

Proposed Re-statement of Staff Grievance Policy Summary of Primary Changes

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
 - a. 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. Shift responsibility from employee to HR to notify 2nd or 3rd line supervisors of Step 2 and Step 3 grievances.
2. 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.

5. 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.

Proposed Re-statement of Staff Grievance Policy

Policy: PER-5.03
Title: Staff Grievances
Approval Authority: Executive Vice President & University Provost
Admin Authority: Vice President for Human Resources
Responsible Office: Staff Development & Employee Relations
Last Revised: May, 2004
Effective: [Target Effective Date: August 1, 2011]

I. POLICY

- A. It is the policy of the University of Louisville to 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.
- B. Any employee who believes that a condition of employment is unjust, inequitable or a hindrance to effective operations or performance may initiate a grievance in accordance with the provisions of this policy. In like manner, first line supervisors, managers, and department heads are obligated to respond to grievances in a timely and material manner in accordance with the provisions of this policy.
1. Examples of Grievable Actions:
 - a) Working Conditions
 - b) Written Warnings
 - c) Suspension without Pay (in lieu of appeal)
 - d) Unsatisfactory Performance Evaluation
 - e) Incorrect application of University policy
 2. Examples of Non-Grievable Actions:
 - a) Organization and definition of work (e.g., job descriptions, assignment of supervisor or unit, working hours).
 - b) Performance Expectations (unless alleged to be arbitrary, capricious, or not reasonably attainable).
 - c) Clarification of expectations or non-disciplinary letters of instruction.
 - d) Position Classification, Salary Grade, or Salary within Grade.
 - e) Allegations of EEO-related Discrimination or Harassment (See PER 1.11).
- C. Informal / Alternative Dispute Resolution Processes, Mediation Services. Employee Relations staff in Human Resources, staff in the Ombuds Office, or the Staff

Grievance Officer shall be available to assist either employees or managers by providing information related to grievance processes and to assist employees and supervisors or managers in achieving a mutually agreeable resolution to a presenting grievance in the most informal manner possible. HR staff, Ombuds staff, and the Staff Grievance Officer shall serve as “honest brokers” with no vested interest in the specific outcome of a grievance other than to promote the mutually agreeable resolution of a grievance between the parties. Neither HR staff, Ombuds staff, nor the Staff Grievance Officer shall serve as an advocate on behalf of either the employee grievant or management respondent to a grievance. [See additional information on alternative dispute resolution, mediation, and the Ombuds Office at Section III.

- D. Grievance Authority. The authority to make a final administrative decisions with respect to an employee grievance is exercised by the employee’s department head or director, provided such individual serves at least three levels removed from the employee, else the next higher level in the chain of command above the level of department head or director; else 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).
- E. Prohibition Regarding Retaliation. To ensure open and professional communications between employees and supervisors, no employee shall be subject to retaliation for exercising his or her grievance rights, participating as a witness in another employee’s grievance, or serving as a personal advisor during another employee’s grievance.

II. PROCEDURES

A. Step 1 Grievance:

1. A Step 1 Grievance is submitted to the employee’s 1st line supervisor. The employee shall first attempt to resolve his or her grievance by submitting a statement in writing to his or her immediate supervisor outlining the basis of the grievance or requesting re-consideration of a previous adverse employment action.
2. A grievance or request for re-consideration must be submitted within 15 work days of the event (or awareness of the event or working condition) which gives rise to the grievance; else these grievance procedures shall not apply and the employee shall have no other recourse.

Note: A request for mediation may be submitted at any time before a grievance is filed and temporarily suspends grievance deadlines, as long as both parties agree to participate in mediation. If mediation is not successful,

the grievant may proceed with a grievance within five (5) additional work days of the suspension or termination of mediation efforts. See Section III.

