

PERSONNEL

Personnel

Complaint and Grievance Procedures (6.10)

PURPOSE

The purpose of this policy is to provide a clear, orderly and expedient process through which all employees of the university may process bona fide complaints or grievances. Some grievances are covered by specific appeal processes; therefore, these procedures have no application to those grievances. These include appeals of tenure and promotion decisions, allegations of discrimination in employment on the basis of race, religion, color, sex, age, handicap, national origin, or veteran status or complaints of sexual harassment. These procedures also have no application to a termination procedure initiated against a tenured faculty member under TBR Policy No. 5:02:03:00 section III 16.d.

A grievance which is the subject of an action filed with an external body shall not be processed through these procedures. The term external body includes a court or federal or state administrative body such as the Equal Employment Opportunity Commission, Office of Civil Rights or Tennessee Human Rights Commission.

POLICY

It is the policy of Tennessee State University to provide an effective procedure for resolution of problems arising from the employment relationship or environment. To this end, a formal complaint/grievance procedure has been established for the use and benefit of all employees. When an employee believes a condition of employment affecting him/her is unjust, inequitable or a hindrance to effective performance of his/her employment responsibilities, the employee should seek resolution through these procedures without fear of coercion, discrimination or reprisal. It is the policy of this institution to make every effort to resolve disputes prior to their being reduced to a grievance. The President is responsible for implementation of these procedures and has final decisionmaking authority in any action subject to these procedures.

PROCEDURE

A. Matters Subject to the Complaint or Grievance Procedures

There are two types of matters which are addressed by this policy:

1. **COMPLAINTS** (Committee review not available) A complaint is a concern which an employee wants to discuss with supervisory personnel in an effort to resolve the matter. Personnel actions such as performance evaluations, rates of pay, position reclassification or position terminations due to reduction in force do not fall under the definition of complaint.

2. **GRIEVANCE** (Committee review available) A grievance may result from any action the institution has taken against the employee which:
- a. violates Tennessee State University or TBR policy, or involves an inconsistent application of these same policies;
 - b. violates any constitutional right. The most likely areas of concern are the First, Fourth or Fourteenth Amendments of the federal Constitution when action hampers free speech, freedom of religion, the right to association, or freedom from improper search and seizure or denies constitutionally required notice or procedures.

An employee may only grieve those matters defined in paragraphs a and b above.

B. Employees

Employees shall include administrators, faculty (including fulltime faculty on term or oneyear temporary contracts), professionals, clerical and support personnel. Probationary employees are also included in this definition. Student workers, graduate assistants, adjunct faculty and temporary workers are not included in the definition of employees.

As used in these procedures, the following terms shall have the meanings designated:

1. **Immediate supervisor** That person who is directly responsible for the supervision of the employee's activities.
2. **Nexthigherlevel supervisor** That person who is directly responsible for the supervision of the immediate supervisor's activities.
3. **Working days** Days on which the Business Office of Tennessee State University is officially open.
4. **Date of the decision** Date the decision is communicated to the employee if communicated in person; three (3) days after mailing of the decision, if communicated by mail.

GENERAL RULES OF IMPLEMENTATION

1. Employees using this procedure shall be entitled to do so without fear of retaliation, interference, coercion or discrimination.
2. A complaint/grievance must be presented to the employee's immediate supervisor (Step 1) within ten (10) working days after the occurrence of the incident. Any claim not presented within the time-frame provided shall be deemed to have been waived. For repetitive or ongoing incidents or circumstances, the complaint/grievance must be filed within ten working days of the last occurrence of such incident or circumstance.
3. Employees shall be given the opportunity to pursue complaints/grievances during their assigned work time. Access to procedures under this policy shall not interfere with the normal work flow of Tennessee State University.

4. The President may grant reasonable extension of the applicable time limit at each stage of the procedure upon the timely showing of good cause. The request for an extension must be in writing. The approval or denial of the request shall also be in writing.

STEPS FOR FILING THE COMPLAINT

1. Discussion with Immediate Supervisor

The employee should state the basis for the complaint and the corrective action desired in temperate and reasonable terms. The employee and the supervisor shall discuss the complaint in an attempt to resolve the matter. The supervisor shall conduct any necessary or appropriate investigation and inform the employee of a decision based upon full and fair consideration of all the facts within five (5) working days of the initial discussion. The immediate supervisor will assure the decision is clearly communicated to the employee.

