

**NUMBER: 4.4.16****DATE: 06/20/2012****REVISION: 04/16/2014; 04/27/2017; 08/13/2019****PAGE: 1 of 6****SECTION: HUMAN RESOURCES****AREA: EMPLOYEE RELATIONS****SUBJECT: EMPLOYEE GRIEVANCE PROCEDURE**

### **PURPOSE**

The purpose of this policy is to provide a mechanism, available to employees, for seeking resolution to conflicts that might arise in the area of employee-management relations. It is always desirable that issues of conflict are resolved in an informal manner; however, that is not always possible in the normal course of activities in the workplace. This policy provides a neutral platform for seeking resolution.

### **SCOPE**

This policy applies to all non-faculty employees, who have successfully completed their initial or extended 90-day employment period, and are considered to be in a regular employment status (part-time or full-time).

### **POLICY**

When an incident forming the basis for a grievance arises, the grievant must follow the procedure outlined below. Each grievance shall be handled promptly and impartially, without fear of coercion, discrimination, or reprisal. Each participant in a grievance shall do his or her part to protect this right.

Records shall be kept of each grievance process. These records shall be confidential to the extent allowed by law, and shall include, at a minimum: the written grievance complaint filed by the grievant, the written response filed by the respondent, the recordings and documents from the hearing, the written recommendation of the Grievance Committee, and decision of the chancellor, should a grievance proceeding advance to that level. A file of these records shall be maintained by the Senior HR ("Sr HR") Director of Employee Relations, separate from the official employee personnel file.

### **DEFINITIONS**

**Grievance Panel:** Those individuals selected by the college deans and vice chancellors, from which grievance committees will be formed, as needed. At the request of the Vice Chancellor for Human Resources (Chief HR Officer), each vice chancellor and dean will nominate one individual from his or her area to serve on the panel. Should any panel member not be able to serve a full term, the Vice Chancellor for Human Resources (Chief HR Officer) will request a replacement be nominated to serve out the remainder of the excused members term. Panel members may serve no more than two consecutive terms of two years.

**Grievance:** A complaint against the University concerning the interpretation, application, or

claimed violation of a specific term or provision of University policy, or other matters which affect the employment relationship of the staff employee to the University. The following matters are excluded from the grievance procedure:

1. Wages and salaries;
2. Falsification of application materials or falsification of any document generated in connection with work;
3. Retrenchment of employees pursuant to Board Policy 405.5;
4. Matters involving reappointment, performance evaluation, and promotion which do not concern a claimed failure by the University to follow established policy;
5. Classification of positions;
6. Termination within thirty days notice or more;
7. Termination within the initial or extended ninety day employment period (probation);
8. At will termination pursuant to Board Policy 405.4; or
9. Disciplinary actions resulting from conduct that violates state or federal laws.

**Grievance Committee:** Three neutral staff employees selected by blind lots from the grievance panel to hear all evidence in a grievance and make a recommendation to the chancellor for resolution. Any panel member from the grievant's division will automatically be excluded from the selection process to establish the committee. For good cause shown, a selected committee member may be removed and replaced at the direction of the Sr. HR Director of Employee Relations.

**Grievant:** Any staff employee submitting a grievance as defined above.

**Respondent:** A person or persons alleged to be responsible for the violation(s) alleged in a grievance. The term may be used to designate persons with direct responsibility for a particular action or those persons with supervisory responsibility for procedures and policies in those areas covered in the grievance.

**Working Days:** Monday through Friday, excluding official UAMS holidays.

**Evidence:** As used in this policy, the term evidence includes all materials, documents, or testimony which will aid the Grievance Committee in making a fair and impartial determination. The Federal and State Rules of Evidence do not apply.

## **PROCEDURE**

### **Step I: Initial Attempt of Resolution**

- A. The grievant must submit a written statement to the department director specifying the violation(s) alleged, the reason for the grievant's belief that he or she is aggrieved, and the remedy sought. This written statement must be received by the department director within ten (10) working days following the incident which forms the basis for the grievance.
- B. Within ten (10) working days of receipt of the written statement, the department director

will attempt to resolve the grievance by a discussion (individually or jointly) with the grievant and the respondent.

