

University Executive Staff Grievance Committee and Procedures

The information provided in the Executive Staff Grievance process does not apply to Classified or University Staff occupying a Managerial and Professional or Operational and Administrative position.

The University Executive Staff Grievance Committee (USGC or "Committee") normally consists of three voting members, including its chairperson. The President and each Vice President, including the Provost and the Executive Vice President and Chief Operating Officer, will recommend for USGC membership a representative from within their operation. From this pool of nominees, the Vice President and Chief Human Resources Officer (CHRO) will select randomly the members of the USGC, each normally serving a two-year term, which may be extended by the CHRO.¹ The CHRO will also appoint one member of the Committee to serve as Committee chair for a one-year term, which may be extended by the CHRO. The CHRO has the responsibility and discretion to make substitute or interim appointments to the Committee and the chair as needed. The CHRO and the chair may seek advice on legal and procedural matters as needed from the University's General Counsel; however, any factual findings, grievance recommendations, or resolutions are the exclusive responsibility of the individuals so indicated by this procedure or by University policy.

The USGC is authorized to receive and deal with University Executive Staff grievances in accordance with University policy ("Resolving Grievances for University Staff Employees," or "the Policy") and the following Grievance Procedure.

Grievance Procedure

The University Staff Grievance Procedure contains the following eight steps and miscellaneous provisions:

STEP 1: SUPERVISOR RESOLUTION

Employees seeking to resolve a workplace dispute first should meet and discuss the dispute with their immediate supervisors.² The employee and supervisor should attempt to resolve the dispute informally. The supervisor will make a reasonable effort to obtain facts and information as may be

¹ Initial appointments will be made so that members will serve staggered terms.

² If the employee's dispute is with the immediate supervisor, the employee may, instead, discuss the problem with the next level manager or a University Human Resources Consultant. UHR Consulting Services may be contacted by phoning 434.982.0123, by visiting the UHR Website, or by visiting UHR at 914 Emmet Street. The next level manager or UHR Consultant will make a reasonable effort to obtain facts and information necessary to resolve the complaint, and within 14 calendar days after meeting with the employee shall provide to the employee a written response to the issues raised, consistent with University policy.

needed and will have authority to resolve the complaint if it involves actions within the supervisor's authority and responsibility in keeping with University policy. Within 14 calendar days of meeting with the employee, the supervisor shall provide to the employee a written response to the issues raised, consistent with University policy. The supervisor also will apprise the appropriate Dean or Vice President of the dispute if it is not resolved at this step.

STEP 2: UHR/ADR RESOLUTION

Within seven calendar days of receipt³ of the supervisor's written response to the employee in Step 1 above, employees who are dissatisfied with the outcome of Step 1 may request a meeting with UHR Consulting Services. UHR Consulting Services will schedule a meeting with the employee and the supervisor to discuss the dispute. At this stage, the employee may request the use of mediation or other Alternative Dispute Resolution (ADR) process through UHR Consulting Services or directly via UHR's ADR web page.

STEP 3: INITIATION OF GRIEVANCE

If employees are dissatisfied with the outcome of Step 2, they shall hand-deliver their written grievance on a [Grievance Form](#) to UHR Consulting Services.⁴ Even if there are ongoing informal discussions between employee and supervisor (or next-level manager or UHR Consultant), an employee intending to use this procedure must initiate it by providing a properly completed Grievance Form to UHR Consulting Services within 30 calendar days of the date that the employee knew or should have known of the event that forms the basis of the grievance. Failure to do so shall constitute the employee's waiver of access to the grievance procedures herein described, unless the time is extended in writing by the CHRO for good cause shown by the employee. The Grievance Form shall include a written statement describing the dispute, the relief requested, and a general summary of the information and identity of person(s) or document(s) known to the grievant supporting the position. Once the grievance is so initiated, additional grievances or claims may not be added on the Grievance Form. UHR Consulting Services shall acknowledge receipt of a properly completed Grievance Form by signing and dating it and providing a copy of it to the appropriate supervisor. If the Grievance Form is incomplete, UHR Consulting Services shall notify the grievant and require completion of the Grievance Form to initiate the grievance. The 30-day time limit will not be stopped due to an incomplete Grievance Form. UHR may in its discretion, however, grant an extension to the 30-day limit for mitigating circumstances such as illness or incapacity of the grievant, and will notify the grievant in writing of any such extension.

³ See "Miscellaneous Provisions" at the end of these procedures for when "receipt" occurs.

⁴ Employees will keep a copy of Form A and use it to submit information later in the grievance process, each time retaining a copy when they submit additional information on the Grievance Form later in this procedure. At the end of this procedure, grievants should have a completed Grievance Form for their records.

