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SECTION: Human Resources

SUBJECT: Grievance

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Policy for: All Campuses
Procedure for: All Campuses
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I. Policy

A. This policy sets forth the procedure by which permanent classified and unclassified administrative employees of the University of South Carolina are given the right to a fair review of employment-related complaints, pursuant to regulations of the South Carolina Office of Human Resources. Excluding employees exempted by Section 8-17-370 of the South Carolina Code of Laws, temporary and/or probationary employees, student employees, and certain contract employees, a grievance may be brought in accordance with this policy.

B. Non-Reprisal

An employee will be free from restraint, interference, coercion or reprisal in bringing a grievance, serving as a representative of a grievant, appearing as a witness or in seeking information about the grievance policy.

C. Actions Which May Be Appealed

1. Actions which may be grieved include dismissals, suspensions, involuntary reassignments, and demotions.

a. An involuntary reassignment is defined as the movement of an employee's principal place of employment in excess of 30 miles from the prior work station at the initiative of the University.

b. In the case of a reduction-in-force or reorganization, the reassignment of an

employee by the University in excess of 30 miles from the prior work station to the nearest work-site with an available position of comparable status for which the employee is qualified is not considered an involuntary reassignment.

c. An employee who is promoted and subsequently demoted prior to serving six months of satisfactory service in the higher classification may not appeal the demotion unless the demotion results in the employee occupying a lower classification than the classification held prior to the promotion.

2. Matters which may not be grieved include but are not limited to performance appraisals, letters of warning or reprimand, voluntary resignations and voluntary acceptance of a demotion or reassignment.

3. Promotion, compensation, reduction-in-force or reclassification may not be grieved except under the following circumstances:

a. The failure to be promoted may not be grieved; however, where an allegation is made that the employee was excluded from consideration for promotion to a position greater than one organizational level above his or her current level for which he or she was qualified when the promotional opportunity occurred, and the employee applied or would have applied if he or she had known of the promotional opportunity, and the Director of the South Carolina Office of Human Resources determines that there is a material issue of fact or conclusion to be drawn from the facts of the allegation, then the promotion is considered a proper action for grievance.

b. Compensation is not deemed a proper subject for consideration under the grievance procedure except as it applies to alleged inequities within the University or salary decreases based on the results of EPMS evaluations. Compensation may not be grieved if it represents a challenge to the structure of the Classification and Compensation system.

c. A reduction-in-force may not be appealed by an affected employee unless the appeal is based on an inconsistent or improper application of a reduction-in-force policy, procedure or plan.

d. A reclassification will not ordinarily be deemed an action which may be grieved as a demotion; however, if an allegation is made that a reclassification is punitive and the Director of the South Carolina Office of Human Resources determines that there is a material issue of fact or conclusion to be drawn from the facts of the allegation, then the reclassification will be deemed a proper action for grievance.

D. Time Limits of Grievance Actions

1. There is a time period of 14 calendar days in which an employee may file a grievance which begins at Step 1 of the University Grievance policy.

2. The 14-day period begins with the effective date of the action the employee is grieving. If the employee was not notified of the action on the date it occurred, the 14 days will begin on the date the employee was notified.

3. After the 14-day limit has expired, the employee forfeits the right of appeal under this policy. If appeals are routed through the U.S. Postal Service or any other bonded or licensed carrier, the time limit will have been met if the appeal is postmarked within the 14-day limit.

4. Failure by the grievant to comply with the time limits within each step will result in forfeiture of the right to appeal to subsequent levels.

5. Failure by University officials to comply with time limits within each step will allow the grievant to appeal directly to the next administrative level.

6. The internal time periods may be waived upon the mutual written agreement of both parties.
7. Time deadlines which fall on a Saturday, Sunday or an official University holiday will be extended to the next regularly scheduled workday.
8. The University will make a final decision on a grievance appeal within 45 calendar days of the initiation of the grievance by the employee.
9. Failure by the University to make a final decision on the appeal within 45 calendar days of the initiation of the grievance by the employee will be considered an adverse decision, and the employee may thereafter appeal to the State Employee Grievance Committee as specified in Section II. H. of this policy.
10. The 45-calendar-day period for action by the University may not be waived except by mutual agreement if a court action is pending.

II. Procedure

A. Notice of Appealable Actions

1. Each notice of an appealable action must be in writing. A voluntary acceptance of an appealable action on the part of an employee must also be in writing.
2. The notice must advise the employee of the action taken and, except in cases of written voluntary acceptance of the action, of the employee's right to appeal the action through the University Grievance policy.

B. Employee Assistance by Adviser or Counsel

Employees may be assisted by an adviser or counsel at any stage in the grievance process; however, the Vice President for Human Resources must be notified of such representation no later than one week prior to review by the Board of Review. The department may also have legal representation.

C. Consultation With Immediate Supervisor

1. University employees have the right to seek redress of complaints through consultation with the immediate supervisor. If followed in good faith by both the employee and the supervisor, this consultation should lead to a fair and prompt solution of daily employer-employee problems. However, if the complaint is not resolved and the complaint is an action which is subject to appeal through the University Grievance policy, the employee may present the grievance in writing to the department chair at Step 1.
2. In the event the immediate supervisor is the source of the complaint and the complaint is an action subject to appeal through the University Grievance policy, the grievant may waive the meeting with the supervisor and present the grievance in writing to the department chair at Step 1.