- C. If the grievance is satisfactorily resolved by this discussion, the terms of the resolution shall be reduced to writing and shall be signed by the grievant, the department director, and the respondent (if the respondent has participated in any discussions with the department director in an effort to resolve the grievance and is affected by the resolution).
- D. This initial attempt of resolution must conclude within ten (10) working days of the department director's initial discussion with the grievant. At the end of this ten-day period, if the grievance cannot be resolved, the grievant can immediately proceed to Step II, presentation of a formal grievance to the Sr. HR Director of Employee Relations, Office of Human Resources.

## **Step II: Formal Grievance to the Dean or Division Head**

### **A. Filing a grievance:**

- 1. Grievances submitted to the Sr. HR Director of Employee Relations, Office of Human Resources, shall contain the following information: name of the grievant; nature, date, and description of the alleged violation(s); name(s) of person(s) responsible for the alleged violation(s); requested relief for corrective action; and any background information and supporting documentation the grievant believes to be relevant.
- 2. A grievance must be submitted to the Sr. HR Director of Employee Relations within ten (10) working days of the completion of the initial attempt of resolution, outlined in Step I above.

B. Immediately upon receipt of a formal grievance, the Sr. HR Director of Employee Relations will give the dean or division head a copy of the grievance and will request a review of the case and a written response be made to the Sr. HR Director of Employee Relations within ten (10) working days. The dean or division director is encouraged to meet with the grievant during this step in an effort to resolve the grievance.

C. Following receipt of the written response, the Sr. HR Director of Employee Relations may elect to review and decide the issue, or the Sr. HR Director of Employee Relations may refer the issue to the Grievance Committee for a hearing. If the Sr. HR Director of Employee Relations decides the issue, the decision shall be final, and there shall be no appeal. If the Sr. HR Director of Employee Relations refers the issue to the Grievance Committee, the grievance will be heard pursuant to the procedures listed below. The Sr. HR Director of Employee Relations has the discretion to designate another Sr. H R Director to serve in his/her stead during the hearing process. Should a designee be appointed, references to Sr. HR Director of Employee Relations would be replaced with his/her designee.

### **Step III Grievance Hearing Procedures:**

#### **A. Pre-Hearing Procedures:**

1. **Selection of Grievance Committee:** Within 5 days of determination that a grievance hearing should take place, the Sr. HR Director of Employee Relations shall draw the names of the three committee members.
2. **Schedule of Hearing:** The Hearing will be conducted no sooner than 10 working days and no later than 15 working days after the names are drawn, unless the Sr. HR Director of Employee Relations determines there is a specific reason why another time must be selected.
3. **Representation:** The grievant and the respondent may have one (1) person to assist in the initiation, filing, processing, or hearing of the formal grievance. This person may be an attorney, but may not address the Grievance Committee, speak on behalf of the grievant or respondent, question witnesses, or otherwise actively participate in the hearing. The Grievance Panel may also be assisted and advised by University counsel at its discretion.
4. **Evidence (as herein defined):** No later than 8:00 am, five (5) working days prior to the hearing, the grievant and respondent shall provide the Sr. HR Director of Employee Relations of all documents to be used and relied upon prior to the hearing. The grievant and respondent shall provide five copies of all documents to be used and relied upon during the hearing including the name, address, and telephone number of any representative and witnesses, and a summary of the witnesses relevant testimony. Once all documentation and copies have been provided to the Sr. HR Director of Employee Relations, a copy will be provided to the grievant and respondent, no later than 5:00 pm five (5) working days prior to the hearing. Failure to timely provide the information, of grievant or respondent to provide the information in a timely fashion could result in exclusion of that information during the hearing.
5. **Information to the Grievance Committee and Election of Chairperson:** No later than three (3) working days prior to the hearing, the Sr. HR Director of Employee Relations shall meet with the Committee to provide it with a copy of all documents and information submitted (as specified in paragraph 4 above), confirm the date and location of the hearing and withdraw from the room. The Grievance Committee will then convene briefly for the sole purpose to elect a chairperson and to decide whether the Committee requests the assistance of University counsel. The substance of the grievance shall not be discussed at this initial meeting and only the Committee is permitted to attend.

