

Personnel Review Committee

Guidelines for Grievance and Appeal Hearings



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Personnel Review Committee

Guidelines for Grievance and Appeal Hearings

The guidelines which comprise this document are intended for use as a stand-alone document by the members of the Personnel Review Committee. They are also to be used in conjunction with the policies and procedures outlined in the Human Resources Management Systems Policy Manual. Revisions to these guidelines will be considered on an annual basis and updates distributed to maintain currency.

Overview

The Personnel Review Committee (PRC) serves as a hearing committee to review the grievable complaints of University employees, and the appeals of those who are suspended or terminated, and to recommend to the President whether the remedy requested should be accepted or denied. PRC is composed of seven (7) members, at least two of whom shall be from the St. Croix campus, representing the non-teaching employment classifications of the University. Members shall be selected and appointed by the President in consultation with the Cabinet and shall serve two-year terms. The PRC is charged with hearing formal grievances and appeals filed by employees in accordance with the provisions in the Human Resources Policy Manual. The parties in a grievance or appeal shall be the following:

Grievant: The person(s) who seek(s) resolution to a difference of opinion through the filing of a grievance.

Appellant: The person who appeals.

Respondent: The person(s) against whom a grievance or appeal is filed.

The PRC is assisted by the Director of Human Resources and Organizational Development (HROD), and/or Human Resources (HR) Business Partner and the University's Legal Counsel who may be present at hearings or by phone as an advisor to the Committee.

Time Limits for Scheduling Hearings

The PRC will conduct hearings during fall and spring semesters, January through June, and September through December, respectively. No hearings will be held during July and August, when the PRC is in recess or during emergencies, natural disasters or random acts of God, which result in official University closing.

Time Frames for Grievance and Appeal Processes

Grievance

Within twenty (20) working days of receipt of the documents from HR, the PRC will conduct the preliminary review and, if appropriate, the Chairperson will schedule a hearing. At the conclusion of the last day of the hearings, the PRC will have fifteen (15) working days to deliberate, including additional investigations, write-up, review, refine, and submit the recommendation to the President. The President will have up to five (5) working days following receipt of the recommendation to render a decision, which shall be final.

Appeal

Within thirty (30) working days of receipt of the appeal, the Chairperson of the PRC will schedule a hearing. The PRC will review the information and evidence presented at the hearing and make a recommendation to the President, whose decision shall be final. The Appellant will be notified of the President's decision within twenty (20) working days from the last day of the appeal hearing.

Pre-Hearing Procedures

Within ten (10) working days of receipt of the formal grievance, the Director of HROD will provide the PRC copies of all evidence submitted by the Grievant.

The PRC is authorized to conduct a preliminary review of the Grievant's written statement and within five (5) working days make a recommendation to the President as to whether a grievance should be heard. The grievance must pass the test for definition of a grievance as cited in Section 5.02 - Grievance of the Human Resources Policy Manual. If, following the preliminary review, the PRC determines that the grievance is not grievable, (*See Nongrievable Claims, page 6*) it shall recommend to the President that the grievance be denied. The President's decision on this recommendation is final. The Grievant will be notified of the President's decision. Human Resources designee is available for advisement on claims that are deemed nongrievable.

When the PRC determines that a hearing shall be held the Grievant, the Respondent, advisor or counsel will receive notice of the time and place of the hearing.

The twenty (20) working days within which to hold a hearing shall be counted from the date of receipt of the grievance or within thirty (30) working days for the appeal by the PRC.

Hearing Procedures

The PRC will determine the most appropriate manner to proceed with the case. Options include the examination of written evidence, a hearing, or further investigation, if needed. When a hearing is scheduled, the following guidelines serve to protect the rights of both the Grievant and the Respondent and to assure fairness of the process:

1. The PRC will review a copy of the Grievant's written statement in advance of the first meeting.
2. The PRC shall not be bound by strict rules of legal evidence and may admit any evidence which is of value in determining the issues involved. Every effort will be made to obtain the most reliable evidence available. The findings of fact and the decision will be based solely on the hearing record and also upon evidence that may be uncovered in any subsequent investigation by the PRC.
3. The Grievant and Respondent have the right to present evidence and call a reasonable number of witnesses as determined by the PRC. Witnesses may be present only when testifying or being questioned.
4. The Grievant and the Respondent have the right to question all witnesses.
5. Each party has the right to an advisor or legal counsel of his or her choice to assist with preparation for the hearing and provide advice during the hearing. Counsel for either party has the right to question witnesses.
6. The PRC reserves the right to conduct its own investigation and to follow-up on any facts or evidence presented by either the Grievant or Respondent at the hearing.
7. Counsel shall not interfere in the PRC's ability to ascertain the facts in the manner it deems necessary.