If the employee is satisfied with the decision, no additional action is required. If the employee is not satisfied, the employee may proceed to Step 2. If no decision is communicated to the employee within five (5) working days of the initial discussion, the employee may proceed directly to Step 2.

2. Discussion with HigherLevel Supervisor

If the employee and the immediate supervisor are not able to reach a mutually satisfactory resolution to the complaint, the employee may proceed to discuss the matter with the nexthigher-level supervisor within five (5) working days of the date of the decision of the immediate supervisor. The nexthigherlevel supervisor and the employee shall then follow the same procedure as required in Step 1. Failure to comply with Step 2 in a timely manner shall be deemed a waiver by the employee and the complaint may not be raised again.

If the employee is satisfied with the decision reached by the nexthigherlevel supervisor, no additional action is required. If the employee is not satisfied, the employee may proceed to Step 3. If no decision is communicated to the employee within five (5) working days of the initial discussion between the employee and the nexthigherlevel supervisor, the employee may proceed directly to Step 3.

3. Written Grievance Statement

If the employee and the higherlevel supervisor are not able to reach a mutually satisfactory resolution to the complaint, the employee may file a written grievance statement with the Director of Personnel on the designated form (see Attachment#1). The grievance statement must be filed within five (5) working days of the date of the decision of the higherlevel supervisor. Failure to comply with Step 3 in a timely manner shall be deemed a waiver by the grievant and the grievance may not be raised again. A copy of the grievance statement, along with any supporting documentation, shall be given to the immediate supervisor and the nexthigherlevel supervisor. The Director of Personnel shall attempt to mediate the grievance to an appropriate resolution. If a mediation attempt should fail, the Director of Personnel will forward the

statement, supporting documentation and a recommended solution to the President.

Upon receipt of the written complaint/grievance, the President, in consultation with the appropriate Vice President, shall within ten (10) working days of the filing of the request, review all pertinent information presented by the Personnel Department. The President's decision shall be directed to the employee and copies shall be provided to all parties involved.

Grievances, as defined, which cannot be resolved shall be referred to a grievance committee where the grievant requests such review. The grievant has the option of choosing committee review when attempts to resolve the matter have failed or where it is apparent that such an attempt would be futile. Within ten (10) working days of receipt of a request for committee review, the President of the institution shall appoint the grievance committee.

Grievances which are processed through the grievance committee are appealable to the Chancellor only where they fall within the parameters set out in TBR Policy No. 1:02:11:00. This generally includes all grievances defined except those where the grievant has filed a lawsuit or appeal with a state or federal administrative body or court.

GRIEVANCE COMMITTEE

The grievance committee which is appointed by the President shall include seven members selected under the following guidelines:

- A. The chair and committee members will include individuals who have no vested interest in the outcome.
- B. At least one committee member will be a peer of the grievant.
- C. Every effort will be made to include other-race individuals and women in the composition of the committee.
- D. The committee shall conduct an independent and thorough investigation. In order to do so, it has the power to receive evidence from the grievant and to gather evidence from all sources and all witnesses.
- E. The procedure shall involve a fact finding by the committee at which time the committee will hear each witness, including the grievant, separately. The grievant will be allowed to present any pertinent evidence to the committee and to have the committee call those witnesses who have testimony pertinent to the decision.
- F. The committee shall make a written report of its recommendation and reasons to the President. The President may then adopt the committee's recommendation, in whole or in part, or make his/her decision independent of the committee's findings.
- G. The grievant shall be provided a copy of the committee's report along with the President's decision.

MAINTENANCE OF RECORDS

Copies of written complaints/grievances and accompanying responses and documentation will be maintained in the Personnel Office for three years.

REFERENCES

TBR Policy No. 1:02:11:00
TBR Policy No. 5:02:03:00 section III 16.d.
Supersedes "Grievance and Complaint Procedures" Policy No. 5:12 in the University Wide Policy Manual

EMPLOYEE COMPLAINT/GRIEVANCE

(Print)

- 1. Name_____
- 2. Position_____
- 3. Department_____
- 4. Name of immediate supervisor_____
- 5. Date complaint/grievance initially discussed with immediate supervisor_____
- 6. Name of nexthigherlevel supervisor_____
- 7. Date complaint/grievance initially discussed with next higher level supervisor_____
- 8. Explanation of complaint/grievance (include identification of any institution policy violated)_____

- 9. Corrective action desired_____
- _____
- _____
- _____

Employee's Signature

Date