STEP 4: ELIGIBILITY DETERMINATION

Within three calendar days of receipt of a completed Grievance Form, UHR Consulting Services (hereafter referred to as "UHRCS") will forward a copy to the Committee chair who will determine whether the grievance is an "Eligible Complaint" qualified for hearing in accordance with the Policy. Eligible Complaints are those defined by the Policy, and they fit into one of the three following categories:

1. Complaint of Inappropriate Formal Disciplinary Action: Employees assert that they have been formally disciplined inappropriately where the formal discipline involves suspension, demotion, transfer and assignments, dismissal from formal discipline, or dismissal due to unsatisfactory job performance
2. Complaint of Breach of Employment Contract or Violation of Terms and Conditions of Employment (the contract or term/condition of employment must be specified)
3. Complaint of Retaliation for Participation in the Grievance Process: Employees assert that they have been subjected to retaliation in employment based on using this grievance procedure or participating in it on behalf of another employee.

Complaints not fitting into one of the three categories above are not eligible for resolution by this grievance procedure. Examples include complaints about hiring, promotion, position classification, transfers, change of supervisor, general benefits, flexible work schedule decisions, reassignments, compensation, termination, layoff, and suspension from duties because of lack of work, reduction in workforce, job abolition, financial stringency, or emergency. These may be addressed with the supervisor or UHRCS, and they may be appropriate for ADR. Complaints of discrimination, harassment, or retaliation (other than as described in #3, above) may be addressed with the Office for Equal Opportunity and Civil Rights (EOCR) as provided by University policy. Complaints of arbitrary or capricious performance evaluations are to be addressed through the appeals process in the performance evaluation policy [Performance Management for University Staff Employees](#).

The chair of the USGC normally shall notify in writing UHR, the grievant, and the supervisor of the grievant's eligibility determination within seven calendar days of receiving the grievance. If the chair determines the grievance is not eligible for hearing, the grievant shall have seven calendar days from receipt of the chair's decision to request a review of the decision by the CHRO⁵. To do this, the grievant must deliver to UHRCS (preferably by hand delivery or email) a written request on Form A for a review of the eligibility decision, with the request containing an explanation of why the grievant believes the chair's eligibility determination is wrong and not in accordance with the Policy. Normally within seven calendar days of receiving the grievant's written request for review, the CHRO will

⁵ If the CHRO is unable to be impartial or is otherwise unavailable, UHR will refer the review to the Director of Equal Opportunity and Civil Rights Programs or someone else designated by the CHRO.

provide a written decision to the chair, the grievant, and the supervisor. All eligibility review decisions by the CHRO are final.

STEP 5: PRE-HEARING PROCEEDINGS

- **Scheduling the Hearing.** Within 7 calendar days of the grievance being found eligible for a hearing, the Committee chair will set a date, time, and location for hearing the grievance. The hearing should occur within 45 calendar days of the eligibility decision. The Committee chair will send written notice of the hearing date, time, and location to both the grievant and supervisor (the parties), and to others as the chair deems appropriate (e.g., witnesses), allowing at least 21 calendar days of notice before the hearing. Included in this notice will be the names and job titles of people serving on the USGC and identification of its chairperson.
- **Disqualification for Bias.** Committee members may voluntarily disqualify themselves, or the Committee chair may disqualify Committee members, based on their prior involvement in the dispute, or because of personal bias rendering them unable to impartially discharge their responsibilities under this procedure. If grievants believe one or more members of the Committee cannot be impartial, they must so inform the chair in writing at least 14 calendar days prior to the hearing, setting forth the reasons for their belief. If the bias concerns Committee members other than the chair, the chair will make a determination whether disqualification is appropriate before the hearing in time for the CHRO to appoint a substitute; and if the bias concerns the chair, the chair must inform the CHRO and the CHRO will decide whether the chair should be disqualified and a substitute appointed. In the event one or more Committee members are disqualified for a particular grievance, the CHRO will randomly select replacements from the pool of nominees to serve for said grievance only. If the chair is disqualified for a particular grievance, the CHRO will designate another member of the Committee to serve as chair for said grievance only.
- **Witnesses and Documents.** At least 14 calendar days before the hearing, the parties shall provide the Committee chair and each other a written list of witnesses they wish to have testify and a copy of documents they wish to introduce at the hearing, with a brief explanation of the relevance of each witness's testimony and of each document. If a party fails to provide such witness/document request on time, the chair will assume that the party has no such requests. If a party submits a request late, the chair will determine whether there was good cause for the delay, and if there was, whether the request, or parts thereof, may be honored without prejudice to the other party. For each requested witness and document, the Committee chair will decide whether the proposed evidence will be permitted to be introduced at the hearing; and the chair normally will notify the parties in writing of this decision at least 10 calendar days before the hearing. However, the chair may postpone a decision until the hearing and may consult with the other

members of the USGC. It is the requesting party's responsibility to obtain and arrange for attendance of witnesses at the hearing and to bring three copies of each document approved by the chair unless the chair authorizes an exception.

