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Policy Information

Effective Date:

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Policy Number:

CSM 406.0

Responsible Unit:

Division of Human Resources

Phone:

(520) 621-3660

Email:

hadmin@email.arizona.edu [1]

Policy

Classified Staff employees have a right to a regular process of expression of employee concerns and disputes. Many employee concerns can be resolved informally in the course of day-to-day communications between the employee and his or her immediate supervisor. Employees are expected to make reasonable attempts to resolve concerns informally. However, in those cases in which an eligible Classified Staff employee is unable to informally resolve his or her concern, he or she may initiate a dispute resolution request through the Staff Dispute Resolution Procedure below.

Wherever in this policy the term "Vice President for Business Affairs and Human Resources" is used, it is intended to cover the designee of that individual as well. Wherever the term "working days" is used, it is intended to mean Monday through Friday.

Eligible Employees

Regular Classified Staff employees who have completed their initial six-month new hire probation period are eligible to use the Staff Dispute Resolution Procedure.

Any Classified Staff employee may file a dispute resolution request where the action complained about involves a violation of public policy, such as retaliatory action for making a good-faith

disclosure of alleged wrongful conduct to a public body or to a designated University official. Complaints concerning discrimination, including harassment and retaliation, based on a protected classification, including race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, gender identity, or genetic information may be filed with the Office of Institutional Equity.

Timeliness

All disputes, **excluding discharge**, must begin at the first step within 30 calendar days of the time the employee knows, or should know, of an action or issue that can be raised through the dispute resolution procedure.

Disputes concerning an employee's **discharge from employment** must begin at the fourth step of the dispute resolution procedure within 10 working days from the employee's receipt of written notification of discharge.

Matters Excluded from the Staff Dispute Resolution Procedure

Job Classifications, which are subject to the appeal process outlined in Staff Human Resources Policy 304.0 Requests for Position Reclassification [2].

Verbal warnings, since no punitive action is taken.

Human Resources policies of the University of Arizona and Arizona Board of Regents (The application of policy is subject to appeal, however.)

Monetary increases, though **merit increases** are subject to the appeal process outlined in Staff Human Resources Policy 308.0 Merit Increases [3]

Discrimination in violation of University policy, including harassment and retaliation, based on a protected classification, including race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, gender identity, or genetic information since these matters are addressed by the Office of Institutional Equity.

Steps of the Staff Dispute Resolution Procedure

Step 1: Immediate Supervisor

Within 30 calendar days of the time that the employee knows, or should know, of an action or issue in dispute, the employee must advise his or her immediate supervisor that he or she is initiating a dispute resolution request. The employee may notify the supervisor verbally or in writing, but must advise the supervisor of the specific issue in dispute, the facts in support of the employee's position, and the remedy requested. The supervisor is responsible for addressing the employee's request and responding to the employee within five (5) working days from receipt of the first step request. The supervisor shall include notice to the employee of his or her right to appeal the dispute to Step 2.

Step 2: Department Head/Unit Administrator (as applicable)

If the Step 1 response is unsatisfactory, the employee may appeal the dispute in writing to the department head/ unit administrator within five (5) working days of receipt of the Step 1 response. The Step 2 appeal must state the specific issue in dispute, facts in support of the employee's position, the reasons the Step 1 response is unsatisfactory, and the remedy requested. Copies of the correspondence related to Step 1 must be included.

The department head or unit administrator shall consider the facts and circumstances of the dispute and shall, in writing, grant, deny, or propose a modification to the requested remedy within five (5) working days following receipt of the employee's written appeal. This response shall include notice of the employee's right to appeal the dispute to Step 3.

Step 3: College Dean, Division Director, or Division Administrator

If the Step 2 response is unsatisfactory, the employee may appeal the dispute in writing to Step 3 within five (5) working days of receipt of the Step 2 response. The Step 3 appeal must state the specific issue in dispute, the facts in support of the employee's position, the reasons why the Step 2 response is unsatisfactory, and the specific remedy requested. Copies of the correspondence related to Step 2 must be included.