#### **B. Hearing Procedures:**

1. **Record of the Hearing:** The hearing will be recorded by recording devices supplied

by UAMS. These recordings shall be maintained for a period of five years after resolution of the grievance. The grievant or respondent may obtain a copy of the recordings from any recorded hearing, at the requesting party's expense.

2. **Sr. HR Director of Employee Relations:** At the beginning of the hearing, the Sr. HR Director of Employee Relations will announce the date, time, place, and purpose of the hearing, and will ask the members of the Grievance Committee to identify themselves by name and department. The grievant and the respondent will then identify themselves by name and department. Finally, any representative accompanying the grievant or the respondent shall identify himself or herself by name and title. The Sr. HR Director of Employee Relations will then give the Grievance Committee its charge. The Sr. HR Director of Employee Relations duty at that point is only to keep the investigation focused on the issue(s) for which the grievance was filed.
3. **Private Hearing:** The hearing shall be conducted in private. Witnesses shall not be present during the testimony of any party or other witness. Witnesses shall be admitted for testimony only and then asked to leave. The grievant and the respondent may hear and question all witnesses testifying before the Grievance Committee. As stated in section Step III(A)(3) above, the representatives of the grievant and respondent may attend, but shall not question witnesses or address the Committee.
4. **Presentation of Case:** This is a non-adversarial process, the witnesses are not sworn, the grievant and respondent shall be afforded reasonable opportunity for oral opening statements, closing arguments, their own testimony, and presentation of witnesses and pertinent documentary evidence, including written statements. Witnesses are not compelled or subpoenaed to appear and are to appear on their own accord, employees of UAMS are permitted to participate in the grievance process without suffering loss of compensation or leave time for the time spent during the process.
5. **Grievance Committee Rights:** The Grievance Committee shall have the right to question any and all witnesses, to examine documentary evidence presented, and to request the appearance of other witnesses or review other documentation as the Grievance Committee deems necessary. The Grievance Committee has the right to limit testimony and presentation of other evidence to that which is relevant to the violation(s) alleged and to further limit testimony and other evidence that is cumulative and unnecessary.
6. **Grievance Committee Deliberation:** After the hearing is concluded, the Grievance Committee shall convene to deliberate in closed session and arrive at a majority recommendation. The Grievance Committee shall make its determination of whether or not a rule, procedure or policy was not followed or was applied in an inequitable manner based upon the evidence presented at the hearing, which is relevant to the issue(s) before the Grievance Committee. The Grievance Committee may make recommendations for resolution of the dispute. No one else is to be present during the Grievance committee's deliberations, except when clarification about policy, procedures or rules is requested by the Grievance Committee from the Sr. HR Director

of Employee Relations or University Counsel.

7. **Transmittal of the Recommendation:** Within seven (7) working days after the hearing is concluded, the Grievance Committee shall transmit its recommendation in writing to the Sr. HR Director of Employee Relations.
8. Within five (5) days, the Sr. HR Director of Employee Relations shall transmit the grievance record and the Grievance Committee's recommendation, to the chancellor.
9. The chancellor may decide to accept the recommendation, amend it, reverse it, or refer the grievance back to the Grievance Committee for further deliberations and reconsideration. Within ten (10) working days of receipt of the Grievance Committee's recommendation, the chancellor shall prepare and send a written statement addressed to the grievant containing the chancellor's decision for resolution of the grievance and the reason for the decision. A copy of the chancellor's decision will be sent to the Sr. HR Director of Employee Relations and the respondent. The chancellor's decision is considered final and no further administrative review shall be available to the grievant.
10. The Sr. HR Director of Employee Relations shall inform the grievant's immediate supervisor, the department director, the dean or vice chancellor of the action required to carry out the chancellor's decision.

### **Title IX Grievances**

The following changes shall apply to this policy and the procedures set forth herein for any grievance taken pursuant to *UAMS Administrative Guide Policy 3.1.48*:

1. The grievance process shall begin at Step II; and
2. The Campus Title IX Coordinator shall assume the role of the Sr. HR Director of Employee Relations.

Signature: \_\_\_\_\_



Date: August 13, 2019