Human Resources Policy 6.3
Problem or Grievance Resolution

Staff covered by this policy
This policy applies to all appointed SM staff represented by AFSCME, Local 1477.

A. Introduction
1. In working together day-to-day, it is normal for employees to have occasional problems or complaints affecting their work-related activities. It is important to resolve these problems as quickly as possible. It is the university’s view that most problems can be resolved through informal discussions between the employee and supervisor. However, in some instances this may not be possible, and it is appropriate to turn to the formal grievance resolution process contained in this policy.

2. The following establishes a procedure for the fair, orderly, and timely resolution of such problems or complaints using a review process having up to four steps: Stage 1 is to the immediate supervisor, Stage 2 is to the dean or director of the unit, Stage 3 is to the campus human resources office, and Stage 4 is an advisory arbitration hearing for eligible issues.

3. Staff shall not be discriminated or retaliated against for exercising rights under this problem or grievance resolution policy. All staff have the right to use the procedure contained in this policy and the right to obtain representation, if desired as outlined in the remainder of this policy.

B. Eligibility
1. New employees who have not completed their initial evaluation period, including any extensions, are excluded from Stage 4 of the grievance procedure.

2. Employees who have not completed their promotion or transfer evaluation period have access to all steps of the grievance procedure.

C. Covered and excluded issues
1. Complaints that are subject to the grievance procedure are those in which an employee alleges:
   a. That his or her employment has been or is being adversely affected by an improper application or interpretation of an employment related rule, regulation, policy, or procedure other than those listed below.

   b. That discipline he or she has received is not warranted.

2. Excluded from the grievance procedure are:
   a. Complaints involving judgments such as salary increases, salary range, classification assignment, work standards, performance appraisals, performance improvement plans, organizational structures, work assignments, and staffing levels.

   b. Complaints that attempt to change the language of a policy or procedure.

   c. Complaints that are subject to other university procedures, such as, equal opportunity and affirmative action policies, research misconduct policies, intellectual property determinations, environmental health and safety concerns, parking violations, or workers compensation claims.

   d. Such complaints should be handled through procedures established for the specific topic. These are not exhaustive lists.
3. Grievances that may be appealed to Stage 4, arbitration, are limited to complaints alleging a violation of an employment related rule, regulation, or policy; or a grievance alleging that an employee has been terminated without just cause. Grievances over disciplinary actions below the level of termination are excluded from appeal to Stage 4.

D. Complaints involving affirmative action policies

1. Complaints involving a violation of the university’s affirmative action policies (Americans with Disabilities Act, Equal Opportunity/Affirmative Action, and Policy Against Sexual Harassment) must be reported to the campus Office of Equal Opportunity for processing through that office’s procedures. Before, during, or following any stage described in this policy, a staff member, supervisor, dean, or director may consult the affirmative action officer.

2. If an employee initiates a complaint of alleged violation of these policies within his or her department or with the campus human resources office, the department head or campus human resources office must report the complaint to the campus or university Office of Equal Opportunity.

3. A complaint alleging violation of both human resource and affirmative action policies must be filed with both the campus human resources office and Office of Equal Opportunity. The two offices will coordinate their efforts to address and attempt to resolve the issues. Possible steps include placing the efforts of one office on hold while the other investigates its issues; proceeding forward with both cases simultaneously; or any other arrangement which is determined best for the particular case.

4. Parties accused of violating the affirmative action policies must take special caution to avoid the appearance of retaliation against an individual who files a complaint.

E. The presentation of grievances

1. At all stages, matters must be presented in one of the following ways:
   a. Solely by the employee. If the grievance is on behalf of two or more employees, no more than two employees can be designated as the spokesperson or group representatives to present the grievance.
   b. Solely by a representative of AFSCME or a representative of the employee’s choice.
   c. By the employee in the company of a representative of AFSCME or a representative of the employee’s choice.

2. The university's problem-grievance procedure is an administrative procedure; therefore, the employee’s representative or witness cannot be an attorney prior to Stage 4.

F. Determination of appropriate stage for filing a grievance

1. It is the intent of this policy that grievances be resolved at the earliest step of the grievance procedure as possible. Grievances are to be filed at Stage 1 except as provided below.

2. When the problem involves a termination, the notice of termination is regarded as a final decision of Stage 1. If the employee initiates a grievance, he or she must do so within ten working days of receipt of the notice of termination. The grievance goes directly to Stage 2.

3. The campus human resources office may elevate the initial filing of any grievance to Stage 2 or Stage 3 if it deems it appropriate to do so.

G. Time limits

1. Regardless of which stage the grievance is initiated, an employee must file a grievance within ten working days of the incident or problem or knowledge of it.
2. If an employee fails to observe the time limits established for any stage, the grievance will be considered resolved. If the university fails to observe the time limits established for any stage, the employee may submit the grievance to the next stage within the designated time limits for appeal.