The dean, director, or administrator shall consider the facts and circumstances of the dispute and shall, in writing, grant, deny, or propose a modification to the requested remedy within ten (10) working days following receipt of the Step 3 appeal. This response shall include notice of the employee's right to appeal the dispute to the fourth and final step.

Step 4: Staff Dispute Resolution Committee Hearing or Investigation and Review

If the Step 3 response is unsatisfactory, or if the employee is appealing his or her discharge from employment, the employee may appeal the dispute in writing to Step 4. This appeal must be submitted in writing to the Vice President for Business Affairs and Human Resources within five (5) working days of receipt of the Step 3 response or within 10 working days of receipt of written notification of discharge.

This appeal must state the issue in dispute, the facts in support of the employee's position, and the remedy requested. **For disputes appealed from Step 3**, the complaint must state the reasons why the Step 3 response is unsatisfactory. Copies of the correspondence related to Step 3 must be included. The Vice President for Business Affairs and Human Resources will review the appeal to determine whether time limits and procedural steps were followed. Having determined that the dispute resolution procedure has been followed, the Vice President for Business Affairs and Human Resources will determine whether, according to the criteria outlined below, the issue in dispute is subject to a Staff Dispute Resolution Hearing or Investigation and Review.

The Investigation and Review or Staff Dispute Committee Hearing represents the fourth and final step in the Staff Dispute Resolution procedure.

Investigation and Review

Application of personnel policies in matters such as, but not limited to, those listed below are subject to the Investigation and Review process:

- performance appraisal ratings
- work assignments
- organizational structure
- filling of vacancies
- transfers or reassignments
- benefits administration
- written warnings
- disciplinary probations
- leaves of absence

- vacation
- paid sick time
- schedule and extent of operations

Upon receipt of the employee's appeal and determination that Investigation and Review is the appropriate process, the Vice President for Business Affairs and Human Resources will notify the employee that the appeal has been received and that a Review Officer is being selected. The Review Officer shall begin the Investigation and Review as soon as is reasonably possible after receipt of the appeal.

Role of the Review Officer

The Review Officer is an independent third-party individual who conducts the Investigation and Review. The Review Officer will confer with the employee, the department representative(s), and others as s/he deems necessary, to review the facts and circumstances of the dispute and the application of University and Arizona Board of Regents personnel policies. The Review Officer shall submit a written report to the President (a copy shall be sent to the Vice President for Business Affairs and Human Resources, for the appeal file). The report shall include, but is not limited to, a brief summary of the dispute, the Review Officer's findings, conclusions, and recommendations for corrective action, if any.

The Vice President for Business Affairs and Human Resources or designee serves as technical advisor to the Review Officer.

Role of the University President

Upon receipt of the Review Officer's written report, the President will render a final decision in writing as soon as is reasonably possible after receipt of the written report. Copies of the decision shall be sent to the employee, the supervisor and administrators who reviewed the dispute at the lower steps, the Review Officer and the Vice President for Business Affairs and Human Resources. The President may endorse, modify or reject the findings, conclusions and/or recommendations of the Review Officer. The President may direct further investigation or instruct the Review Officer to conduct further investigation on certain facts before rendering a decision. The President's written decision also serves as a directive for any action necessary for compliance with the decision. The decision of the President is final and concludes the Staff Dispute Resolution Procedure.

Staff Dispute Resolution Hearing

Disputes about application of personnel policy in matters such as discharge, suspension without pay, demotion, or the **application** of policy 405.0 Layoff/Reduction in Force [4] will be heard by a panel of the Staff Dispute Resolution Committee and a Hearing Officer.

The Vice President for Business Affairs and Human Resources shall correspond with the employee, the responsible administrator, the Hearing Officer, and members of the Staff Dispute Resolution Committee regarding availability for a hearing and other pertinent information. The Vice President for Business Affairs and Human Resources shall set a hearing date at the earliest possible opportunity. A pre-hearing meeting may be conducted prior to or following the issuance of such correspondence in the event it is determined by the Vice President for Business Affairs and Human Resources that additional information needs to be developed or provided to hearing participants.

