

Following is the revised University of Pennsylvania Staff Grievance Procedure prepared by the Affirmative Action Council under the leadership of Professor Howard Arnold. It is presented by President Sheldon Hackney for comment by the University community. Letters should be received no later than Friday, May 3, 1991, at the President's Office, 100 College Hall/6380, or at Professor Arnold's, 3701 Locust Walk/6214.

Staff Grievance Procedure: I. A Summary

Introduction

Regular and effective communication between supervisors and staff members reduces the likelihood of misunderstanding and conflict. The University expects and encourages supervisors and staff members to communicate openly and regularly so that the interests of the staff and the University are best served. In addition, the University has Resource Offices such as the Offices of Human Resources/Staff Relations, Office of Human Resources/Labor Relations, Ombudsman, Affirmative Action, and the African American Resource Center, Faculty/Staff Assistance Program, and Penn Women's Center which will assist staff members in resolving issues or concerns.¹ Staff members who have concerns about the administration of University or departmental policy, are encouraged to try to resolve them by working with their department head or one of the Resource Offices.

The Staff Grievance Procedure is designed to provide a fair and equitable resolution for concerns related to terms or conditions of employment that are not resolved to the staff member's satisfaction within the School or administrative unit. Retaliation against a staff member for utilizing this Grievance Procedure violates University policy and will result in appropriate disciplinary action, including termination. Any staff member who believes that he/she has been retaliated against or treated unfairly for utilizing the grievance procedure should contact the Office of Human Resources/Staff Relations or another University Resource Office.

Eligibility

All regular University staff members who have completed their introductory period are eligible to utilize this process to resolve issues arising from their employment. Faculty, ungraded administrators, HUP employees and union employees have separate procedures and are not eligible to file grievances under this procedure.

Complaints regarding compensation and classification are only grievable if a violation of Federal, State or local equal opportunity or labor laws is alleged. Other complaints of this nature are handled administratively. Questions regarding the administrative review process should be directed to the Office of Human Resources/Compensation.

Procedure

The grievance procedure is administered by the Office of Human Resources/Staff Relations. In grievances in which unlawful discrimination is alleged, the Office of Affirmative Action assists in the administration of the Procedure. All time frames and other procedural requirements must be adhered to unless an extension or exemption is granted by the Office of Human Resources. Extensions will only be granted for compelling reasons. If the grievant fails to respond within specified time frames (including any approved extensions) the grievance may be dismissed. If the respondent fails to respond within specified time frames (including any approved extensions) he/she may be subject to disciplinary action and the grievance will proceed to the next step.

Both the grievant and respondent may be assisted throughout this process by an employee representative. These representatives must be regular or retired University faculty or staff members. All employee representatives for respondents must be approved by the head of the responding department.

Step 1

To initiate a grievance,² the grievant must—
notify his/her supervisor (or other person whose actions are being grieved) of his/her intent to file a grievance within 20 working days of the date he/she knew or should have known of the event giving rise to the grievance.

The Respondent must—
meet with the grievant to discuss the issues and concerns raised and provide him/her with a written response addressing each of the issues and concerns raised within ten (10) working days.

Step 2

If the issues are not resolved satisfactorily during Step 1, to proceed the grievant must—

obtain and submit a completed grievance form to the Office of Human Resources/Staff Relations within ten (10) working days of receiving a response from his/her supervisor.

The Respondent must—
submit a written response to the Office of Human Resources/Staff Relations addressing the issues and concerns raised in the grievance within ten (10) working days. The response must be approved by the Dean or Administrative Unit Head before it is submitted.

Step 3

If the grievant is not satisfied with the response from the Department Head in Step 2, to proceed, the grievant must—

submit a written request for a panel hearing to the Vice President for Human Resources within three (3) working days of receiving the response. The hearing will be convened within twenty (20) working days. The Panel must submit recommendations for resolution in writing to the President within five (5) working days of the completion of the hearing. The President or designee will notify the grievant and respondent of the final decision in writing within ten (10) working days of receipt of the recommendations from the panel.

