

Sam Houston State University
A Member of The Texas State University System

Finance & Operations Human Resources Policy ER-1
Dispute Resolution and Formal Grievance Procedure

SUBJECT: Dispute Resolution and Formal Grievance Procedure

PURPOSE: To provide a standard procedure whereby a current or separated employee (faculty or staff), who feels aggrieved may seek redress.

POLICY: It is the policy of Sam Houston State University that any employee who has a problem, complaint or dissatisfaction with the institution as an employer, has a conflict with a supervisor, or dispute with a coworker may file a grievance when there has been a violation of policy, procedure, regulation, or law. The grievance process is available to address issues related to wages, hours of employment or conditions of work, including work performance-related issues. Employees are assured of timely and thorough consideration of any grievance filed. Each employee is assured freedom from interference, coercion, discrimination and reprisal in filing grievances. All personnel actions are reviewed to ensure Equal Employment Opportunity (EEO) compliance.

SHSU's policy and procedures for grievance rights are established by the Texas Government Code § 617.005 and Texas State University System (TSUS) Rules & Regulations, Chapter V, § 2.15. This policy (ER-1) provides the procedures for grievances and sexual misconduct Finding and/or sanction appeals referenced in the TSUS Rules and Regulations, Chapter V, § 2.15. In the event of any conflict between this policy and the TSUS Rules and Regulations, the Rules and Regulations shall control.

A grievance concerning a faculty member's continued faculty employment, full-time faculty salary (not including possible summer teaching) or demotion in faculty rank, is governed by the TSUS Rules and Regulations, Chapter V, § 4.5.

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1. Employee Grievances

The Human Resources Department (HR) will assist any employee in understanding the grievance procedure. The [Grievance Statement Form](#) must be used when submitting a formal written grievance (Step Two). HR will act as a neutral and investigative resource rendering advice to both the employee and department when necessary. HR will engage in conversations with all parties regarding concerns and provide appropriate guidance; however, all statements made and documents submitted to HR are considered part of the official personnel record of the grievance. HR will contact and involve University administration as appropriate and necessary. Documents are submitted as an official grievance **after** Step One (see below) is completed.

Only one subject will be covered in any one grievance. A written grievance must be submitted with a clear and concise statement of the policy, procedure, regulation, or law that was allegedly violated, the date of the violation or incident, description of the issue involved, and relief the grievant is seeking.

Allegations of sexual misconduct or harassment are not governed by ER-1 (this policy) and shall instead be addressed in the TSUS **Sexual Misconduct Policy and Procedures (Sexual**

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Misconduct Policy. An **appeal** of a Finding of sexual misconduct and/or a sanction related to such Finding is governed by the procedures in Section 4 below. Other complaints of a discriminatory nature may be brought under this policy in conjunction with SHSU Policy ER-7, **Discrimination and Equal Employment Opportunity**.

2. Separated Employees

Employees voluntarily separating from SHSU are not provided access to the grievance process. However, SHSU reserves the right to investigate any illegal activity or violations of civil rights, and separating employees are encouraged to submit written notice with a detailed summary of such activity to the Associate Vice President for Human Resources and Risk Management (AVP) within ten (10) working days of leaving the University.

3. Procedures for Grievance and Appeal

The following steps are to be followed to ensure prompt and orderly handling of grievances:

STEP ONE

- (a) Employees must first notify their supervisor/chair in writing of the intent to initiate the grievance process so both parties are aware that Step One of the process is about to commence. This notice must be provided within ten (10) working days after learning of the action or condition giving rise to the grievance. A thorough review of Step One requirements by both employee and supervisor/chair is highly encouraged.
- (b) Within five (5) working days of the notice, the supervisor/chair, grieving employee, and department head or dean shall have a meeting to discuss the grievance and develop a *written* dispute resolution plan.
- (c) If the dispute is with a coworker, as part of the Step One process, employee and supervisor/chair will discuss the matter with the coworker and his/her supervisor/chair in an attempt to informally resolve the conflict. Employees and supervisors/chairs engaged in the grievance process shall make reasonable efforts to resolve the issue efficiently and expeditiously.
- (d) Step One is intended as an initial dispute resolution phase before filing a formal written grievance. This step shall be addressed as an interest-based, collaborative problem-solving process between all parties with the purpose of preserving working relationships and resolving the conflict.
- (e) During the dispute resolutions process, the following should occur:
 - (1) **COMMUNICATE ABOUT THE ISSUE** – The parties should speak and listen with the goal of understanding the issue that needs to be addressed and to help facilitate consideration of the interests of all participants.
 - (2) **IDENTIFY INTERESTS** -- Determine what concerns underlie each person's position and define the problem in terms of the interests of all parties.
 - (3) **GENERATE OPTIONS** -- Create a non-threatening environment and generate ways to solve the problem that will meet all interests.
 - (4) **EVALUATE OPTIONS** -- Evaluate the options in terms of their consequences and how they will meet all participants' interests.

