



TEXAS SOUTHERN UNIVERSITY
MANUAL OF ADMINISTRATIVE POLICIES AND PROCEDURES

SECTION: Human Resources
AREA: Employee Relations

Number: 02.05.01

SUBJECT: Complaint & Grievance Policy
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I. PURPOSE AND SCOPE

Although Texas Southern University is an at-will employer, it seeks fair, just, and prompt solutions, when possible, to complaints and grievances of employees arising from the employment relationship with the University. In instances where a problem cannot be resolved through informal discussion with the immediate supervisor, the employee may present a complaint or grievance without fear of retribution. Intimidation, harassment, coercion or reprisal in any form against an employee for presenting the complaint or grievance or for aiding another employee in the presentation of that complaint or grievance is strictly prohibited.

Employees should make every effort to resolve applicable employment concerns through the procedure herein. However, the filing of a complaint or grievance will not affect the ability of the University to pursue employee discipline or termination procedures when applicable.

This policy describes the informal and formal processes for addressing employee complaints and grievances handled by the Office of Human Resources. Complaints or grievances alleging sex discrimination, sexual harassment or sexual assault are handled in accordance with the guidelines and procedures set forth in the University's Title IX Grievance Procedures (MAPP 02.05.09). Complaints or grievances filed against an employee by an employee or student which alleges other forms of unlawful discrimination or harassment, including but not limited to unlawful discrimination/harassment based on race, color, religion, national origin, age, disability, sexual orientation or veteran status are handled in accordance with the procedures set forth in this policy. Faculty grievances that do not allege unlawful discrimination are handled in accordance with the guidelines and procedures set forth in the Faculty Manual.

II. DEFINITIONS

- A. **Complaint:** An employee's formal expression of disagreement arising from or relating to issues including, but not limited to: wages, working conditions, performance evaluations, merit raises, interpretation of official University personnel or administrative policies applied to the complainant, oral or written reprimands, and/or job assignments or similar matters involving management decisions concerning the complainant. **Assignment of duties, determination of work hours and other management responsibilities are reserved as management rights and are not subject to a complaint, unless the employee**

believes the action was taken for reasons prohibited by law (i.e. discrimination, retaliation, etc.).

- B. Formal Grievance Procedure: The formal procedure has been established to resolve those work-related issues that could not be resolved through the informal grievance procedure. This procedure is available to all university staff employees in regular positions.
- C. Grievance: An employee's formal expression of disagreement arising from or relating to a term or condition of employment. Grievances may include, but are not limited to: allegations of discrimination, demotion, decrease in salary, suspension without pay, involuntary transfer to a different job classification, and/or terminations, in limited situations. **Assignment of duties, determination of work hours and other management responsibilities are reserved as management rights and are not subject to a grievance, unless the employee believes the action was taken for reasons prohibited by law (i.e. discrimination, retaliation, etc.).**
- D. Informal Complaint/Grievance Procedure: The informal procedure has been established to resolve work-related problems as quickly as possible and is available to all university non-faculty employees, regardless of classification, hours worked or length of appointment. The regular employee should always follow the informal procedure prior to seeking recourse through the formal grievance procedure.
- E. Mediation: A form of alternative dispute resolution outside of the University's formal grievance and complaint processes in which an impartial person, a mediator, facilitates communication between disputing parties to promote reconciliation, settlement, and understanding. A mediator does not impose his or her own judgment on the issues; rather the disputing parties are responsible for developing their own resolution.
- F. Regular Employee: A university employee who is employed for at least 20 hours per week on a regular basis for a period of at least four and one-half months, excluding students employed in positions which require student status as a condition of employment.
- G. Days: "Days" shall mean University business days, unless otherwise noted. In calculating timelines under this policy, the day a document is filed is "day zero." The following business day is "day one."

III. GENERAL PROVISIONS

- A. All complaint or grievance procedures will be non-adversarial in nature. Aggrieved employees may represent themselves individually. In the event that the employee is represented by legal counsel or other representative, the University shall be represented by the Office of General Counsel.