1. University Resource Offices use different procedures and time frames for receiving and attempting to resolve complaints. The procedures and time frames herein apply to formal grievances filed under this procedure.
2. A Staff member whose employment has been terminated, may elect to expedite the process. If the expedited procedure is elected, the staff member may initiate his/her grievance at Step 2.

Note: On the following three pages is a draft of a Grievance Procedure Manual describing the process in detail. Additional copies of the manuscript are available at the University Resource Offices listed on the final page of this insert.

II. Draft of the Staff Grievance Procedure Manual

Introduction

Regular and effective communication between supervisors and staff members reduces the likelihood of misunderstanding and conflict in the workplace. The University expects and encourages supervisors and staff members to communicate openly and regularly so that the interests of both the staff and the University are best served. In addition, the University has Resource Offices such as the Offices of Human Resources/Staff Relations, Office of Human Resources/Labor Relations, Ombudsman, Affirmative Action, and the African American Resource Center, Faculty/Staff Assistance Program, and Penn Women's Center which will assist staff members in resolving issues or concerns.¹ Staff members who have concerns about the administration of University or departmental policy are encouraged to try to resolve them by working with their department head or one of the Resource Offices.

The Staff Grievance Procedure is designed to provide a fair and equitable resolution for concerns related to terms or conditions or employment that are not resolved to the staff member's satisfaction within the School or administrative unit. Retaliation against a staff member for utilizing this Grievance Procedure violates University policy and will result in appropriate disciplinary action, including termination. Any staff member who believes he/she has been retaliated against or treated unfairly for utilizing the grievance procedure should contact the Office of Human Resources/Staff Relations or another University Resource Office.

Definition

A grievance is defined as an unresolved issue concerning application of University policy, practice, or procedure. This includes disciplinary action, involuntary termination, allegations of discrimination on the basis of race (including racial harassment), color, sex (including sexual harassment), sexual orientation, age, marital or relationship status, national or ethnic origin, religion, disability or veteran status.² Complaints regarding compensation and classification are only grievable if a violation of Federal, State or local equal opportunity or labor laws is alleged. Other complaints of this nature are handled administratively. Questions regarding the administrative review process should be directed to the Office of Human Resources/Compensation.

Note: For the purposes of this procedure "staff member" and "grievant" are used interchangeably.

Eligibility

This procedure may be utilized by regular, full-time and part-time, exempt (monthly paid) and non-exempt (weekly paid) staff members, who have successfully completed their Introductory Period. It is not applicable to faculty members, ungraded senior administrators, HUP staff, students, or staff members covered by collective bargaining agreements (unions) who are covered under different processes.

Statement of Rights

1. All eligible University staff members have the right and are encouraged to use the Staff Grievance Procedure to address unresolved work related issues.

2. All grievances are treated confidentially by University Resource Offices. In the event that it is necessary to consult with other individuals in order to obtain information pertinent to the grievance, the grievant and respondent will be notified.

3. The grievant, respondent and panelists will have access to all information pertinent to the grievance. In cases where the information contains confidential material and/or data which is not relevant to the

1. University Resource Offices use different procedures and time frames for receiving and attempting to resolve complaints. The procedures and time frames herein apply to formal grievance filed under this procedure.

2. Please refer to the University Racial and Sexual Harassment Policies for more detail on formal and informal mechanisms for addressing harassment complaints. Harassment complaints against faculty members must be filed with the Faculty Senate Committee on Conduct.

3. A list of University Resource Offices appears on page IV.

grievance, OHR/Staff Relations will provide the parties involved with a written statement of the relevant information in order to maintain confidentiality. In the event a grievant has concerns as to whether all relevant material has been provided; the grievant may, in writing, request that one of the University's designated Resource Offices³ review the materials to ensure that all relevant materials have been made available to the panel.