D. Steps of the Grievance Review

1. Step 1
 - a. Step 1 of the grievance appeal is the point at which the grievance comes under formal consideration by the employee's department chair. The appeal must be in writing, must state specifically what is being grieved, what relief is being sought, and must include a report on

efforts to settle the complaint informally. Facts which may be of assistance in arriving at a prompt and definitive resolution should also be included.

b. The Step 1 official will consider and answer the grievance in writing not later than seven calendar days following the receipt of the written appeal. If the Step 1 official fails to respond within seven calendar days or if the employee is not satisfied with the decision, the employee may appeal in writing to the designated University official at Step 2.

2. Step 2

a. Step 2 is an appeal to the designated University official at the level prior to the President, normally a Vice President or Chancellor or his or her designee.

b. The appeal must be made in writing within three calendar days following receipt of the response from Step 1. A copy of the written appeal and prior appeals and responses must be attached.

c. The Step 2 official will review the facts and may conduct consultations with the parties involved or take other action necessary to render a decision. The Step 2 official will consider and answer the appeal in writing not later than seven calendar days following the receipt of the written appeal.

d. If notification to the employee is not received during the time limit or if the employee is not satisfied with the decision, the employee, within three calendar days, may appeal the Step 2 decision to the President of the University.

3. Step 3

Step 3 of the appeal provides for the University President to appoint an impartial Board of Review to conduct a review of the grievance. Time limits of the Board of Review and the response from the President are found in Section II. G. 7. and 9. of this policy.

E. Designation of Reviewing Officials

1. The Step 1 reviewing official is the chair or director of the grieving employee's department, or the employee's immediate supervisor if the grieving employee is a department chair. For the Regional campuses, the dean is the Step 1 official.

2. The Step 2 reviewing official is a University vice president or chancellor, or other employee in the supervisory chain of authority reporting directly to the President.

3. The Step 3 reviewing official is the President of the University of South Carolina with the assistance of the Board of Review.

F. The Board of Review

1. The Board of Review is composed of five employees chosen by the President. The President will designate one of the five Board of Review members as chair. The chair will take whatever action is necessary to ensure an equitable, orderly and expeditious review.

2. The Division of Human Resources will provide procedural information to both parties and to the members of the Board of Review.

3. The Vice President for Human Resources, or the Vice President's designee, will serve in a non-voting advisory capacity to the Board of Review.

G. Review of the Grievance by the Board of Review

1. Both of the opposing parties will be present during presentation of the case to the Board of Review. Neither party may interrupt the case being presented by the opposing side. The

Board has the authority to determine the relevance of the questions and will have the right to deny cross-examination questions deemed irrelevant.

2. Each party will have the right to provide evidence or documentation relevant to the case. Both sides will be required to provide documentary material and witness lists, if any, three work days prior to the review. Documentary material or witness names not provided by the stated time will be permitted only upon a majority affirmative vote of the Board of Review.

3. Each party may receive a numbered copy of the record and a complete witness list at or after noon on the work day preceding the review. These documents will be available in the USC Division of Human Resources or the office of the Human Resources officer on the regional and four year campuses.

4. Each party will have the right to call witnesses; however, witnesses will only be present during the time of their testimony. It will be the responsibility of the grievant and of the department representative to notify their witnesses of the time, place and date of the review.

5. The grievant and the department representative may recommend the order of testimony and the appearance of witnesses for their respective sides.

6. The chair of the Board of Review, in consultation with the other members of the Board, may determine the relevance of the documentary material and the testimony of the witnesses. Documentary material or testimony which is unnecessarily repetitive or irrelevant may be denied in the hearing.

7. The Board of Review will reach its finding(s) and present its recommendation(s) to the University President within 20 calendar days of the day the appeal was made to the President.

8. The President may accept the recommendation of the Board in whole or in part, may reject the Board's recommendation or may call in the parties separately or together for further discussion.

9. The President or the President's designee will notify both parties of the final decision within five calendar days of the conclusion of the Board of Review.

10. If the department or the grievant requests either a transcript or a copy of a transcript of the proceedings of a Step 3 hearing before the Board of Review, the requesting party must pay the costs of the transcript or the copy. A deposit may be required before the process of transcription would begin.

H. Appeal to the State Employee Grievance Committee

1. An employee who is not satisfied with the decision of the President may appeal to the State Employee Grievance Committee any of the actions permitted as grievances in this policy, provided:

a. The employee has completed the required probationary period with satisfactory service in a permanent position; and

b. The employee has exhausted the administrative remedies available through the University Grievance policy.

2. The following actions are exceptions to the general rule of appeal and may not be appealed to the State Employee Grievance Committee:

a. An employee who is promoted and subsequently demoted prior to serving six months of satisfactory service in the higher class does not have the right to appeal the demotion unless the demotion is to a lower class than the class in which the employee was serving prior to

promotion.

b. An employee who is promoted and subsequently receives a reduction in pay prior to completing six months of satisfactory service in the higher class does not have the right to appeal the reduction in pay unless the action results in a lower rate of pay than that which the employee was receiving prior to promotion.

c. An employee who voluntarily resigns or voluntarily accepts a demotion or reassignment waives all rights to appeal such action. These actions can be rescinded only if the President of the University or the President's designee agrees.

d. An employee whose position is reclassified to a classification with a lower grade does not have the right to appeal the reclassification to the State Employee Grievance Committee unless the reclassification falls within section C.3.d. of this policy.

2. A University employee who wishes to appeal an adverse action to the State Employee Grievance Committee must, within ten calendar days from receipt of the decision of the President, or within 55 calendar days after the employee files the grievance with the University, whichever occurs later, advise the Director of the South Carolina Office of Human Resources in writing of the desire to appeal the University's action to the State Employee Grievance Committee.