At the beginning of the hearing, the Chairperson will:

1. Facilitate introduction of members of the PRC;
2. Explain the hearing procedure to the parties, including
 - a. the hearing will be taped.
 - b. the order of presentation.
 - c. the issues of confidentiality.
3. Receive testimony from the Grievant, Respondent, and witnesses.

The hearing will proceed in the following manner:

1. The Grievant will present the case, including evidence in the form of documents and witnesses. The Grievant shall present sufficient evidence to convince the PRC that the remedy requested is warranted.
2. The Respondent will respond and may also present evidence in the form of documents and witnesses. The Respondent may testify or may elect to remain silent.
3. The PRC may question the Grievant, Respondent and their witnesses in the manner it deems necessary.
4. The Grievant and Respondent will each have up to five (5) minutes to make final statements.
5. The PRC chairperson will close the hearing, set date for continuation of the hearing, if necessary, or convene deliberations.

The PRC Chairperson will preside over the hearing, and in conjunction with PRC members, will exercise the authority to make the following determinations:

1. Admissibility and relevancy of testimony and evidence (documents/exhibits).
2. Need to call or recall witnesses.
3. Tape recording of the hearing by the Grievant and Respondent will also be allowed.
4. Grievant and the Respondent must be present at the grievance hearing.
5. Hearing is limited to the Grievant, Respondent, advisor or counsel, witnesses only when testifying, and others whom the PRC may deem relevant. Spectators are not permitted.

Post-Hearing Procedures

Deliberations

At the conclusion of the final hearing, the PRC will have up to fifteen (15) working days to finalize its recommendation(s) to the President. Deliberations shall take place in private, with no less than a quorum of four (4) members of the PRC present. The Director of HROD and/or HR Business Partner shall be available to the PRC during the deliberations for advice and consultation.

In all deliberations, the PRC shall attempt to reach consensus on the findings and recommendation(s). If consensus cannot be reached, a vote shall be taken. All decisions of the PRC shall be made by majority vote. When the PRC is not unanimous in its

findings or recommendations, the report shall record both majority and minority opinions, with no abstentions permitted. However, the report will not enumerate the negative or affirmative votes of any individual members of the PRC. The deliberations will continue until the PRC has reached a decision on the findings and recommendations using the standards of proof of clear and convincing evidence. The PRC's findings, actions and recommendation(s) will be written and submitted to the President. Actions of the PRC must fall within the framework of the law.

Report of Recommendations

The PRC report of recommendations to the President shall include actions taken by the PRC, findings, conclusions drawn from findings, and the recommended response to the remedy requested. The report shall be signed by the PRC Chairperson, on behalf of all members of the PRC. Thereafter, the PRC Chairperson shall distribute copies of the report to the members of the Committee, Director of HROD and/or HR Business Partner, and University Counsel.

President's Decision

After reviewing the findings, actions, conclusions, and recommendations, the President will determine what administrative action shall be taken. In making a decision, the President will give weight to the recommendations made by the PRC unless there is evidence that the following has occurred:

1. The recommendations are unsupported by substantial evidence in the record made before the PRC when that record was viewed as a whole;
2. The recommendations clearly contradict University policies, or
3. The hearing procedures were not properly followed.

The Grievant or Appellant will be notified of the President's decision within five (5) working days from the President's receipt of the PRC recommendations. Copies of the President's decision will also be distributed to the Respondent, advisor or counsel, members of the PRC and the Director of HROD.

For grievances, the President's written decision will constitute final institutional action, and will not be subject to appeal. For appeals, the President's decision will also constitute final institutional action, subject only to an appeal to the Board of Trustees and their decision to grant the request for review.

Records Retention

The Director of HROD is the custodian of all official records developed during the investigation of a grievance or appeal. All records are considered confidential and will be retained in the Human Resources office for a minimum of five (5) years. Committee members should discard their working files upon receipt of the President's decision. Records relating to grievances involving violations of the University's policies on Equal Opportunity, Affirmative Action or Sexual Misconduct may be kept indefinitely at the discretion of the Director of HROD Manager. Such records shall be housed in the Human Resources office.

Sanctions

The PRC has no authority to impose any sanction, however, it may, as part of its investigation, recommend a particular sanction or course of corrective action. The authority to impose sanctions and other corrective action shall remain with the President.

Nongrievable Claims

The University has determined that the following issues are not grievable under the definition of a grievance:

1. Dissatisfaction with classification and compensation, including salary adjustment.
2. Layoff due to reduction in work-force arising out of institutional reorganization or for financial exigency.
3. Actions grieved after resignation or voluntary termination.
4. Failure to grant promotion due to unavailability of funds.
5. Performance-based salary increase or salary determination dictated through legislative law or prescribed by Human Resources policy.

Completion of these steps exhausts the University processes for resolving grievances and appeals.