4. No staff member will be reprimanded, harassed, retaliated against, discriminated against or adversely treated for utilizing or participating in the Staff Grievance Procedure. The University considers any such action(s) a serious offense and a violation of University policy. Violators will be subject to immediate disciplinary action, which may include termination. Any staff member subjected to unfair treatment as a result of utilizing the grievance procedure should contact OHR/Staff Relations or another appropriate University Resource Office.

5. Staff members have a right to be represented and/or assisted by another University employee during all steps of the grievance procedure.

6. All participants are permitted a reasonable amount of release time for grievance processes. The supervisor should be notified of the need for release time and efforts made to arrange a mutually convenient time. A department may deny release time for a compelling reason, such as, the employee's absence constitutes an undue hardship. Concerns regarding this issue should be directed to OHR/Staff Relations.

7. A Staff Relations Specialist or the Manager will be available to assist grievants and/or respondents during all steps of the grievance procedure. (See section on Administration for more details).

Employee Representative

In addition to the assistance provided by OHR/Staff Relations, both the grievant and respondent may be assisted throughout this process by an employee representative.

Note: Each party to the grievance may select only one person to serve as their employee representative.

A. Role of Employee Representative

The role of the employee representative is to provide assistance and support throughout the grievance process. This includes:

1. assisting in gathering information and preparing for meetings and discussions;
2. attending scheduled meetings;
3. presenting the position of the party they represent in the dispute, if requested.

Neither of the parties is required to have an employee representative. The University encourages staff members to utilize all resources available to them in order to facilitate a speedy resolution of problems and concerns.

B. Selection of Employee Representative

OHR/Staff Relations maintains a list of employee representatives who have been oriented to and/or are experienced in representing parties to grievances. These representatives must be regular or retired University faculty or staff members. All employee representatives for respondents must be approved by the head of the responding department.⁴ Employee representatives should be selected within *five (5) working days* of the initiation of the grievance.

Administration

OHR/Staff Relations has primary responsibility for administering and coordinating the Staff Grievance Procedure. Also, OHR/Staff Relations is the primary source of assistance for staff members and supervisors who have questions or concerns pertaining to the grievance process. The Office of Affirmative Action assists in the administration of the Staff Grievance Procedure when unlawful discrimination is alleged. OHR/Staff Relations will ensure that the grievance process is fair and equitable. A Staff Relations Specialist, or Manager, or representative

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4. Persons employed by the Office of General Counsel, Office of Affirmative Action, and the Office of Human Resources may not act as employee representatives or panelists.

tative of the Office of Affirmative Action when applicable, will:

1. discuss concerns with staff member and/or supervisor;
2. assist staff member and/or supervisor in clarifying, facts, issues and concerns;
3. inform staff member and/or supervisor of University policy and procedures relevant to the situation;
4. inform staff member and/or supervisor of their rights, responsibilities, and relevant time frames;
5. serve as facilitator in discussions between staff member and supervisor or other departmental/division representative;
6. make suggestions for possible resolutions to the situation;
7. investigate or coordinate the investigation of all issues relating to the grievance;
8. monitor implementation of agreed grievance resolutions and/or panel findings; and,
9. provide staff members with a list of employee representatives and/or panelists.

Note: Once notified of a problem which indicates a violation of law or University policy, a Staff Relations Specialist or the Manager must initiate an investigation immediately. If during the course of the investigation it is determined that a University policy has been violated or not applied properly, the Staff Relations Specialist or the Manager, after advising the staff member, will assist the parties in reaching an appropriate resolution.

Time Frames

All time frames indicated in the procedure are computed in working days. All parties involved in the grievance must adhere to the time frames specified in the procedure unless a waiver of that time frame has been granted by the Office of Human Resources. Requests for extensions should be in writing and submitted to the Manager of Staff Relations prior to the expiration of the time frame for which the extension is sought.⁵ Exceptions to this rule will be handled on a case by case basis.

