

**PPP-61 Support Staff Grievance Procedures**

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## PPP-61 Support Staff Grievance Procedures

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This procedure provides a process regarding support staff grievances and complaints.

### Definitions

**Support staff** means employees who are not faculty, executive, administrative or professional staff. Student workers and graduate students are not included in the definition of employee.

**Grievance** means a complaint about one (1) or more of the following matters:

- a) Demotion, suspension without pay or termination for cause; or
- b) Work assignments or conditions of work that violate statute or policy.

**Complaint** (Committee review not available) means 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 re-classifications, job assignments, or position terminations due to reduction in force do not fall under the definition of complaint.

### Guideline

#### A. Application of Guideline

1. The following procedure is to be used for support staff employees who are demoted, suspended without pay, or terminated.
2. If the grievance involves or is based on unlawful discrimination or unlawful harassment, the process set out in Guideline P-080 must be utilized; however, if the President's decision includes demotion, suspension without pay, or termination, the employee so disciplined may use this procedure or the procedures described in TBR policy 1:06:00:05.
3. Standard grievance forms shall be made available to support staff at each work site, but no grievance may be denied because a standard form has not been used.

#### B. Complaint Procedure

The steps involved in the resolution of complaints follow the same procedures as those outlined for the resolution of grievances with the following exceptions:

1. Complaints do not include a right to a hearing or adversarial proceeding before the grievance committee; and,
2. The President is the final decision maker involving complaints; that is, the complainant does not have the right to appeal to the Chancellor of the Tennessee Board of Regents.

### Grievance Procedure:

#### A. Time for Filing

A grievance must be initiated within fifteen (15) workdays after the employee receives notice or becomes aware of the action that is the basis for the grievance. The administrator considering the grievance at each step shall issue a written decision. If the employee is not satisfied with the decision at any step, he/she must carry the grievance forward to the next step within fifteen (15) workdays after

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receiving the written decision. If the employee does not carry the grievance forward within fifteen (15) workdays, the grievance procedure shall be terminated and the grievance disposed of in accordance with the last written decision. For purposes of this procedure, the term “workdays” refers to Monday through Friday.

**B. Testimony, Witnesses and Representation**

At every step, the employee may testify and present witnesses and materials in support of his/her position. The testimony of an employee, given either on his/her own behalf or as a witness for another employee, will not subject an employee to retaliatory action. At every step, the employee may be accompanied by an employee representative. At the discretion of the panel chair, additional employees from the unit may be allowed to attend the employee panel hearing conducted as the final step.

**C. Steps of Review**

*Step 1 --Immediate Supervisor:*

1. Within fifteen (15) workdays after the employee receives notice or becomes aware of the action which is the basis for the grievance, the employee completes a Grievance Form (which may be obtained from Human Resources), submits it to Human Resources and provides a copy to his/her immediate supervisor or the administrator instituting the employment action.
2. Within fifteen (15) workdays after receipt of the Grievance Form, the immediate supervisor or administrator and the employee meet and discuss the grievance in a face-to-face meeting.
3. The supervisor or administrator completes a written decision within fifteen (15) workdays after the face-to-face meeting. If the supervisor/administrator fails to respond or if the decision is not satisfactory to the employee, the employee may carry the grievance forward to Step 2.

*Step 2 --Next Higher Level of Management:*

1. Within fifteen (15) workdays after receiving the written decision at Step 1, if the employee is not satisfied with the result of Step 1, the employee must notify Human Resources that he/she wants further review. Within fifteen (15) workdays after receiving notice that the employee wants further review, Human Resources schedules a face-to-face meeting, for the division head/vice president and the employee to discuss the grievance.
2. Within fifteen (15) workdays after the face-to-face meeting, the division head/vice president issues a written decision that includes specific reasons for the decision.

*Step 3 --Hearing:*

1. Within fifteen (15) workdays after receiving the written decision at Step 2, if the decision is not satisfactory, the employee can elect to have either a grievance hearing before a panel of university employees or a hearing before an administrative law judge under the Tennessee Uniform Administrative Procedures Act ("TUAPA"). The employee must notify Human Resources in writing whether he/she wants a hearing before an employee panel or a hearing before an administrative judge. For an employee panel, Human Resources selects the panel members,

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convenes the hearing and arranges for the grievance to be heard (in accordance with PPP-27). For a hearing before an administrative law judge, the procedure in Paragraph IV, below, must be followed.

2. The employee grievance panel may include staff non-exempt employees, staff exempt employees, or a combination of both exempt and non-exempt employees. The panel members representing the unit where the grievance originates may not serve on the Grievance panel.
3. The grievance panel shall hear the grievance within fifteen (15) workdays after the date on which the employee submits his/her written request to Human Resources. The decision of the institutional panel or commission is subject to review by the President.

### *Step 4 --Review by the President:*

The recommendation of the grievance panel will be forwarded to the President. Within fifteen (15) workdays the President or a designee will notify the grievant of the final decision. Decisions are appealable to the Chancellor only when the grievance falls within the parameters set out in TBR Policy 1:02:11:00.

## **Tennessee Uniform Administrative Procedures Act Hearings**

The following shall apply to contested case hearing conducted under Title 4, Chapter 5:

Hearings conducted under Title 4, Chapter 5 shall be heard by (i) a hearing officer or administrative judge employed by the Administrative Division of the Secretary of State's Office, (ii) a hearing officer or judge designated by the institution from the administrative, professional staff; or (iii) a hearing, committee appointed by the President or from the administrative, professional staff and/or appropriate employees. The institution has sole discretion to decide whether to exercise option (i), (ii), or (iii). The hearing officer or panel shall be selected as follows:

- A. In any case where a hearing pursuant to TUAPA procedures is required, the President shall determine, in his or her discretion, whether the hearing shall be held before a hearing officer or a hearing committee.
- B. Hearing officers shall normally be appointed by the President from the administrative or professional staff of the university. Upon request from the President, the Chancellor may appoint a hearing officer in any case, either from within or without the institution or center. Contested cases may also be conducted by an administrative judge from the Administrative Procedures Division of the Office of the Secretary of State. The university may submit a request for an administrative judge to the Office of General Counsel.
- C. A hearing committee may be appointed by the President from the university's administrative, professional staff and/or appropriate employees or students. The person appointed as chairperson of the committee shall be deemed to be the hearing officer for purposes of presiding at the hearing.

All proceedings shall be conducted according to the parameters set forth at TCA § 4-5-301 et seq., and TBR Policy No. 1:06:00:05, Uniform Procedures for Cases Subject to the Tennessee Uniform Administrative Procedures Act. Attorneys' fees and costs shall not be recoverable by the prevailing party.

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The complainant/employee shall bear the burden of proof.

### Other Requirements

- A. The Tennessee Board of Regents shall provide an annual report summarizing grievance activities of the previous year to the education oversight committee.
- B. Each institution shall include information regarding the grievance procedure in employee orientations.

*Source: TBR Guideline P-111, Presidents Meeting February 13, 2002; President's Meeting, May 21, 2002; TBR Update May 21, 2013*

*[Authority: Tenn. Code Ann. § 49-3-117, Acts 1993, ch. 301, § 1; Tenn. Code Ann. § 4-5-301 et seq.; Tenn. Code Ann. § 9-8-307, TBR Policy 1:06:00:05, Uniform Procedures for Cases Subject to the Tennessee Uniform Administrative Procedures Act.]*