

Proposed Revision to Appeal Policy

Objectives:

1. Move suspension without pay from Appeal Policy to Grievance Policy
2. Clarify the role of personal advisors in appeal process.
3. Codify delegation of responsibility from President to VPHR to review appeals.

Policy:	Appeals
Policy Nbr:	PER-5.04
Approval Authority:	Executive Vice President & University Provost
Admin Authority:	Vice President for Human Resources
Last Revised:	May 1, 1992
Effective:	[Target Effective Date: August 1, 2011]

I. POLICY STATEMENT

A regular status employee may appeal a permanent reduction in salary, demotion in grade, or termination.

II. STAFF GRIEVANCE OFFICER

The Staff Grievance Officer is available to consult with staff members in each step of the appeal process, including the initial formulation of the written notice of appeal. The Staff Grievance Officer may work closely with staff members, departments, and the Human Resources Department to seek equitable resolutions of all appeals. The Staff Grievance Officer may serve as a personal advisor for the employee during an appeal process (if requested by the employee), but may not serve as an advocate on behalf of the employee. [Consistent with proposed Grievance Policy and contingent on Red Book revision.]

III. STANDARD FOR REVIEW

An appealable action may be reversed on appeal for only two reasons: (1) there was no reasonable basis for the university action; or (2) there was a substantial departure from university procedures which prejudiced the employee against whom the action was taken.

IV. PROCEDURES

A. Notice of Appeal

1. The employee shall submit a written Notice of Appeal to the Vice President for Human Resources or his or her designee within ten workdays of the receipt of the notice of action taken if the notice was handed to the employee personally, or within ten workdays of the date on which the notice of action taken was mailed to the employee by certified

mail -- return receipt requested. If the notice of action taken was both handed to the employee personally and mailed to the employee by certified mail -- return receipt requested, the time for submitting the Notice of Appeal shall be ten workdays from the date that the notice of action taken was handed to the employee personally.

2. In order for a written Notice of Appeal to be considered submitted to the Vice President for Human Resources or his or her designee, the Notice of Appeal must be delivered, either by mail or in person, to the Office of the Vice President for Human Resources.
3. The Notice of Appeal shall include a full statement indicating the basis for the appeal, the facts on which the appeal is based, and the remedy that the employee is seeking.
4. The Vice President for Human Resources or his or her designee shall forward a copy of the Notice of Appeal to the employee's supervisor and to other appropriate individuals.

B. Determination of Eligibility

1. Upon receipt of the Notice of Appeal, the Vice President for Human Resources or his or her designee shall, within five workdays, issue a written determination to the employee and to the employee's supervisor stating whether the employee is eligible to file an appeal.
2. If the employee is found not to be eligible to file an appeal, the employee's Notice of Appeal shall be dismissed by the Vice President for Human Resources or his or her designee. The written determination shall state the reason for the ineligibility.

C. Hearing Officers

1. The Vice President for Human Resources or his or her designee shall give written notification to the employee, the employee's supervisor, and other appropriate individuals of the name of the hearing officer who is assigned to hear the employee's appeal.
2. The hearing officer shall conduct all pre-hearing conferences and hearings.

D. Pre-Hearing Conferences and Hearings

1. There shall be an initial pre-hearing conference at which the parties to the appeal and the hearing officer in consultation with the Vice President for

Human Resources or his or her designee shall decide the issues to be addressed in the appeal, the advisors to be present at the hearings, the extent of the advisors' participation at the hearings, and any other relevant procedures. The final decision on these and all other procedural matters rests with the Vice President for Human Resources or his or her designee.

2. There shall be a hearing at which the employee and the university shall have the opportunity to present evidence regarding the action taken, including testimony of witnesses. The hearing shall be informal; strict rules of evidence shall not apply.
3. The Vice President for Human Resources or his or her designee shall be present at all hearings and pre-hearing conferences. The Staff Grievance Officer shall be informed in writing of all hearings and pre-hearing conferences and may attend all such meetings at his or her discretion.
4. The employee may be represented by an attorney or have a personal advisor of his or her choice present at all pre-hearing conferences and hearings. If an employee wishes to be assisted by an advisor but is unable to locate an advisor, the employee may contact either the Staff Grievance Officer or the Vice President for Human Resources or his or her designee, who will help the employee locate a university faculty or staff member to act as the employee's advisor. Employee advisors are not assigned in this process, but remain the sole choice of the employee.

[Note: Employees should be aware that personal advisors may not participate in the examination of witnesses or the presentation of evidence to the hearing officer. If the employee anticipates needing assistance in these functions, the employee will need to be represented by an attorney.]

5. Supervisors shall be represented by an attorney from the Office University Counsel or outside counsel, as determined by the Office of University Counsel.

E. Hearing Officer's Report

1. After the hearing has been completed, the hearing officer shall issue a written report which shall:
 - a. summarize the evidence presented at the hearing;
 - b. state the hearing officer's Findings of Fact and the basis for those findings; and
 - c. state the hearing officer's Recommendations for Action.
2. This written report shall be submitted to the Vice President for Human Resources or his or her designee within ten workdays of the completion of

the hearing, unless the Vice President for Human Resources extends that time period.

2. The Vice President for Human Resources or his or her designee shall submit the Hearing Officer's Report to the President or his or her designee within three workdays of the receipt of the report.

F. Appeal Decision

1. The Vice President for Human Resources exercises authority on behalf of the President to review the Hearing Officer's Report and render an appeal decision on behalf of the University. Note: In the instance of an appeal being directed against the VPHR, the Executive Vice President and Provost shall act in such manner.
2. The Hearing Officer's Report shall become the Appeal Decision seven workdays after the Report has been submitted to the Vice President for Human Resources unless the Vice President for Human Resources determines that the Report, or any part of it is not in the best interest of the university.
3. If the Vice President for Human Resources determines that the Hearing Officer's Report, or any part of it, is not in the best interest of the university, the Vice President for Human Resources shall issue an Appeal Decision within seven workdays of receipt of the Hearing Officer's Report.
4. The Vice President for Human Resources or his or her designee shall forward the Hearing Officer's Report or Appeal Decision, if any, to the employee, the employee's supervisors, and any other appropriate individuals.
5. The Vice President for Human Resources or his or her designee shall be in charge of implementing the Appeal Decision and may take whatever action is necessary to do so.
6. The Appeal Decision shall be final.