Time Frame Extensions

A. During Step 1 or 2

If the staff member filing the grievance does not adhere to the time frames indicated (including any extensions) the grievance may be dismissed. If the supervisor (or other respondent) does not respond within the designated time frame (including any extensions), he/she may be subject to disciplinary action and the grievance will move to the next step. The written request must outline the reason the extension is required and should specify the number of additional days requested. The grievant and respondent will be notified, in writing, of any extensions granted during the grievance.

B. During Step 3

Requests for extensions during step 3 (Panel Hearing) should be submitted, in writing, to the chairperson of the panel, prior to the scheduled date of the hearing. If a chairperson has not been identified, extension requests should be submitted to the Vice President for Human Resources or designee. The Panel Hearing will not be postponed beyond *thirty (30) working days* of the initiation of step 3. If a panelist requires an extension beyond that period, the grievant and respondent will be notified and an alternate panelist will be selected.

Staff Grievance Procedure

Step 1

Staff Member Responsibilities⁶

The staff member must notify his/her supervisor (or other person whose actions are being grieved), either alone or with the assistance of an employee representative, of his/her intent to file a grievance and the specific issues and concerns being grieved *within twenty (20) working days* from the day the staff member first knew or could reasonably be expected to have known of the circumstances giving rise to this grievance. During this discussion, the staff member should explain the problem thoroughly and propose a possible resolution to the situation. If the staff member is unable or reluctant to discuss the situation with his/her supervisor, the staff member should contact OHR/Staff Relations or another University Resource Office for counseling and assistance *within*

twenty (20) working days from the day the staff member first knew or could reasonably be expected to have known of the circumstances giving rise to the grievance. If requested, someone from one of the University Resource Offices will meet with the staff member and supervisor in order to facilitate discussions and aid in a speedy resolution.

Supervisor/Respondent Responsibilities

The supervisor or respondent must meet with the grievant to discuss issues and concerns raised and provide him/her with a written response addressing each of the issues and concerns raised *within ten (10) working days* of being notified of the grievance.

Step 2

Grievant Responsibilities

If the problem or situation is not resolved to the grievant's satisfaction in Step 1, to begin Step 2, the grievant must obtain, complete and submit a written response on a form provided by OHR/Staff Relations *within ten (10) working days* of receiving the response from the respondent in Step 1. The form requests details about the problem and the circumstances which lead to the filing of the grievance and the proposed resolution. All requests should be within the bounds of University policy and precedent. Upon request, a member of OHR/Staff Relations or an Employee Representative will assist the grievant in completing the form.

Staff Relations Responsibilities (a)

OHR/Staff Relations will deliver copies of the grievance form to the respondent, appropriate department head and the Dean or Administrative Unit Head by the close of business on the day following its receipt from the grievant.

Department Responsibilities

After receiving the written grievance form, the department head will conduct an investigation and submit a written response to the grievance to OHR/Staff Relations *within ten (10) working days* of receipt of the grievance form. The response must provide the grievant with explicit answers and/or decisions regarding the requested resolution(s) and must be approved by the Dean or Administrative Unit Head prior to being submitted to OHR/Staff Relations.

Staff Relations Responsibilities (b)

OHR/Staff Relations will deliver copies of the response to the grievant by the close of business on the day following its receipt from the respondent.

Step 3

If the problem or situation is not resolved to the grievant's satisfaction in Step 2, the grievant may submit a written request for a hearing before a three member panel to the Vice President for Human Resources (or designee) *within three (3) working days* of receipt of the response in Step 2. The hearing will be held *within twenty (20) working days* of receipt of the request.⁷

The hearing is a non-adversarial process which will review the facts and provide an opportunity for the grievant and respondent to present their positions fully and thoroughly. The grievant and respondent will each have an opportunity to present evidence and invite witnesses to appear at the hearing. A Staff Relations Specialist or Manager will be present during the hearing and will advise the panel on human resource policies and procedures. If the grievance involves an allegation of unlawful discrimination, a representative from the Office of Affirmative Action will also be present and will advise the panel on affirmative action/equal opportunity policies and procedures.

