the person by whom he or she feels aggrieved in an effort to resolve the matter informally. If the employee feels unable to undertake such a consultation alone, a representative of the Office of Human Resources may accompany the employee. An employee may also choose to pursue mediation with the person by whom he or she feels aggrieved. The University Mediation Service can assist in determining whether both parties are willing to participate, and if so, will assign a mediator. The mediation will be handled in confidence.

C. If informal consultations or mediation fail to resolve the problem and the employee still wishes to pursue the grievance, or if the employee with the grievance elects not to seek an informal resolution, then the employee must prepare a written statement of the grievance. This statement should clearly delineate the grievance and the facts in support thereof; it may also contain a suggested remedy. This statement should be prepared within ten workdays of the last effort at finding an informal resolution, or if no informal consultations were attempted, within ten workdays of the incident that occasioned the grievance. Signed copies of this written statement should be submitted to the Office of Human Resources, to the person with whom the grievance is lodged, and to the immediate supervisor of the individual against whom the employee has a grievance (henceforth, simply the immediate supervisor or the supervisor).

D. On receipt of the written and signed statement of the grievance, the immediate supervisor shall review this document to determine what, if any, remedial action is appropriate. The immediate supervisor shall prepare a memorandum describing his/her decision regarding the grievance. This memorandum shall be prepared within ten workdays of the last effort at finding an informal resolution, or if no informal consultations were attempted, within ten workdays of the incident that occasioned the grievance. Signed copies of this written statement should be submitted to the Office of Human Resources, to the person with whom the grievance is lodged, and to the immediate supervisor of the individual against whom the employee has a grievance (henceforth, simply the immediate supervisor or the supervisor).

E. If the employee filing the grievance thinks the supervisor's decision constitutes an insufficient response to his/her complaint, the employee may request that a formal hearing be scheduled to address the grievance. This written request must be submitted to the Office of Human Resources within five workdays of receipt of the immediate supervisor's decision memorandum. Upon review of that complaint, the Director or designee may either dismiss the complaint (either on its merits, because it does not properly fall within the scope of the procedure, or for timeliness) or may recommend it appropriate that the University take remedial action.

F. The hearing of the grievance shall take place before a Formal Hearing Committee of six individuals drawn from the membership of the Employee Relations Grievance Committee, and shall be governed by the following:
1. The Employee Relations Grievance Committee (ERGC) shall consist of employees appointed to staggered terms by the president. The appointees to the ERGC should reflect the composition of the University's faculty, staff, and administration.

2. The Formal Hearing Committee (FHC) shall consist of six persons selected from among the available members of the ERGC. The Director of Human Resources Operations and the employee filing the grievance shall each select three members from the ERGC for service on the FHC. The members of the FHC shall elect a chair to direct the hearing.

3. The hearing shall be held within ten working days of receipt of the request for a hearing. The hearing will consist of four parts: (a) opening comments, (b) the presentation of any documentary evidence including, specifically, the grievant's written statement of the grievance and the supervisor's decision memorandum, (c) the hearing of any witnesses and (d) closing remarks. Both the grievant and the individual against whom the grievance has been filed will have an opportunity to be heard in each part of the hearing. Both will also have the opportunity to call and question witnesses. During the hearing, the grievant may be accompanied by any other employee of the university he/she selects for assistance. That said, it should be recognized that this hearing is an intramural device intended to secure a resolution of complaints; it is not a trial designed to apportion blame. As such, the technical rules of evidence and procedure that govern judicial proceedings shall not apply to FHC proceedings. FHC should be expressly empowered to deal with all procedural and other issues which may arise, provided not inconsistent with explicit provisions of the policy.

4. The decision of the FHC shall be reached within five working days of the close of the hearing. This decision shall be communicated, in writing by the FHC, to the grievant, to the individual against whom the grievance was filed, to the immediate supervisor, to the Director of Human Resources Operations, and, for appropriate action, to the president.

5. A stenographic or audio recording of the hearing shall be made. This recording along with copies of all documentary evidence presented at the hearing shall be retained in the confidential files of the Office of Human Resources for not less than two years; these items shall be available only to the grievant, to the individual against whom the grievance was filed, and to such other individuals as the president may designate.

6. As far as practicable, the hearings and deliberations of the FHC shall be treated as confidential.

G. Certain stipulations apply to the grievance process described herein.

1. The time limits specified are designed to ensure a timely response to the grievance. However, flexibility for the sake of securing a resolution should be allowed. For example, if the employee has failed to seek a review within ten days, the Director of Human Resources Operations may, at his/her discretion, extend the time limit. Saturdays, Sundays, and university holidays shall not be counted in the tabulation of time limits, nor shall the normal days off of the employee filing the grievance or of the immediate supervisor charged with responding to it. If a delay in the process occurs, the employee filing the grievance should be given a written explanation for the delay and an indication of when the process will resume.

2. If at any point in the process, the employee feels that his/her grievance had been resolved, or submits a written and signed statement to the effect that he/she wished to pursue the matter no further, the grievance review or formal hearing shall be terminated.

3. An employee shall not lose pay for any time not on the job if their presence is required at any hearings or meetings provided by this procedure. However, an employee shall not be paid for any time present at a hearing or meeting that falls outside the employee's normal work hours. That said, meetings and hearings should be arranged so as to accommodate the schedules of all involved, especially those of the employee filing the grievance and the individual against whom the grievance has been lodged.

4. The time limits specified are designed to ensure a timely response to the grievance. However, flexibility for the sake of securing a resolution should be allowed. For example, if the employee has failed to seek a review within ten days, the Director of Human Resources Operations may, at his/her discretion, extend the time limit. Saturdays, Sundays, and university holidays shall not be counted in the tabulation of time limits, nor shall the normal days off of the employee filing the grievance or of the immediate supervisor charged with responding to it. If a delay in the process occurs, the employee filing the grievance should be given a written explanation for the delay and an indication of when the process will resume.

IV. Restrictions

A. The university has a separate discrimination grievance process that applies to allegations of discrimination on the basis of race, color, religion, national origin, sex, sexual orientation, age or handicap. If any employee in any status feels that they have experienced such discrimination, they should file their grievance with the Office of Affirmative Action. In such a case, the Discrimination Grievance Process shall be invoked, and it totally supplants the grievance procedures described here.

B. Grievances bearing on the issue of academic tenure are not handled by these grievance procedures, but are dealt with exclusively by the tenure appeals processes set forth in the Operations Manual.

C. New employees of the university in non-faculty positions do not have access to these procedures during their initial three-month, probationary period; however, they do enjoy full access to the Discrimination Grievance Procedures referenced in IV-A, above.

D. Terminations do not constitute grounds for a grievance under the present procedures. However, grievances alleging discriminatory treatment may be filed under the Discrimination Grievance Procedures referenced in IV-A, above.

E. The present grievance procedures are designed for the intramural resolution of differences. Use of these grievance procedures does not constitute a waiver of the employee's right to seek a resolution through external agencies, including courts of law. However, the employee should be aware that the filing of an internal grievance might not postpone the deadlines for filing complaints imposed by outside agencies or courts.

F. Complaints regarding salary or the annual performance appraisal may not be addressed through these grievance procedures, but they can be handled through normal administrative channels.

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History

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