3. The employee shall convey a copy of his or her grievance or request for reconsideration to the Employee Relations unit in Human Resources, concurrent with submitting a copy to his or her immediate supervisor.
4. The grievance or request for reconsideration shall include the following:
 - a. Statement of the working condition that the employee believes is unfair, inequitable, or which constitutes a hindrance to the effective operations or performance of the department or the employee or request for consideration of an adverse employment action. Employees may use a letter format or the Staff Grievance Form available at <http://louisville.edu/hr/grievanceform>.
 - b. Statement of response or remediation requested.
5. With five work days of receiving the grievance or request for re-consideration, the employee's 1st line supervisor shall respond in writing, outlining what actions, if any, the supervisor is willing to undertake in response to the grievance. The supervisor shall provide a copy of his or her response to the employee and to the Employee Relations unit in Human Resources.
6. If the employee's first line supervisor does not respond to the employee's grievance or request for re-consideration within five work days or if the employee is not satisfied with the 1st line supervisor's response, the employee may file a Step 2 Grievance (as provided below) within five work days of the non-response or dissatisfaction with the response to the Step 1 Grievance.
7. The failure of the 1st line supervisor to respond to the grievance within the specified time frame shall constitute a presumption going forward that the employee's grievance is reasonable and that the employee's request for remediation is an appropriate response to the grievance, subject to the ratification or revision of the proposed remedy by the employee's 2nd line supervisor.

B. Step 2 Grievance:

1. A Step 2 Grievance is submitted to the Employee Relations unit within Human Resources. If the 1st line supervisor responded to the employee's grievance but the employee is not satisfied with the response, the employee must submit a written statement describing what he or she is not satisfied with in the response from the 1st line supervisor.

2. The Employee Relations unit shall forward the employee's grievance to the employee's second line supervisor, together with a copy of the employee's original grievance, the response, if any, from the employee's 1st line supervisor, and the employee's Step 2 written statement, if any.
3. Within five work days of receiving a Step 2 Grievance, the employee's 2nd line supervisor shall respond in writing, outlining what actions, if any, the 2nd line supervisor is willing to undertake in response to the grievance. The 2nd line supervisor shall provide a copy of his or her response to the employee and to the Employee Relations unit in Human Resources.
4. If the employee's 2nd line supervisor does not respond to the employee's grievance or request for re-consideration within five work days or if the employee is not satisfied with the 2nd line supervisor's response, the employee may file a Step 3 Grievance (as provided below) within five work days of the non-response or dissatisfaction with the response to the Step 2 Grievance
5. The failure of the 2nd line supervisor to respond to the grievance within the specified time frame shall constitute a presumption going forward that the employee's grievance is reasonable and that the employee's request for remediation is an appropriate response to the grievance, subject to the ratification or revision of the proposed remedy by the employee's department head or director.

C. Step 3 Grievance:

1. A Step 3 Grievance is submitted to the Employee Relations unit in Human Resources. If the 2st line supervisor responded to the employee's grievance but the employee is not satisfied with the response, the employee must submit a written statement describing what he or she is not satisfied with in the response from the 2st line supervisor. A Step 3 Grievance is ultimately decided by the employee's Grievance Authority (as defined in Section I.D.) When filing a Step 3 Grievance, the employee must specify to the Employee Relations unit whether he or she desires to submit his or her grievance directly to employee's Grievance Authority or to the Staff Grievance Committee.
2. The Employee Relations unit shall forward the employee's grievance to the employee's Grievance Authority or the Staff Grievance Committee (as specified by the employee, above) together with a copy of the employee's original grievance and the response, if any, from the employee's 1st and 2nd line supervisors and the employee's Step 3 written statement.
3. If a grievance is submitted to the Staff Grievance Committee, the committee will conduct a grievance hearing as provided in Section II.D., and forward the

grievance together with the committee's findings and recommendations to the employee's Grievance Authority.

4. The employee's Grievance Authority shall render a decision in writing within 10 work days following receipt of the grievance from the employee or from the Staff Grievance Committee. The grievance authority's decision, together with a copy of the Staff Grievance Committee Report, if any, shall be conveyed to the employee, subordinate managers, and the Employee Relations unit in Human Resources

D. Role & Procedure of the Staff Grievance Committee

If the employee requests that his or her grievance be submitted to the Staff Grievance Committee preparatory to submission to the final administrative authority (as specified in Section C above), the guidelines in this section shall apply.