All parties will be notified prior to the initiation of the grievance procedure that panel hearings are taped. All parties will have access to the hearing tapes, panel recommendations, findings and/or memoranda submitted to the President.

The panel's findings and recommendation(s) will be transmitted, to the President in writing *within five (5) working days* of the completion of the hearing. The panel's recommendations will be submitted unchanged on a form which records all pertinent information and findings. All panelists shall review and sign the report indicating their agreement or disagreement with the decision. Dissenting opinions from panelists shall also be transmitted. The President of the University will then have *ten (10) working days* to accept or modify the Panel's recommendation(s). The President will notify the grievant and respondent of the final decision

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5. If the Manager of Staff Relations is a party to the grievance, the VP of Human Resources or designee will determine the extension.

6. A staff member whose employment has been terminated, may elect to expedite the process. If the expedited procedure is elected, the staff member may initiate his/her grievance at Step 2.

7. The panel hearing must be scheduled within 30 working days of the receipt of the request. Extensions beyond 30 working days of receipt of the request for panel hearing will not be permitted.

in writing within that time frame. This decision will be final and binding on all parties.

Panel Selection

All panelists will be selected from a list of volunteer, regular University employees (who have successfully completed their Introductory Period)⁸ or retired faculty and staff members who have completed an orientation session. The list of panelists should be diverse (race, gender, sexual orientation, disability, veteran status, ethnicity, etc.). The list of eligible panelists is available from the Office of Human Resources.

Persons who have prior knowledge of the case or are affiliated with the department(s) in question, will be deleted from the list of eligible panelists prior to the selection process. The grievant and respondent may each delete from the list for cause any panelist he/she feels should not be eligible to serve at the hearing. The grievant and respondent must provide a compelling reason for the removal of the panelist to OHR/Staff Relations. The VP Human Resources, or designee, shall decide whether or not the panelist shall be excused. Concerns regarding the denial of a strike for cause should be raised during the grievance hearing.

Seven (7) panelists will be electronically selected at random from the remaining list of eligible panelists. The grievant and respondent will each strike two (2) names from the remaining seven. (The grievant will strike first.) The remaining three (3) persons will serve as panelists. The Vice President for Human Resources (or designee) will contact the remaining three (3) panelists, informing them that they have been selected. The three (3) panelists will select the chairperson of the hearing from among themselves. The chairperson, in consultation with the other two panelists, will identify a fourth person to serve as an alternate panelist. Once the panelists, alternate and the chairperson have been identified, the chairperson will schedule the hearing. Before the scheduled hearing, the Manager of Staff Relations or designee will meet with the panelists to review the guidelines and procedures for conducting the hearing.

Panel Hearing Guidelines

1. A set of rules and regulations for the management of the panel hearing shall be disseminated to all parties and panelists prior to the hearing.

2. The panel hearings will be held at a neutral location, designated by the Office of Human Resources (usually the OHR Conference Room, 5th Floor, 3401 Walnut.)

3. All information pertaining to the grievance must be kept confidential by University Resource Offices in accordance with University Policy.

4. The hearing will not be open to the public. Only those persons directly involved with the grievance or that can provide relevant information for will be permitted at the hearing. This includes the grievant, the employee representative(s), the respondent(s), witness(es), a representative from OHR/Staff Relations, and a representative from the Office of Affirmative Action (if the grievance involves allegations of unlawful discrimination).

5. All parties will be notified prior to the initiation of the grievance procedure that panel hearings are taped. All parties will have access to the hearing tapes, panel recommendations, findings and/or memoranda submitted to the President.

6. It is the responsibility of the chairperson to schedule the hearing at a time that is convenient for all parties involved, and to review any requests for time extensions.