3. Time limits identified in the four stages may be extended if the employee, the department and the campus human resources office agree. In addition, the campus human resources office has the authority to extend the time limits at its discretion and inform the parties.

H. Procedure for filling and processing formal grievances

1. Stage 1
   a. Employees are to submit the grievance in writing to their immediate supervisor or department designee with a copy to the campus human resources office. The grievance form must be used.
   b. The supervisor or department designee has five working days to reply in writing to the employee. During this period, the supervisor or department designee and employee will meet, informally discuss the problem, and attempt to resolve the matter. The supervisor or department designee is encouraged to consult with the campus human resources office prior to issuing his or her response.
   c. The supervisor or department designee must forward a copy of his or her written Stage 1 response to the campus human resources office at the time that it is given to the employee.

2. Stage 2
   a. If the employee regards the outcome of Stage 1 as unsatisfactory, or if the supervisor fails to respond within five working days, the employee is entitled to appeal to Stage 2.
   b. The employee must appeal in writing within five working days of receipt of the Stage 1 response—or its due date—to the supervisor’s dean or director or designee with a copy submitted to the campus human resources office.
   c. The dean or director or designee has five working days of receipt of the Stage 2 grievance to respond in writing and during this period will meet with the grievant to discuss and attempt to resolve the matter.
   d. The dean or director or designee is encouraged to consult with the campus human resources office prior to issuing the Stage 2 response. A copy of the written Stage 2 response must be forwarded to the campus human resources office at the time it is given to the employee.

3. Stage 3
   a. If the employee regards the outcome of Stage 2 as unsatisfactory, or the dean or director fails to respond within five working days, the employee is entitled to appeal to Stage 3.
   b. The employee must appeal in writing to the campus human resources office within five working days of receipt of the Stage 2 response or its due date.
   c. The campus human resources office has ten working days from receipt of the Stage 3 grievance to provide the university’s response in writing and during this period will meet with the grievant to discuss and attempt to resolve the grievance.
   d. If the employee regards the outcome of Stage 3 as unsatisfactory, the campus human resources office, in consultation with AFSCME, will inform the employee if the grievance is eligible for Stage 4.
4. **Stage 3 ½**
   a. If the employee regards the outcome of Stage 3 as unsatisfactory, and the grievance is eligible for Stage 4 as outlined in Sections B and C of this policy, the employee may request a committee hearing.
   b. **Stage 3 ½ hearing procedures**
      1. The employee must submit a written request for a committee hearing to the campus human resources office within ten working days of receipt of the Stage 3 response or its due date. The grievance review committee will convene within 30 calendar days after the receipt of the request.
      2. The grievance review committee will be composed of three management representatives and three union representatives.
         a. The management representatives will include the Assistant Vice Chancellor of Human Resources, an Employee Relations Representative, and the Department Head of the grievant.
         b. The union representatives will include two AFSCME staff members (not stewards) and the President of Local 1477.
         c. At least one representative of each team must have the authority to settle the grievance.
      3. The grievance review committee will conduct a hearing, reach a consensus, and issue an oral decision. A written decision prepared and issued to both parties within two weeks following the hearing.
      4. Both parties must abide by the committee’s decision. If the committee is unable to reach a decision, the grievant may request a Stage 4 hearing.

5. **Stage 4**
   a. If the employee regards the outcome of Stage 3 ½ as unsatisfactory, and the grievance is eligible for Stage 4 as provided in Sections B and C of this policy, the employee may request a Stage 4 hearing which will be conducted by an outside arbitrator. The employee and the university will pay in equal shares all fees and expenses of the arbitrator and the American Arbitration Association if their services are used.
   b. **Stage 4 hearing procedures**
      1. The employee must submit a written request for a Stage 4 hearing to the campus human resources office within 10 working days of receipt the Stage 3 ½ response or its due date.
      2. An arbitrator shall be selected by the parties as follows:
         a. The employee and the university may agree upon a local arbitrator.
         b. If the parties cannot agree upon a local arbitrator within ten working days of the request for a Stage 4 hearing, the employee may either accept the Stage 3 ½ response as the final resolution of the grievance or may choose to have the hearing conducted by a single arbitrator selected through the American Arbitration Association (AAA).
         c. If the employee requests an AAA arbitrator, the campus human resources office shall submit a written request to the AAA to provide the parties with a list of five arbitrators. The parties shall alternately strike names from the list, with the employee (or the employee’s representative) going first, until one arbitrator’s name remains.
3. The arbitrator will conduct a hearing, write a report of the findings, and make a recommendation to the president, chancellor, provost, or appropriate vice president. A copy of the written report of findings and recommendation will be provided to the employee.

4. The president, chancellor, provost, or appropriate vice president will accept, modify, or reject the arbitrator's recommendation and will communicate in writing the final decision to the parties. This concludes the problem or grievance procedure, and there are no further internal reviews or procedures.

Revised July 2010