Role of the Staff Dispute Resolution Committee

The Staff Dispute Resolution Committee functions as an advisory committee to the University President who appoints its members. A sufficient number of Classified Staff employees are appointed from a range of staff levels and functions to ensure that impartial members shall be available for hearings.

A Staff Dispute Resolution Panel consists of three impartial committee members. A Hearing Officer chairs the panel. During the hearing, the panel members may pose questions and request demonstrations, documents, or other evidence thought to be relevant. Subsequent to the conclusion of the hearing and the panel's deliberation, the Hearing Officer shall poll the panel and submit a written report to the University President (a copy shall be sent to the Vice President for Business Affairs and Human Resources, for the appeal file). The report shall include, but is not limited to, a brief summary of the hearing, plus supporting data, the panel's findings and conclusions, the panel's recommendations for corrective action, if any, and any additional recommendations thought to be in the interest of sound University-staff relations.

Role of the Hearing Officer

The Hearing Officer is an independent third-party individual who serves as chair of the panel. It is the responsibility of the Hearing Officer to conduct the hearing in a manner which provides each side an opportunity to present its position to the Panel. In addition, the Hearing Officer rules on the relevancy of exhibits and testimony. The Hearing Officer assists the Panel in developing findings and recommendations during deliberation and writes the report to the President but does not participate in the decision-making process of deliberation.

Role of the University President

At the conclusion of the hearing, the President will receive a written report of findings, conclusions, and recommendations. The President may direct further investigation or instruct the panel to conduct a further hearing on certain facts before rendering a decision. As soon as is reasonably possible after receipt of this report, the President will render a decision in writing to the parties involved (the employee, the department representative(s), the Panel, the Hearing Officer, and the Vice President for Business Affairs and Human Resources). The President may endorse, modify or reject the findings, conclusions and/or recommendations of the Panel. The President's written decision also serves as a directive for any action necessary for compliance with the decision. The President's written decision shall be mailed to the employee at his or her last known mailing address.

An employee who is dissatisfied with the President's decision may request reconsideration of the decision pursuant to A.R.S. § 41-1062 by filing a written request with the President no later than 15 days following receipt of the President's written decision. The request shall be based on one or more of the following grounds:

- irregularities in the proceedings, including any abuse of discretion or misconduct by the Staff Dispute Resolution Committee or Hearing Officer which deprived the employee of a fair and impartial hearing;
- newly discovered material evidence which with reasonable diligence could not have been presented at the hearing; or
- the decision is not justified by the evidence or is contrary to law.

Following receipt of the request for reconsideration, the President shall conduct whatever review

he/she deems necessary to resolve the issues that have been raised. The President will provide a written response to the request to all parties. When the employee does not request reconsideration, the President's decision following the hearing becomes final 15 days from the employee's receipt of the decision and concludes the Staff Dispute Resolution Procedure. When the employee requests reconsideration, the President's decision following reconsideration is final and concludes the Staff Dispute Resolution Procedure.

The President's decision following the hearing shall advise the employee that he/she has 35 days from the date on which the decision becomes final to seek review of the decision in the superior court pursuant to the provisions of the Administrative Review Act, A.R.S. Sec. 12-901, *et seq.*