- B. Only one subject matter may be covered in any one written complaint or grievance. The complaint or grievance must be submitted in writing to the Office of Human Resources. The written complaint or grievance should contain a clear and concise statement of the complaint or grievance which refers to the applicable policy that is alleged to have been violated, the date the incident took place, the issue involved, the specific resolution sought by the employee and additional relevant information to be considered in support of the complaint or grievance. The written complaint or grievance may not be altered or amended without mutual consent of the University and the employee.
- C. The Sr. Associate VP of Human Resources, or authorized designee, shall provide advisory assistance to the complainant/grievant or management by explaining this complaint and grievance procedure.
- D. The complaint or grievance process will end at the earliest step that resolution is reached.
- E. Employees may use annual leave, compensatory leave or leave without pay, subject to established University operating policies and procedures, to engage in this activity.
- F. If an employee separates from employment with the University for any reason other than dismissal based upon allegations of discrimination, pending complaints or grievances may be dismissed in limited circumstances. Such incidents for dismissal of a complaint may include:
 - If both the complainant and the accused party separate from employment with the University voluntarily for non-discriminatory reasons.

IV. INFORMAL COMPLAINT/ GRIEVANCE PROCEDURE

- A. The informal procedure is available to all university employees, regardless of classification, hours worked or length of appointment.
- B. An employee may begin the procedure within five (5) working days of the occurrence of the action or inaction (or last of a series of actions or inactions) for which the employee feels aggrieved by requesting a meeting with his/her supervisor and informally discussing the issues and coming to an amicable understanding. Employees and supervisors should cooperate to resolve problems efficiently and informally. In cases where the employee's issue is with their immediate supervisor, or if an employee is unsuccessful in resolving their concern with their immediate supervisor, the employee must request a meeting with the department head/ supervisor's direct report in an effort to resolve the issue. The Informal Complaint Procedure is intended as an alternative dispute resolution phase before documenting a formal grievance. This step should be

conducted as an interest-based, collaborative problem-solving process between the employee and the leadership within their department with the purpose of preserving the work relationship. Employees may only proceed to the Formal Grievance Procedure if he or she has been unable to resolve the complaint or grievance informally within their department.

- C. The meeting shall take place within three (3) working days from the date of the request for the meeting. If the supervisor is not available during the three-day time frame, the next level supervisor in line will meet with the employee to discuss the complaint.
- D. If the employee's complaint is not resolved through informal discussions, either party may then file a formal grievance/ complaint with the Employee Relations and Compliance unit in the Office of Human Resources.

V. MEDIATION

- A. Mediation shall be conducted by the Sr. Associate VP of Human Resources, or designee. The parties involved in the mediation will be contacted directly by the mediator to coordinate the date, location and time for the mediation. The mediation meeting shall occur on the University campus. Time spent in the process of mediation is considered “work time.”
- B. Information pertaining to mediation will be retained by the Office of Human Resources and will remain confidential, to the extent provided by law. Information will be shared with supervisors and other appropriate University officials on a need-to-know basis, as deemed appropriate by the Sr. Associate VP of Human Resources.
- C. Failed Mediation: Mediation is considered to have failed when any party in the mediation declines further participation in the process. Mediation is also considered to have failed when the mediator notifies all parties in the mediation and the Sr. Associate VP of Human Resources, in writing, that an acceptable mediation agreement between the mediating parties cannot be reached. The staff member who filed the initial complaint will have five (5) working days after receipt of the failed mediation notification to make a written request for further action under the formal grievance procedure. Failure to make a written request for further action on the matter shall be deemed as a waiver of intent to further the complaint or grievance, and the pending matter shall be dismissed.

VI. FORMAL GRIEVANCE PROCEDURE

- A. If a complaint or grievance is not resolved through the informal review process, a regular employee may proceed with the formal grievance procedure. Supervisors may meet one-on-one with the employee at any point in the process to gain additional information or seek resolution.

- B. Within five (5) working days following conclusion of the informal complaint or grievance, the employee completes a written, signed grievance form that contains the following information: name and address of grievant; nature and date of alleged violation; names(s) of person(s) responsible for the alleged violation; requested relief or corrective action and any background information that the grievant believes to be relevant. The employee provides the completed grievance form and supporting documents to the Employee Relations and Compliance unit in the Office of Human Resources.