If the chair finds that the committee needs additional documentation, the chair may request it in writing from either party, or both, with a due date and time, and the party submitting the information will provide copies of such documents to the other party on the same day provided to the chair. Failure to provide documents requested by the chair by the chair's due date may result in an inference that the documentation would have harmed that party's position unless that party provides the chair with another credible explanation. Hearing dates ordinarily will not be postponed due to a party's failure to provide requested information. However, the chair may re-schedule a hearing for good cause.

- **Pre-Hearing Resolution of Other Issues.** Upon request by either party or on the chair's own initiative, the chair may resolve before the hearing any issues or questions concerning the conduct of the hearing, and the chair may convene a pre-hearing meeting or teleconference of the parties for that purpose. The chair shall notify the parties of the rulings.

STEP 6: THE HEARING

The hearing shall be conducted in accordance with the following procedures:

1. **People Who May Attend.** The parties are entitled to be present during the entire hearing, excluding USGC deliberations. Witnesses (non-parties) may be present only while giving their testimony.⁶ Legal counsel may be present with their clients, but may not participate except to advise clients. Other than a person recording the hearing, a sign language interpreter, and/or an English language interpreter if requested by a party or witness, no other person shall be present except as the chair may approve. All Committee members shall be present during the entire hearing unless the parties and Committee (by majority vote) agree otherwise. The parties must appear at the hearing as scheduled or request a postponement for good cause directly to the USGC chair in a timely fashion prior to the scheduled hearing. In order to be timely, the request must be made as soon as the requester knows or should have known of the likely need for rescheduling. The chair has discretion to grant or deny a request for postponement, but postponement will not be granted unless the request is timely made and is supported by good cause. At the chair's discretion, a hearing may proceed in the absence of one of the parties, and the grievance will be decided on the hearing record and evidence presented at the hearing.

⁶ The chair is expected to consult with the Director of Faculty-Staff Relations on matters pertaining to this grievance procedure.

Although the parties and witnesses are not sworn in, the chair will remind each person before testifying that these procedures are covered by the [University's Code of Ethics](#). However, no individuals shall be compelled to answer questions in violation of their constitutional privilege against self-incrimination, and there shall be no negative inference from asserting the privilege.

1. **Recording.** The USGC chair shall arrange for the hearing to be tape recorded, and may arrange for the recording to be transcribed for the USGC's use. The expense of the recording and transcription shall be paid by the grievant's department. Both parties have the right to listen to the audio recording or read the transcript, if the USGC had the recording transcribed, but have no right to make or retain a copy of the tape recording or the transcript. A party shall arrange to listen to the audio recording or read the transcript by a written request to the chair. The chair shall retain the tape recording (and transcript, if any) until a final decision is made, at which time the chair shall forward it (and the transcript, if any) to the CHRO to archive.
2. **Procedural and Evidentiary Questions.** The grievance hearing shall not be bound by judicial or courtroom rules of procedure or evidence, and the chair shall be responsible for directing the grievance hearing in accordance with this Policy and constitutional due process. The chair is authorized to remove any person who disrupts the proceedings, including a party or any witness. The Committee members may ask questions of the parties and witnesses and request the production of additional evidence, subject to ultimate control and direction of the proceeding by the chair.
3. **Burden of Proof**
 - a. When the grievance concerns formal disciplinary action against the grievant, the initial burden of proof is on the supervisor (or person who took the action) to show by a preponderance of the evidence (that is, more likely than not) that the action is a reasonable exercise of discretion and is authorized or required by University or department policy, contract, or applicable law. The Committee must apply this standard regardless of whether it would have taken the same or different action.
 - b. When the grievance alleges a breach of contract, violation of terms and conditions of employment, or retaliation for participating in this grievance process, the initial and ultimate burdens of proof (by a preponderance of the evidence—more likely than not) are on the grievant to show that the supervisor breached the contract, violated terms and conditions of the grievant's employment, or retaliated against the grievant for participating in the grievance process.
4. **Order of Proceeding.** Except as the Committee chair may decide otherwise, the order of the hearing normally will be as follows. Before putting on their evidence, the parties may address the Committee with a brief opening statement, the party with the initial burden of proof going first. Next, the party with the initial burden of proof will present witnesses and documents,

followed by the other party's presentation of evidence. Parties may ask questions of witnesses (including the other party's witnesses) that are designed to elicit relevant information but subject to the chair's authority to control and direct the proceedings. The Committee members may ask questions of parties and/or witnesses, and they may request one or both parties to address evidence on particular issues. Finally, in the same order as for opening statements, each party may make a closing statement to summarize that party's position in light of all the evidence.

