

Disciplinary, Grievance, & Appeal Policy Changes Executive Summary

The Office of Human Resources and the Staff Grievance Committee – with input from the HR Advisory Committee, the Commission on Diversity & Racial Equality, and the Commission on the Status of Women – have concluded a year-long review of the University’s disciplinary, grievance, and appeal policies for staff employees.

Effective performance management includes setting clear performance expectations, coaching and reinforcing positive performance, and (when necessary) taking appropriate steps to correct unsatisfactory performance. During FY 2011-12, we will review the performance evaluation program, itself, but the proposed revisions to our disciplinary, grievance, and appeal policies is an important first step to improving our overall performance management program.

The underlying goal of this “package” of proposed revisions to our performance-related policies has been to promote a culture where staff employees and supervisors may engage in constructive conversations regarding job performance or work-related conduct with a shared objective of improving unsatisfactory job performance or correcting unacceptable work-related behaviors.

Proposed changes have been endorsed by the Staff Grievance Committee and will be reviewed by the full Staff Senate during its Sep 12, 2011 meeting.

This document summarizes principal changes. Individual draft policies are available for review under HR Items of Interest at <http://louisville.edu/hr/itemsofinterest>. Because of the materiality of these policies in helping guide the day-to-day interactions between employees and supervisors -- and because there has been some long standing concern regarding the grievance policy on the part of staff employees, the VPHR and Chair of the Staff Grievance Committee conducted a number of “open sessions” to provide an overview of proposed changes and solicit feedback from the University community. Comments from the university community were received from July 1 through August 15 and reviewed by the Grievance Committee.

As a result of community feedback, the Grievance Committee endorsed two minor changes from the draft policies posted to HR Items of Interest on June 29:

- Modify the definition of “disciplinary authority” such that the final disciplinary authority will be the vice president or dean (provided such individual serves at least two levels removed from the employee). The grievance authority for employees who report directly to a vice president, dean, or executive vice president will be the Executive Vice President (although this will reduce the number of steps in the grievance process).
- Increase the time frame for a final grievance authority to respond to a grievance from five to ten work days.

I am confident that proposed changes to the disciplinary, grievance, and appeal policies, collectively, will materially improve working relationships among employees and supervisors over time and represent a positive step forward for the University.

Summary of Proposed Changes to Disciplinary Policy (PER 5.01)
[No Changes from Comment Period Draft]

1. Define purpose of disciplinary policy to promote a culture where staff employees and supervisors may engage in constructive conversations regarding job performance or work-related conduct with a shared objective of improving unsatisfactory job performance or correcting unacceptable work-related behaviors.
2. Distinguish between Job Performance and Personal Conduct
 - a. Job performance is generally understood to include issues related to the quantity or quality of work produced.
 - b. Personal conduct is generally understood to include work-related behaviors that are disruptive to the work environment or adverse to the University's interests.
3. Establish commitment to Progressive Discipline.
 - a. Clarification of Expectations
 - b. Written Warning
 - c. Final Written Warning or Suspension without Pay
 - d. Reduction in Salary, Demotion, or Termination
4. Define Disciplinary Standard – Disciplinary decisions must be reasonable.
5. Define Disciplinary Authority. The authority to impose discipline is defined and delegated, as follows:
 - a. The 1st Line Supervisor exercises authority to counsel employees or issue letters of instruction or written warnings.
 - b. The 2nd Line Supervisor (if such a level exists in the organizational structure below the level of department head or director) exercises authority to suspend without pay or recommend reduction in salary, demotion, or termination.
 - c. The Department Head or Director, with the concurrence of the Director of Staff Development & Employee Relations as to policy compliance, exercises authority to reduce salary, demote, or terminate (with alternative provisions, as necessary, for various organizational relationships).

6. Create pre-disciplinary conference to give prior notice to an employee for a suspension without pay, reduction in salary, or demotion in grade – and provide employee an opportunity to respond before final decision is imposed.
7. Adopt & publish guidelines for pre-termination conferences. Provide written notice to employee at time of termination, if an employee is placed on the No Rehire list.

Summary of Proposed Changes to Grievance Policy (PER 5.03)

[See Changes Highlighted Below]

1. Define the purpose of the staff grievance policy promote a culture where staff employees and supervisors may engage in constructive conversations regarding working conditions that convey institutional value to employees and afford employees an opportunity to seek redress for concerns regarding working conditions in the lowest and least formal means possible.
2. Provide Examples of Grievable / Non-Grievable Issues
 - a. Examples of Grievable Actions:
 - 1) Working conditions
 - 2) Written warnings (New)
 - 3) Suspension without pay (in lieu of appeal) (New)
 - 4) Unsatisfactory performance evaluation (New)
 - 5) Incorrect application of University policy
 - b. Examples of Non-Grievable Actions:
 - 1) Organization and definition of work, unit, and work hours
 - 2) Performance expectations (unless alleged to be arbitrary, capricious, or not reasonably attainable)
 - 3) Oral counseling or non-disciplinary “letters of instruction” to clarify performance or personal conduct expectations
 - 4) Position classification, salary grade, or salary within grade
 - 5) Allegations of EEO-related discrimination or harassment
3. Reduce number of steps in the grievance process to maximum of three.
 - a. 1st Line Supervisor
 - b. 2nd Line Supervisor
 - c. Grievance Authority: Department Head or Director (provided such individual serves at least three levels removed from the employee); else the next higher level in the employee’s chain of command (above the level of department head or director); or the employee’s Vice President or Dean (provided such individual serves at least two levels removed from the employee). The grievance authority for employees who report directly to a vice president, dean, or executive vice president will be the Executive Vice President (although this will reduce the number of steps in the grievance process).

4. Provide that HR (instead of employee) will notify managers of Step 2 & 3 grievances.
5. Require supervisors & managers to respond in writing to grievances within specified time frames. Failure to respond shall create a presumption going forward that the employee's grievance is reasonable and the requested remedy is appropriate (subject to ratification or revision by next higher level administrator). Increase the time frame for a final grievance authority to respond to a grievance from five to ten work days.
6. Describe role of Grievance Committee & hearing guidelines. Properly describe respective roles of HR and Ombuds representatives to be "honest broker" roles that may not take on advocacy or serve as personal advisor.

Summary of Proposed Changes to Appeal Policy (PER 5.04)
[No Changes from Comment Period Draft]

1. Move suspension without pay from Appeal Policy to Grievance Policy to promote a more timely and internal resolution to employee concerns regarding suspensions without pay.
2. Clarify the role of personal advisors in appeal process. Personal advisors are permitted at all times to advise employees privately; however, only licensed attorneys may participate in the examination of witnesses or the presentation of evidence before a hearing officer.
3. Codify delegation of responsibility from President to VPHR to review hearing officer reports and adopt final appeal decisions on behalf of the University.

Please direct questions or comments to any of the following individuals:

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