Rules and Procedures Governing the Hearing

1. The employee, department representative, and witnesses appearing at the hearing shall present sworn testimony and be questioned regarding their direct knowledge of relevant facts. Each witness shall be admitted to the hearing room only during the time his or her testimony is requested, and shall hold himself or herself available for testimony during the time the hearing is in progress unless excused earlier by the Hearing Officer. Witnesses appearing at the hearing will be sworn in by the Hearing Officer or the Court Reporter prior to providing their testimony.
2. The hearing is closed to the public, unless an exception has been agreed upon by the employee and the Vice President for Business Affairs and Human Resources. Requests for open hearings shall be made in writing to the Vice President for Business Affairs and Human Resources at the time the employee requests consideration of the dispute at the fourth step.
3. The Vice President for Business Affairs and Human Resources, shall serve as technical advisor to the Staff Dispute Resolution Panel and the Hearing Officer.
4. The hearing shall be recorded by a court reporter. Audio tape recording by anyone other than the court Reporter or advisor to the panel shall be permitted only in an open hearing. Video tape recording is not permitted.
5. The Hearing Officer may impose reasonable restrictions on the participants that are necessary to assure the orderly presentation and resolution of the dispute, such as restrictions on the length of witness testimony and redundant statements.
6. As a condition of employment, all University employees must appear and offer testimony at any University administrative hearing to which they are called as a witness by either party to the dispute or by the University, unless the Hearing Officer determines that the witness's testimony is not relevant to the issues to be addressed at the hearing or that it is unreasonably burdensome for the witness to appear at the date and time specified. See Guidelines for University Employees Called to Testify in a Staff Dispute [5]
7. Employees may represent themselves and present their own cases to the Dispute Resolution Panel. Either party may have present and be advised and/or represented by an attorney or lay advisor before the hearing, at the hearing, or both. If the complainant will not be accompanied by an attorney or advisor at the hearing, generally the University representative will also participate without an attorney or advisor at the hearing. In an employee chooses to have a lay advisor or representative, that advisor or representative must agree in writing to the Vice President for Business Affairs and Human Resources, to serve without fee. The University is not responsible for any cost or expense incurred by the employee in consulting or engaging a lawyer or other representative in relation to the use of the dispute resolution procedure.
8. Relevant evidence of the sort that reasonable people rely upon in the conduct of their business affairs shall be admissible at the hearing and relied upon by the panel. The panel findings and conclusions shall be made on the relevant facts.

Out-of-Area Hearings

When an eligible employee, whose dispute meets the criteria in this policy, is employed by the University at a site other than Tucson or its surrounding area, the Vice President for Business Affairs and Human Resources shall provide the employee, the department representative, and the Hearing Officer with the information necessary to convene the hearing.

The Vice President for Business Affairs and Human Resources or designee shall serve as technical advisor to the Hearing Officer. The University of Arizona is not liable for any cost and expense incurred by the employee, other than for the employee's reasonable travel expenses incurred to the extent of reimbursement under the applicable University travel regulations, should the hearing site be greater than 150 miles from the employee's residence.

Rules and Procedures Governing Out-of-Area Hearings

The same rules, procedures and restrictions which govern the conduct of fourth-step dispute resolution hearings outlined elsewhere in this policy shall also apply to out-of-area hearings except that the Hearing Officer substitutes for the panel in out-of-area hearings.

The role of the Hearing Officer is to conduct the hearing in an orderly manner, find facts and make conclusions about the dispute, and submit a written report to the University President. The report shall include but is not limited to a brief summary of the hearing plus supporting data, the hearing officer's findings, conclusions, and recommendations for corrective action, if any, and any additional recommendations thought to be in the interest of sound University-staff relations.

General Provisions

1. An eligible employee shall be allowed reasonable time away from regular duties consistent with job responsibility or operational needs to prepare for and attend meetings related to the use of the Staff Dispute Resolution Procedure.
2. No person shall use or threaten to use their official authority to influence in any manner or to discourage the use of this procedure, nor shall any reprisal or retaliation result from an employee's use of the Staff Dispute Resolution Procedure.
3. Staff Dispute Resolution material shall not become a part of or be retained in a Classified Staff employee's official personnel file.

These procedures may be changed from time to time and those in effect on the date the dispute arose shall apply.

Related Information*

A.R.S. § 41-1062. Hearings; evidence; official notice; power to require testimony and records; rehearing [6]

Revision History*

Nondiscrimination sections updated April 30, 2015, August 24, 2018

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Source URL:

<http://policy.web.arizona.edu/employment-human-resources/staff-dispute-resolution-procedure>

Links

- [1] <mailto:hradmin@email.arizona.edu>
- [2] <http://policy.arizona.edu/employmenthuman-resources/requests-position-reclassification>
- [3] <http://policy.arizona.edu/human-resources/merit-increases>
- [4] <http://policy.arizona.edu/employmenthuman-resources/layoffreduction-force>
- [5] <https://hr.arizona.edu/employees-affiliates/workplace-climate/dispute-resolution-policies#hdr-32>
- [6] <https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/41/01062.htm>