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I. Policy

A. Purpose of Policy

This policy sets forth the grievance procedures for covered classified and unclassified employees in FTE positions at the University of South Carolina as required by the State Employee Grievance Procedure Act (Act). This policy ensures a fair review of specific employment-related issues for covered employees.

B. Non- Reprisal

Employees who choose to file a grievance or appeal must not be disciplined or otherwise prejudiced for exercising rights or testifying under the provisions of this policy.

C. Actions That May Be Grieved or Appealed

1. Grievances or appeals shall include terminations, suspensions, involuntary reassignments in excess of thirty (30) miles from the prior work station, and demotions.
2. Reclassifications, reassignments, and transfers within the same state salary range are not considered grievances or appeals. However, reclassifications are considered a grievance only if the University, or an appeal if the State Human Resources Director, determines that there is a material issue of fact that the action is a punitive reclassification.
3. Promotions are not adverse employment actions which may be considered grievances or appeals except in instances where the University, or in the case of appeals, the State Human Resources Director, determines that there is a material issue of fact as to whether or not the University has considered a qualified covered employee for a position for which the employee formally applied or would have applied if the employee had known of the promotional opportunity. However, when the University promotes an employee one organizational level above the promoted employee's former level, that action is not a grievance or appeal for any other qualified covered employee. Failure to be selected for a promotion is not considered an adverse employment action which can be considered a grievance or an appeal.
4. A salary decrease based on performance is an adverse employment action that may be considered as a grievance or an appeal.
5. A reduction in force is also an adverse employment action considered as a grievance only if the University, or as an appeal if the State Human Resources Director, determines that there is a material issue of fact that the University inconsistently or improperly applied its reduction in force policy or plan.

D. Informal Efforts to Resolve Matter

1. Prior to filing a formal grievance, the covered employee may first attempt to resolve the matter informally with his or her immediate supervisor. The matter may be presented verbally or in writing. However, this is merely an informal attempt to resolve the matter and cannot be substituted for the requirements of Step One in the University's grievance procedure.
2. Based on agreement by both parties, voluntary mediation of the grievance is always an option throughout the more formal procedure outlined below. If mediation of the matter is ongoing, the agreement to alter timeframes associated with the grievance process must be in writing and agreed to by both parties.

## II. Grievance Procedure

### A. Step One:

1. If the matter is not resolved informally with the covered employee's immediate supervisor, the covered employee must notify the University's Vice President for Human Resources in writing to initiate a formal grievance. The written notice should state specifically what is being grieved, the facts supporting the grievance and what relief is being sought. The covered employee must initiate the grievance with the University's Vice President for Human Resources within fourteen (14) calendar days of the effective date of the action being grieved.
2. The University's Vice President for Human Resources, or his/her designee, shall initially review the grievance to determine whether the matter involves a grievance as defined by the Act. The Vice President for Human Resources, or his/her designee, may review any information and records or take such other action as considered necessary to make this determination.
3. If it is determined that the matter is not grievable, the covered employee shall be so advised in writing by the Vice President for Human Resources, or his/her designee, normally within five (5) calendar days of receipt of the grievance. Such determination shall be a final decision within the University but it may be appealed to the State Human Resources Director.
4. If it is determined that the matter is grievable, the University's Vice President for Human Resources, or his/her designee, will contact the appropriate University representative(s), normally within five (5) calendar days of receipt of the grievance. However, any initial determination that the matter may be grieved shall only entitle the covered employee to have the matter considered in accordance with this grievance procedure and shall in no way be construed to be an adjudication of the merits of the grievance.
5. Upon notice that the matter is grievable, the appropriate Vice President, Chancellor, Dean, or other official designated by the University's Vice President for Human Resources, will review any information and records or take such other action as considered necessary in order to render a decision to uphold, reject, or modify the action taken against the employee. This Step One decision must be submitted to the grievant in writing within seven (7) calendar days from the date of the receipt of the grievance by the Vice President, Chancellor, Dean, or other official designated by the Vice President for Human Resources.

### B. Step Two:

1. To continue the grievance, the covered employee must notify the University President in writing within five (5) calendar days after receiving the Step One

decision.

2. Upon timely receipt of the grievance request, the University President, or his/her designee, will appoint an impartial Panel to conduct a fact-finding investigation of the grievance and make a recommendation to the President. The Panel will consist of five members of the 20-member Review Committee referenced in D. 6. below.
3. The Panel will schedule a hearing not later than five (5) calendar days from the Step Two filing date of the grievance. The covered employee will receive notice of the date, time, and place of the hearing that will be held.
4. Each party shall present its case to the Panel at the hearing without the presence of the other. If either party does not appear at the hearing and a postponement has not been approved by mutual written agreement, the hearing shall be held at the scheduled time, and the Panel members shall base their recommendation on a review of the record and the presentation of the case by the party present.
5. All deliberations of the Panel shall be conducted in private. The Panel's recommendation shall be reached by public vote based on a majority of those voting.
6. The Panel will conclude its hearing within twenty-three (23) calendar days of the filing of the Step Two grievance to the University President. The Panel will submit its findings and recommendations to the University President, or his/her designee, within this 23-day time period.
7. Within five (5) calendar days of receipt of the Panel's recommendation, the University President, or his/her designee, will issue the final decision in writing to the covered employee and the employing department or campus.
8. This final decision on a grievance will be issued within forty-five (45) calendar days of the filing of the grievance. The internal time periods of the University grievance procedure, however, may be waived upon the mutual written agreement of both parties.