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- (5) **DEVELOP A PLAN** -- A plan should be agreed upon to implement a solution to the problem. The plan should identify specific steps to resolving the problem, assign responsibilities, and provide mechanisms for dealing with problems in the future. *This plan shall be in writing and provided to all parties.*
- (f) If the grievance involves an institutional policy or procedure, the grievant or the supervisor may request an explanation of the policy or procedure from the Human Resources Department.
- (g) In the event an employee's grievance alleges discrimination involving issues related to wages, hours of employment or conditions of work, including work performance-related issues, and are based on race, creed, ancestry, marital status, citizenship, color, national origin, sex, religion, age, disability, veteran's status, sexual orientation, gender identity, or other criteria prohibited by law or policy, the employee must discuss the problem with the AVP.

STEP TWO

- (a) If a resolution is not reached in Step One, the employee may submit his/her grievance in writing on the Grievance Statement Form to the AVP within five (5) working days after completing Step One. Upon receipt of the Grievance Statement Form, HR will conduct an investigation within (15) working days. At the conclusion of the investigation, the AVP will issue a written response within fifteen (15) working days.
- (b) As part of the investigation and/or as an attempt to resolve the matter, the AVP may schedule a group meeting with all parties of the conflict, including their supervisors.
- (c) To assist with processing the grievance and developing a recommendation, the AVP may meet with or discuss grievance details with University administration and/or counsel.

STEP THREE – Appeal of Step Two Response

- (a) If the grievance is not settled in Step Two, the grievant may appeal by notifying the AVP in writing within five (5) working days of receipt of the Step Two written response. The appeal must include an explanation of the dissatisfaction with the Step Two response.
- (b) The AVP shall forward the appeal and all documentation to the applicable divisional Vice President for consideration.
- (c) The divisional Vice President shall review the matter and, at the Vice President's sole discretion, may choose to meet with parties to the grievance for additional clarification of the issues involved.
- (d) A written response from the Vice President shall be provided to the grievant and the AVP normally within fifteen (15) working days of receipt of the appeal from the AVP.
- (e) The Vice President's decision is final and binding.

4. Procedures for Appeal of Finding and/or Sanction of Sexual Misconduct

- (a) In accordance with Section 13. of the Sexual Misconduct Policy, Appeal of Finding or sanction, this policy section governs procedures for appeals of a Finding or sanction(s) relating to sexual misconduct of a faculty or staff employee under TSUS Rules and Regulations, Chapter V, § 2.15.
- (b) Appeal may be initiated by the Complainant or Respondent by notifying the AVP in writing within five (5) working days of receipt of the Finding and/or sanction of the grounds and rationale for the appeal.

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- (c) The AVP shall forward the appeal to the applicable divisional Vice President for consideration. The AVP shall also forward copies of the appeal to the Title IX Coordinator and the non-appealing party, whether Respondent or Complainant.
- (d) The divisional Vice President shall review the matter and, at the Vice President's sole discretion, may choose to elicit additional clarification of the issues from the Title IX Coordinator, Complainant, Respondent, or a Supervisor of the Complainant or Respondent.
- (e) A written response from the Vice President shall be provided to the AVP, Title IX Coordinator, Complainant, Respondent, and any Supervisor of the Complainant and/or Respondent normally within fifteen (15) working days of receipt of the appeal from the AVP.
- (f) The Vice President's decision is final and binding.

5. General Provisions

- a. **TIMELINES** -- The deadlines specified herein may be extended by the AVP. A request for extension must be submitted in writing at least one (1) day before the deadline and must include a reason for the request.
- b. **ROLE OF HUMAN RESOURCES** -- Human Resources shall guide the grievance and appeal process by gathering and providing information to the appropriate parties. References to the AVP throughout this policy include the AVP or his/her designee.
- c. **TRANSFER OF FUNCTION** -- If a grievance, whether informal or formal, is directed against a Vice President or the AVP, the functions assigned to the person by these procedures will transfer to the Vice President for Finance and Operations (VPFO) or President if the grievance is directed against the VPFO. Appeal of a grievance directed against a Vice President or AVP will be to the President.
- d. **RESORT TO OTHER PROCEDURES** -- If prior to filing a grievance hereunder, or while a formal grievance proceeding is in progress, a complainant seeks resolution of the grievance in any other forum, whether administrative or judicial, the University shall have no obligation to entertain or proceed further with grievance resolution procedures.
- e. **RIGHT TO ADVISOR** -- The grieving employee has the option to bring an advisor to present the grievance to the AVP or to an appeal meeting with the Vice President, if applicable. The advisor may not act as a participant in the meeting but may render consultation to the advisee. If the grieving employee chooses to exercise this option, he/she shall submit the name of the advisor in writing to the AVP at least forty-eight (48) hours prior to any meeting where the advisor will be present. If a grieving employee appears with a representative without having given proper notice, the employer may postpone the meeting until counsel can be consulted. The University reserves the right to have counsel at meetings when the grieving employee brings an advisor or counsel.
- f. **RETALIATION PROHIBITED** -- Under no circumstances will the University permit retaliation against an individual in any way as a result of seeking relief under this policy.

Reviewed by: David M. Hammonds, Associate VP for Human Resources & Risk Management-06/27/2018
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