- C. Upon receipt of a formal grievance, the Sr. Associate VP of Human Resources or designee, will review the grievance, investigate if necessary, and determine the appropriate next steps. The Complainant shall receive a written response within fifteen (15) working days after the receipt of the written complaint.
 - i) The Sr. Associate VP of Human Resources or designee may investigate the grievance and make a final determination regarding the issue.
 - ii) The Sr. Associate VP of Human Resources may forward the complaint to the appropriate VP to find a resolution.
 - iii) The Sr. Associate VP of Human Resources, or designee may also counsel, advise, and/or mediate to promote resolution of the complaint and make recommendations regarding the appropriate disciplinary actions if/when necessary.

VII. APPEAL OF THE FINDINGS OF A FORMAL GRIEVANCE

- A. If an employee wishes to file an appeal against the findings of a formal grievance, he or she may do so if a request for an appeal is submitted to the Sr. Associate VP of Human Resources within three (3) working days following the conclusion of the formal grievance. The request for an appeal must be written, signed, and must include the following information: Employee name, address, reason for appeal, supporting documents indicating any alleged deficiencies in the investigation.

- B. The Sr. Associate VP of Human Resources or designee will review the request along with the formal grievance investigative findings and make a determination.
 - i) The Sr. Associate VP of Human Resources or designee may determine that the investigation and subsequent findings are just and deny the request for an appeal. That action will be final. The Complainant shall receive a written response within (10) working days after receipt of the written appeal.
 - ii) The Sr. Associate VP of Human Resources or designee may request additional information from the complainant and investigator and make a revised determination regarding the complaint. That determination will be final.

- iii) If a complaint form appeal notice is not timely filed, the complaint may be dismissed, on written notice to the employee, at any point during the complaint process. The employee may appeal the dismissal by seeking review in writing within ten days from the date of the written dismissal notice, starting at the level at which the complaint was dismissed. Such appeal shall be limited to the issue of timeliness.
- iv) The Sr. Associate VP of Human Resources may choose to appoint a grievance review board consisting of five (5) members and seven (7) alternate members to hear the grievance and review documents related to the case. Following the hearing, the Board will retire to deliberate in a closed session and will submit a written report of recommendations to the appropriate Vice President within ten (10) working days of the hearing. Within five (5) working days following receipt of the recommendation of the Board, the appropriate vice president will make a written response to the grievant. The decision of the vice president is final, except in cases of employees who report directly to a vice president. In these cases, the final level appeal will be the President. The same ten (10) working day time limits will apply.
- v) All time limits set forth in this policy may be extended once by each party with the mutual consent of the parties involved. Failure of supervisory or administrative personnel to respond to a grievance within established time limits will constitute authorization for the employee to process the grievance to the next step, but shall not be an affirmative finding on the issue(s).

VIII. ABANDONMENT OF COMPLAINT/GRIEVANCE

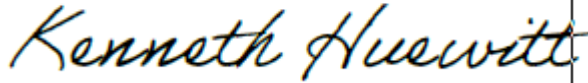
- A. The following acts on the part of the employee may constitute abandonment of a complaint or grievance:
 - i) failing to respond or take an action required by the procedure within the specified time limit;
 - ii) failing to appear for a scheduled meeting without adequate cause;
 - iii) otherwise failing to advance the complaint in a timely manner, as determined by the Office of Human Resources; or
 - iv) the employee's voluntary separation from the University for non-discriminatory reasons or reasons unrelated to the complaint or grievance.
- B. The Sr. Associate VP of Human Resources may unilaterally declare a complaint or grievance to be abandoned and close the file, or may undertake a review of the status of the complaint or grievance upon request of the department head. No further action or appeal will be allowed following such determination of abandonment and closure of the file.

IX. REVIEW AND RESPONSIBILITY

Responsible Party: Sr. Associate VP of Human Resources

Review: Every three years, on or before August 31

X. APPROVAL



Vice President for Administration & Finance



President

Effective Date: January 9, 2019