#### C. Appeals to the State Human Resources Director

The Act provides for an appeal of a grievance beyond the University to the State Human Resources Director.

1. Any covered employee may appeal the decision of the University President, or his/her designee. Such appeal must be in writing and submitted to the State Human Resources Director within ten (10) calendar days of receipt of the University's final decision or 55 calendar days from the initial date the grievance was filed within the University, whichever occurs later.

2. As to the 55 calendar days, the Act provides that a covered employee may appeal directly to the State Human Resources Director in the event the University does not complete its entire internal grievance procedure within 45 calendar days from the time the grievance is initially filed within the University.
3. Failure by the University to issue a final decision within this 45-calendar-day period is considered an adverse decision. The failure to issue a final decision allows the covered employee to proceed with an appeal to the State Human Resources Director after 45 calendar days, but no later than 55 calendar days from the initial date the grievance was filed within the University. Failure by the covered employee to file an appeal within the time periods referenced in this paragraph shall constitute a waiver of the right to appeal.
4. Failure by the covered employee to comply with the internal time periods in the University grievance procedure constitutes a failure to exhaust administrative remedies and waives the covered employee's right to further continue the grievance. The internal time periods of the University grievance procedure, however, may be waived upon the mutual written agreement of both parties. The 45-calendar-day period for action by the University may not be waived except by mutual written agreement of both parties.
5. The Act allows the covered employee to appeal to the State Human Resources Director any grievance involving the issues specified in the Act after all administrative remedies to secure relief within the University have been exhausted.
6. The Act provides that a covered employee has the right during the grievance and appeal process to a representative, which may include legal counsel. If the covered employee chooses to exercise the right of legal counsel, it shall be at his expense.

D. Definitions/Administrative Procedures

1. Grievance means a complaint filed by a covered employee or the employee's representative regarding an adverse employment action taken by an agency designated in Section 8-17-330 of the South Carolina Code of Laws.
2. Appeal means the request by a covered employee to the State Human Resources Director for review of an agency's final decision concerning a grievance.
3. Covered employee means a full-time or part-time employee occupying a part or all of an established full-time equivalent (FTE) position who has completed the probationary period and has a "meets" or higher overall rating on his/her performance evaluation and who has grievance rights. If an employee does not receive an evaluation before the performance review date, the employee must be considered to have performed in a satisfactory manner and be a covered

employee. This definition does not include employees in positions such as temporary, temporary grant, or time-limited employees who do not have grievance rights.

4. Mediation means an alternative dispute resolution process whereby a mediator who is an impartial third party acts to encourage and facilitate the resolution of a dispute without prescribing what it should be. The process is informal and non-adversarial with the objective of helping the disputing parties reach a mutually acceptable agreement.
5. Calendar days means the sequential days of a year. For purposes of calculating time frames under the State Employee Grievance Procedure Act, the time must be computed by excluding the first day and including the last. If the last day falls on a Saturday, Sunday or holiday, it must be excluded.
6. The Review Committee
  - a. The University's Internal Review Committee shall be appointed by the President or his/her designee. The Committee shall consist of twenty (20) members representing supervisory and non-supervisory employees. For each grievance, the President, or his/her designee, shall appoint a five-member Panel, to be selected from the Review Committee, to conduct a hearing. The President, or his/her designee, shall also appoint a chairperson for the Panel. The chairperson, or a member designated by the chairperson, shall serve as the presiding officer at all hearings.
  - b. A quorum of any such Panel shall consist of three (3) members. Committee vacancies occurring for any reason shall be filled at the discretion of the President, or his/her designee. Panel members representing the administrative or academic unit from which the grievance originated shall be disqualified from participating in such hearings.
  - c. The covered employee and his or her representative and University staff may submit documentation for the Panel's consideration prior to the hearing.
  - d. The Panel shall have authority to call for additional files, records, policies and other information deemed pertinent to the case, and to call witnesses either on its own authority and/or upon request of the covered employee or the employing academic or administrative unit. The Panel may have access to the University's Division of Human Resources staff to assist in coordinating its activities.
  - e. The Panel in its recommendation may reject, modify, or uphold the decision or action that precipitated the employee grievance.

### III. Reasons for Revisions

- A. Changes the internal procedure from an adversarial process (whereby both parties testify in the presence of the other, with cross examination) to a non-adversarial one where a Panel is charged with fact-finding and recommending to the President.
- B. Removes alleged inequities in pay within the University as a grievable action since it is not provided for under the State Employee Grievance Procedure Act.
- C. Adds informal mediation as an option in the grievance procedure to encourage voluntary resolution of grievances.
- D. Removes one level from the previous three-step grievance procedure to promote greater efficiency and timeliness in the process.
- E. Establishes initiation of a grievance with the Vice President for Human Resources to determine if the matter is grievable prior to review of the facts/merits of a grievance by a Vice President, Chancellor, or Dean.
- F. Revises terminology to be more consistent with the State Employee Grievance Procedures Act.