7. The hearing will be conducted in a manner that will provide all parties ample opportunity to present all relevant data, facts, evidence and witnesses.

a. Both parties may make opening statements which should outline the facts of the grievance and any proposed resolutions.

b. The grievant will present his or her case first, (except in cases when the grievance concerns a termination or the application of the University Disciplinary Policy) including the presentation of witnesses and any supporting evidence.

c. Witnesses presented by either party can be questioned only by the person calling the witness and the members of the panel. However, the respondent or grievant will be permitted to alert the chairperson to relevant issues and may request that the panel explore an issue more fully. All witnesses will be excluded from the hearing until needed for questioning. Once a witness has been questioned, he or she will be excused from the hearing.

8. The hearing is not to be conducted with the same degree of

8. Persons employed by the Office of Affirmative Action, Office of General Counsel or the Office of Human Resources are not eligible to serve as panelists.

formality as a trial or legal proceeding, therefore the introduction of legalistic procedures is not permitted. The hearing is not to be conducted as an adversarial proceeding, but rather in a manner that will allow all parties to present their positions completely and in a non-threatening environment. Therefore, it is the responsibility of the chairperson of the hearing to determine and/or establish rules of appropriate conduct.

9. The panel must be guided by University policy and procedures in reviewing the facts of the grievance, presenting its findings, and recommending an appropriate resolution. The recommendation of the panel may not add to, subtract from, modify or contradict stated University policy. The recommendation of the panel must adhere to all Federal, State and local laws.

10. The grievant and the respondent will submit names of witnesses that will appear at the hearing to the chairperson at least *five (5) working days* prior to the scheduled hearing date.

11. Copies of all records and documentation relevant to the grievance will be made available to the panelists for review *five (5) working days* before the scheduled hearing date.

12. The hearing will be audio taped for the convenience of the panelists for further review prior to making a recommendation. This audio tape will be retained in OHR/Staff Relations for one (1) year before being destroyed.

13. The only persons granted access to the tapes of the hearing or decision making process are the panelists, the President, OHR/Staff Relations, the Office of General Counsel and the Office of Affirmative Action.

14. Within *five (5) working days*, the panel will make and submit recommendations to the President. Each panel member will sign the written findings prior to its submission to the President.

15. Once the panel has made a recommendation and it has been reviewed by the President, the President (or designee) will forward copies of the final decision and resolution in writing to all parties involved within *ten (10) working days* following the receipt of recommendation(s) from the panel.

University Resource Offices

African American Resource Center
3537 Locust Walk
898-0104

Office of Labor Relations
527A 3401 Walnut
898-6019

Faculty/Staff Assistance Program
1227 Blockley Hall
898-7910

Office of Staff Relations
527A 3401 Walnut
898-6093

Penn Women's Center
119 Houston Hall
898-8611

Office of the Ombudsman
113 Durhing Wing
898-8261

Office of Affirmative Action
1133 Blockley Hall
898-6993 (Voice)
898-7803 (TDD)

Addendum

Process for Soliciting Panelists from the University Community

OHR/Staff Relations will place announcements in University Publications (*Almanac*, *Daily Pennsylvanian*, *Compass*, etc.) to request volunteers to serve as panelists for the new staff grievance procedure. The announcements will contain selection criteria.

Simultaneously OHR/Staff Relations will solicit volunteers from various University committees and groups (e.g. A-1 Assembly; A-3 Assembly; African American Association; Association of Business Administrators; Association of Women Faculty and Administrators; Committee for an Accessible University; Employee Roundtable; Faculty Senate, Lesbian and Gay Faculty and Staff Association; and WEOUNP) in an effort to ensure that the group of volunteers reflects the demographics of the University.

The Office of Human Resources will select and train one hundred (100) of the volunteers to serve as panelists. Fifty of the selected panelists will begin their terms immediately; the remaining fifty will begin service the following year.

All panelists will be appointed to serve a two-year term.