1. **Purpose.** The committee's purpose shall be to assist the grievance authority in fact finding and recommending a course of action. The committee chair shall file a report with the grievance authority. The report shall either recommend upholding the original grievance response at Step 2 or reversing the Step 2 response and recommending an alternative course of action. The committee will also recommend to the grievance authority whether or not the grievant's proposed remedy should be approved.
2. **Committee Composition.** The composition of the Grievance Committee is within the discretion of the Staff Senate. Generally, the review committee will consist of three members, including at least one supervisory member and one non-supervisory member.
3. **Grievance File & Related Documents.** The Employee Relations unit shall provide the Grievance Committee with copies of the original grievance and supervisory and management responses at Step 1 & Step 2, if applicable, in advance of the hearing. If the grievance pertains to job performance, the Office of Human Resources will also provide copies of the employee's position description, and the employee or department must provide copies of the three most recent performance evaluations on file. The grievant and respondent shall each receive a complete copy of all documentation.
4. **Hearing Agenda.** The grievance committee shall be convened upon receiving a grievance from the Employee Relations Unit of the Office of Human Resources. The Staff Grievance Review Committee shall submit the grievance materials, its summary of the grievance, and its recommendations to the department head or director within 15 workdays of its receipt of the request. The committee will adopt its own guidelines regarding the hearing agenda, subject to each individual

grievance case. All parties requested to participate in the hearing are expected to attend.

5. Witness Statements.

- a) Either the grievant or respondent may propose that the Committee interview witnesses by providing a list of proposed witnesses in advance to the committee together with a brief statement as to what evidence the witness is expected to present. The Committee may also call its own witnesses.
- b) The decision as to the relevance of witness testimony, if any, and whether or not the witness shall be called shall be within the sole discretion of the chair, in consultation with the committee.
- c) Witness testimony shall be limited to matters that have a direct bearing on the grievance. Character interviews are not permitted.
- d) Supervisors shall provide regular work time for the purpose of participating in the grievance committee hearing for all parties involved.

6. Participation of Committee Members.

Upon proper recognition by the chair, any committee member may ask questions of either party or witness at any time during the hearing.

7. Role of University & Employee Representatives.

- a) HR Representative: To assist in resolving an employee's grievance, the resources and consultation available from the Office of Human Resources must be made available to all parties, on request, including the Staff Grievance Committee. In all instances, the role of an HR representative is to provide advice and counsel regarding University policy, permissible and advisable courses of action, and process questions. HR representatives may not serve as an advocate or personal advisor of either party during grievance processes, but must be neutral and non-deliberative with respect to grievance issues. If policies are in question, the HR representative shall be the sole authority to advise the Committee on staff personnel policies.
- b) Staff Grievance Officer: As provided in The Redbook (at Section 5.8.2), the Staff Grievance Officer is available to advise staff employees on grievance and disciplinary processes, to include helping an employee prepare for a grievance committee hearing. While the Redbook prohibits the Staff Grievance Officer from serving as an advocate for the employee in a grievance process, if requested by the employee, the Staff Grievance Officer may serve as the employee's "personal advisor" as noted in this section, upon the employee's request. **[Contingent on Redbook revision, if needed.]**

- c) Personal Advisors. At any time during the grievance process, an employee or supervisor may be accompanied by a personal advisor. . The role of a personal advisor shall be to provide private advice to the employee or supervisor during proceedings . The personal advisor may not take an active part in the proceeding or speak to the committee on the employee's or supervisor's behalf. [Note: If the personal advisor is a staff employee of the University, management shall provide regular work time for the purpose of participating in the grievance committee hearing. Preparation time, if any, shall occur on the employee's and the personal advisor's own time.]

8. Committee Deliberations.

The committee's deliberations shall be in closed session. The committee may undertake deliberations immediately following the hearing or may adjourn to a future time to conduct deliberations, provided the committee concludes its final report within 15 work days of being notified of the grievance.

Given that the committee's findings and recommendations are advisory in nature, the grievance authority is best served if the committee makes decisions by consensus, rather than voting, and that the decision making process is documented in the final report.

9. Findings & Recommendations.

- a) Findings of Fact. Where facts are in dispute, the committee must make findings of fact. The standard for fact finding in the grievance process is a reasonable person's determination that one account is "more likely than not" to be true, based on an evaluation of the whole record (including both documentary and testimonial evidence).
- b) Recommendations regarding Grievance. The standard for management decision making is that a manager's decision must be both reasonable and rational, given the facts available to the decision maker. In similar fashion, the recommendations of the grievance committee must be predicated on a reasonable and rational basis. It is not the role of the grievance committee to simply supplant the Step 2 manager's judgment for its own. A recommendation to overturn or modify the Step 2 manager's decision must be supported by a specific finding that the Step 2 manager's decision failed to reflect a reasonable and rational decision, given the facts available to the Step 2 decision maker at the time the Step 2 decision was made.
- c) Recommendations regarding Requested Remedy. In addition to submitting findings of fact and recommendations regarding the Step 2 grievance, the grievance committee must submit recommendations to the grievance

authority as to whether the grievant's requested remedy should be approved or not.