5. **Length of Hearing.** A hearing normally is expected to last 2-5 hours and may not last more than one 8-hour day, unless the Committee chair determines that one day is insufficient. The chair may adjourn the hearing from time to time and reconvene it, provided that if the hearing extends beyond the initial 8-hour day, the hearing shall be completed within 14 calendar days of its commencement unless the chair and parties agree otherwise. In the absence of such agreement, scheduling as may be needed beyond the 14 days shall be determined by the Committee by majority vote.

STEP 7: USGC REPORT

Within 30 calendar days after the hearing and the submission of any post-hearing written statements as may be requested by the chair, the USGC shall issue a written Report of its findings of fact and recommendation(s) for resolution of the grievance. The chair shall send a copy of the Report to each party, UHRCS, and the supervisor's manager by e-mail, hand delivery, or U.S. Postal Service. Any dissenting opinion shall be included in the Report.

The Report will contain notice to the parties of their right to appeal as set forth below. For purposes of appeal, the "mailing date" of the Report is the day the USGC sends it to the parties. If no appeal is filed within 10 calendar days of the Report mailing date, this procedure ends and there is no further right of review. It is the supervisor's responsibility to notify the grievant of any further action taken, provided that confidentiality of other employee personnel matters is maintained.

STEP 8: APPEAL OF USGC DECISION

Either party may submit an appeal of the Committee's decision to the CHRO, which appeal must be in writing on [Grievance Form](#) and provided to the CHRO within 10 calendar days of the mailing date of the Report.⁷ The appeal may be based only on one or more of the following reasons:

- New material evidence discovered after the hearing which was not known or was not otherwise discoverable with the exercise of reasonable diligence by the appealing party prior to the conclusion of the grievance hearing. The written appeal shall describe the new evidence, explain its materiality to the outcome, and the appealing party shall certify that it was not known or

⁷ If the supervisor appeals, he/she should write the appeal on a new Grievance Form instead of writing it on the grievant's Grievance Form.

discoverable with reasonable diligence by the appealing party prior to the conclusion of the grievance hearing.

- The decision is contradictory to University or department policy, contract, or applicable law; or
- The hearing procedure did not comply with the guidelines in this Policy, or it otherwise violated fundamental fairness guaranteed by constitutional due process.

The CHRO may contact Committee members (including the chair) for questions or clarification, and may review the hearing evidence and listen to the tape recording (or read the transcript) of the hearing. Within 10 calendar days of receiving the appeal, the CHRO shall communicate a decision in writing to the parties, the supervisor's manager, the USGC, and the UHRCS. This review decision is final and not subject to further appeal.

MISCELLANEOUS PROVISIONS

1. *Designations.* Whenever the University president, CHRO, USGC chair, grievant's supervisor, or University General Counsel is referred to in these procedures, such reference includes their designee or other appropriate people with authority.
2. *Notice and Receipt.* Unless specified otherwise in these procedures, notice shall be effective when a document or writing is hand-delivered to the intended recipient, or sent to the recipient's e-mail address currently in University records. Receipt is deemed complete on the date of hand-delivery or the date the communication when sent by e-mail. Although transmission via the U.S. Postal Service is permitted, it is not preferred due to the time delay. If the U.S. Postal Service is used, notice and receipt are deemed complete on the third day after the date of posting.
3. *Computation of Time.* In computing any period of time required by this procedure, time begins to run the next calendar day after the trigger event. For example: if an employee receives a Step 1 response from her supervisor on Tuesday, then Wednesday is the first of the seven calendar days the employee has to proceed to Step 2.
4. *Extension of Time Frames.* Upon written agreement signed by both parties, any time limits for steps prior to the hearing may be extended for good cause. The USGC chair may extend hearing and USGC deadlines for good cause, and the CHRO may extend time frames for the appeal for good cause.
5. *Confidentiality.* USGC members, parties, witnesses, and others involved in the grievance process (including the hearing and USGC deliberations) are expected to maintain the confidentiality of these personnel matters; provided that disclosure (and the Report) is permitted to University personnel with official responsibility or need to know or otherwise as may be required by law or University policy.
6. *Leave.* On timely request and without disruption to University operations, employees are to be granted reasonable administrative leave to consult with UHRCS, to participate as a party in the

steps of a grievance, to appear as a witness in a grievance, or to serve on the USGC, pursuant to [University policy](#).

7. *Use of University Office Equipment.* Grievances are considered official University business. Therefore, in preparing and processing grievances, the parties, witnesses and USGC may make reasonable use of University office equipment including computers, copiers, fax machines, and telephones pursuant to [University policy](#).
8. *Changes in Procedures.* These procedures are subject to change from time to time. However, no change to the hearing procedures shall apply to a grievance hearing already pending before a USGC which was initiated (by delivering a completed Grievance Form to UHRCS) prior to the change.
9. *Training of the USGC.* University Human Resources will develop and implement a training program for all nominees.