

IX- 25
PROCEDURES FOR NON-SENATE, NON-REPRESENTED ACADEMIC GRIEVANCES
(Revised 2/20)

Sources: APM 140 - General University Policy Regarding Academic Appointees, Non-Senate Academic Appointees/Grievances

This policy applies to all academic appointees who are not members of the Academic Senate, except those appointees covered by a Memorandum of Understanding. Student academic employees not covered by an MOU may only grieve matters related to their academic appointment.

Grievance Liaison: The Office of Employee & Labor Relations shall serve as the liaison office for any grievance proceedings conducted under APM 140 and Red Binder IX-25.

Step I Informal Grievance Resolution

During the informal stage the grievant tries to resolve the issue through discussion with the supervisor or other responsible administrator whose action is being grieved. Both the grievant and departmental personnel are urged to consult with the Office of Employee & Labor Relations for assistance in resolving the problem informally. If a grievance alleges sexual harassment, the matter will be referred to the Title IX Office and the grievance will be placed in abeyance pending review by that office.

Step II Formal Review of Grievance

- 1) A formal grievance must be filed in writing with the grievance liaison within 30 calendar days of the date the grievant knew or could be expected to have known of the event causing the grievance. Informal review does not extend the time limit for formal filing unless a written exception is granted by the grievance liaison.
- 2) The grievance must include the following information:
 - a) If alleging that a specific act was arbitrary or capricious, the specific administrative act must be identified along with a description of how the act was arbitrary or capricious.
 - b) If alleging that a violation of applicable University rules, regulations or Academic Personnel policies occurred, identify the section and specific provision alleged to have been violated and how those provision were violated;
 - c) The name of the person alleged to have carried out the act or violation of rules, regulations or policy
 - d) The date of the act or violation.
 - e) How the grievant was adversely affected;
 - f) The date of any attempted ~~at~~ informal resolution and identity of the individuals involved; and
 - g) The remedy requested.
- 3) After receiving the written grievance, the grievance liaison will determine if the grievance is complete, timely, within the jurisdiction of APM-140, and contains sufficient facts to support the grievance. Within 10 calendar days of receipt the grievance liaison will inform the grievant of the acceptance of the grievance.

If the grievance liaison informs the grievant that additional information is needed, the grievant will have ten calendar days to provide the information. When the information provided by the grievant is complete, the grievance liaison will notify the grievant in writing that the formal grievance process has commenced. All further time limits are based on that date.

The grievance may be dismissed if the grievant fails to provide the requested additional

information, or if the grievance is untimely or outside the jurisdiction of APM-140. If the grievance is dismissed at this stage the grievance liaison will provide the grievant with a written explanation of the basis for the dismissal.

- 4) The grievance liaison will forward the grievance immediately to the appropriate department chair or comparable authority who, after appropriate review, shall render a decision on the grievance within 30 calendar days and submit it in writing to the grievance liaison. The written decision should be addressed to the grievant. The response must include the reasons for the decision and must also inform the grievant of the right to appeal the decision to Step III.
- 5) The grievance liaison will forward the decision immediately to the grievant, with copies to the respective dean and department chair.

Step III Administrative Review or Hearing

A grievance that is not resolved at Step II may be appealed for resolution at Step IIIa or Step IIIb, but not both, depending on the issues of the grievance. Matters not eligible for a hearing, such as matters involving title or salary, are handled through administrative review (Step IIIa). Only allegations of violations of certain academic personnel policies or terms and conditions of employment are subject to a hearing (see below). The grievance liaison shall determine whether Step IIIa or Step IIIb is the appropriate route to take.

Step IIIa Administrative Review

- 1) Appeal to Step IIIa must be in writing and must be received by the grievance liaison within 15 calendar days of the date the Step II response was issued or due, whichever comes first. The appeal must specify the unresolved issues and the remedy requested.
- 2) The grievance liaison will forward the grievance to the Associate Vice Chancellor for Academic Personnel or designee for review within 7 calendar days.
- 3) The Associate Vice Chancellor shall provide a written decision to the grievant within 30 calendar days following receipt of the appeal to Step IIIa. The decision shall include the reasons for the decision if the decision of the Step II review is rejected or modified and a statement that the decision is final.

Step IIIb Hearing

- 1) The appeal to Step IIIb must be received by the grievance liaison within 15 calendar days of the date the Step II response was issued or due, whichever comes first. The appeal must be in writing and must set forth the unsolved issues and remedy requested.
- 2) Only appeals alleging of violations of the following may be submitted to the hearing officer.
 - Nondiscrimination (APM 035)
 - Layoff and Involuntary Reduction in Time (APM 145)
 - Corrective Action (Censure, Suspension, Demotion)
 - Dismissal
 - Procedural irregularity in personnel review process
- 3) Within 7 calendar days from receipt of the written request, the grievance liaison will determine whether the appeal has identified an issue eligible for hearing consideration. If the appeal has not identified an issue eligible for a hearing consideration, the grievance liaison will inform the grievant and submit the appeal for determination under Step IIIa. If the appeal is eligible for hearing consideration the request will be forwarded to the Associate Vice Chancellor for Academic Personnel.
- 4) The grievant may elect that the grievance be heard by: either a University hearing officer or a non-University hearing officer. Election shall be in writing and shall be final.
 - (a) University Hearing Officer
The grievance liaison will maintain a current list of three to five individuals who have

agreed to serve as a hearing officer. These individuals will be faculty or other non-student academic appointees who have a practical understanding of academic employer-employee relationships and academic personnel policies. The list will be made available to the grievant prior to deciding whether to select a University or non-University hearing officer. The parties will arrange alternately to strike names, and the person whose name remains will become the University hearing officer.

(b) Non-University Hearing Officer:

If the grievant elects a hearing before a non-University hearing officer, the grievance liaison will request from the American Arbitration Association a list of five names. Upon receipt, the parties will arrange alternately to strike names, and the person whose name remains will become the non-University hearing officer.

Whenever possible the hearing officer will be selected within 45 calendar days from receipt of the grievant's election of hearing officer and within 60 calendar days of the date of the selection of the hearing officer a hearing date will be scheduled.

- 5) In advance of the hearing, the parties shall attempt to stipulate in writing issues to be submitted for review at the hearing. If the parties cannot agree on the issues, the hearing officer shall define them.
- 6) Each party shall, upon request, provide the other with copies of material to be introduced at the hearing and names of witnesses who will testify on the party's behalf. To the extent possible, such materials and names shall be exchanged at least 10 calendar days prior to the hearing.
- 7) The hearing officer shall convene a hearing in which each party shall have the opportunity to present evidence and cross-examine witnesses. The hearing shall be closed and confidential.
- 8) The hearing shall be tape recorded unless both parties agree in advance to share the costs of a stenographic record.
- 9) The hearing officer shall provide the Associate Vice Chancellor with a written statement of findings and recommendations within 30 calendar days of the close of the hearing.

The hearing officer shall not substitute their judgment for the academic judgment of a peer review committee or administrative officer, nor shall the hearing officer be empowered to evaluate the academic qualifications or competence of academic appointees.

- 10) The Associate Vice Chancellor shall issue a final written decision within 30 calendar days of receipt of the findings or recommendations of the hearing.
- 11) The Associate Vice Chancellor shall provide to the grievant a copy of the findings and recommendations of the hearing officer, and a statement of the reasons if the recommendations of the hearing officer are rejected or modified.