- d) Collateral Recommendations. Part of the role of the staff grievance process is to ensure that terms and conditions of employment, including working conditions, reflect the University's mission, goals, and values. Consequently, it is permissible and entirely appropriate for the grievance committee to submit such collateral recommendations to the grievance authority regarding terms and conditions of employment or working conditions as the Committee deems appropriate.

10. Grievance Committee Report.

The chair of the Grievance Committee is responsible for submitting the committee's report to the grievance authority within 15 days of receiving the grievance. The committee's report shall be accompanied by all relevant documentation, including Step 1 & 2 grievance documents.

The committee report should reflect the decision-making process of the committee and indicate whether decisions were adopted by consensus or voting. If the committee does not achieve consensus in its deliberations, the report may reflect a minority view or a minority report may accompany the committee chair's report.

11. Confidentiality.

The staff employee grievance process is confidential. All parties – including grievant, respondent, witnesses (if any), and committee members – shall be cautioned at the outset of the hearing by the chair that the grievance should not be discussed outside of the grievance process.

E. Final Administrative Decision.

The committee's findings and recommendations are advisory in nature and do not bind the grievance authority or limit the discretion of the grievance authority to manage the operations of the college, school, or division as the grievance authority sees fit.

The grievance authority exercises discretion to affirm or rescind any disciplinary action, revise the overall performance evaluation rating, or otherwise amend any action taken by a subordinate manager or supervisor. The grievance authority's decision is the final administrative decision for the University and is not subject to further appeal.

III. Alternative Dispute Resolution / Mediation Services.

To facilitate informal resolution of disputes among employees and supervisors, the University maintains an Ombuds Office. This office provides facilitated discussions, alternative dispute resolution services, and mediation services to employees and supervisors who mutually agree to participate in alternative dispute resolution processes. At no time during the grievance process or during facilitated discussions, alternative dispute resolution, or mediation processes will a representative of the Ombuds Office assume an advocacy role or serve as a personal advisor of the grievant or respondent. Additional information regarding the Ombuds Office and its services is available at <http://louisville.edu/ombuds>. Additional information regarding the University Mediation Procedure is available at <http://louisville.edu/provost/faculty-personnel/Mediation040301.pdf>,

Any party to a grievance may request the services of the Ombuds Office or request mediation by submitting a request, in writing, to the Ombuds Office, with a copy to the opposing party and to the Employee Relations unit in Human Resources. If both parties agree to participate in alternative dispute resolution or mediation services, the time frames cited in this policy shall be suspended pending a final resolution of the grievance through alternative dispute resolution or mediation services or until either party elects to opt out of such procedures.

If either party declines to participate in alternative dispute resolution processes or withdraws from the alternative dispute resolution process, once undertaken, the employee shall have five additional work days to proceed with the next step in the grievance process. [Contingent on revision of Mediation Procedure with respect to additional time allowed.]

IV. Grievances Outside Normal Reporting Lines

If an employee believes he or she has a grievance regarding the application of a university-wide policy or regarding a matter that is outside the employee's normal reporting line, the employee shall attempt to resolve the grievance through informal discussion with the Vice President for Human Resources or his or her designee. As an alternative, the employee may approach his or her immediate supervisor regarding the matter; the immediate supervisor may then approach the Vice President for Human Resources or his or her designee on behalf of the employee if the supervisor chooses to do so. If the matter is not resolved through informal discussions, the following procedure shall be followed in pursuing the grievance.

- A. The employee shall file a written grievance with the Vice President for Human Resources within 15 workdays of the incident causing the grievance. The written grievance shall include a full statement indicating the basis for the grievance and the solution that the employee seeks.
- B. The Vice President for Human Resources shall respond to the grievance in writing within 15 workdays of receiving the grievance materials and shall provide

a copy of his or her determination to the Director of Staff Development & Employee Relations for record keeping and future policy guidance.

C. The response of the Vice President for Human Resources shall be final.

V. Extensions of Time.

After a grievance has been filed, any person involved in the grievance procedure may contact the Director of Staff Development and Employee Relations or his or her designee to request in writing an extension of time in which to respond and providing the reasons for the requested extension.

The Director of Staff Development & Employee Relations or his or her designee may grant such an extension at his or her sole discretion and will notify all persons involved.

HR:Grievance Policy.v5

Comment & Review Record:

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