



Alternative Service Committee

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Academic year 2013-2014

Policy 6.13/Grievance Procedure for Unclassified Professionals as of September 17, 2013



Policies & Procedures

6.13 / Grievance Procedures

Unclassified professionals should use the grievance procedures to resolve internal disputes. An unclassified professional who has a grievance must make a bona fide effort to resolve the matter through University channels.

Grievance Procedures in Summary Form:

1. An Unclassified Professional employee with a complaint regarding his/her employment with the University must make a bona fide effort to resolve the complaint informally through University channels. (See Sections 1 and 2 under "Grievance Process".)
2. If the complaint cannot be resolved to the complainant's satisfaction through informal channels, the complainant must submit a formal grievance petition to either the Director of Human Resources or the Director of Equal Employment Opportunity. (See Section 3 under "Grievance Process".)
3. The Director of Human Resources or the Director of Equal Employment Opportunity will then submit the grievance petition to the Unclassified Professional Grievance Steering Committee for processing. (See Section 4 under "Grievance Process".)
4. The Steering Committee will review the grievance petition, work with the complainant, respondent, and other involved parties to gather sufficient information and ensure that the grievance is in a form which can be processed, and will develop a plan and timeline to process the grievance. (See Section 5 under "Grievance Process".)
5. The Steering Committee will initially attempt to resolve the grievance through informal means. (See Sections 5, 6, and 7 under "Grievance Process" and Sections 1, 2, and 3 under "Resolution Processes".)
6. If all informal processes are unsuccessfully exhausted or if the Steering Committee believes that informal resolution cannot be achieved, the Steering Committee will refer the grievance for a formal hearing by the Grievance Review Committee. (See Sections 5, 6, and 7 under "Grievance Processes" and Section 4 under "Resolution Processes".)
7. Once the Review Committee has completed a formal hearing, the Review Committee will deliberate to develop its findings and recommendations regarding the grievance. The Facilitator will communicate the Review Committee's findings and recommendations to each of the parties in the case and to the proper review authority (University Vice President or University President) within twenty working days after conclusion of the formal grievance hearing. (See "Committee Recommendations".)
8. Following evaluation of the Review Committee's findings and recommendations, the review authority will decide the case. The review authority's decision will be communicated to the Facilitator, the complainant, and the respondent. (See "Review Authority Decision".)
9. If the review authority is a University Vice President, either party may appeal the decision to the University President. No appeal is available if the review authority is the University President. (See "Appeals".)

This grievance procedure is established to provide a means to resolve disputes or conflicts relating to employees of Wichita State University holding unclassified professional appointments. The Unclassified Professional Grievance Policy and Procedure shall operate under the aegis of the Unclassified Professional Senate.

Special Note:

A grievance cannot be brought against the President of the University. The President is the highest level of appeal within the Unclassified Professional Personnel grievance process.

GRIEVANCE COMMITTEE STRUCTURE**Steering Committee:**

The Unclassified Professional Senate shall appoint three members from the Wichita State University Unclassified Professional constituency to serve as the Grievance Steering Committee (hereafter referred to as the "Steering Committee"); members appointed to the Steering Committee shall hold Unclassified Professional appointments with "regular" status and be appointed with 0.5 or greater FTE. The Steering Committee shall be advised by the Director of Human Resources and the Director of Equal Employment Opportunity.

Members of the Steering Committee shall be reviewed, confirmed, or replaced at the beginning of each fiscal year. Service on the Steering Committee is voluntary. Maximum service on the Steering Committee shall be limited to three consecutive two-year appointments; after serving for six consecutive years, a member shall be ineligible for reappointment to the Steering Committee for two fiscal years. Steering Committee members may be replaced upon the conclusion of a two-year term or within a term at the discretion of the Unclassified Professional Senate based on the member's request or upon a majority vote of the senators. New Steering Committee members shall receive training and orientation from the Director of Human Resources, the Director of Equal Employment Opportunity, and current or former Steering Committee members.

Facilitator:

The Steering Committee shall elect one of its three members to serve as the Facilitator of the Unclassified Professional Grievance Procedure. The Facilitator shall serve as the voting chairperson of all Steering Committee meetings, as the non-voting chairperson of all Review Committee meetings, and as the liaison between those committees and all other concerned parties. Further, the Facilitator shall make all appointments to the Review Committees for replacement of members as necessary during formal hearing processes, schedule all meetings of the Steering Committee and Review Committee, and in conjunction with the other two members of the Steering Committee, develop a methodology and timeline for processing each grievance.

Grievance Committee Pool:

A pool of twenty Unclassified Professional Personnel shall be selected to serve as members of the Grievance Pool (hereafter referred to as the "Pool"). Members of the Pool shall be selected at random from a current list of unclassified professionals with "regular" status and FTE of 0.5 or greater; the Steering Committee shall ensure to the extent possible that appointees to the Pool reflect the diversity of the University's Unclassified Professional constituency. Appointments to the Pool shall be made at the beginning of each fall semester; terms of appointment shall be two years, with half of the Pool to be replaced each year. Appointments to the Pool shall be confirmed by the Unclassified Professional Senate.

New appointees to the Pool shall attend a training session conducted by the University's Director of Human Resources, the Director of Equal Employment Opportunity, and current or previous Steering

Committee members.

Members appointed and confirmed to the Pool are required to serve and shall not be excused from service as members of the Pool unless by special permission of the Unclassified Professional Senate due to extraordinary circumstances.

Review Committee:

In cases where a formal hearing is necessary, the Steering Committee shall select nine members from the current Pool to form a Grievance Review Committee (hereafter referred to as the "Review Committee[s]"); Review Committees shall be selected on a rotating basis as required. At all times during formal hearings and voting processes, seven voting members of the Review Committee shall be present. The Steering Committee shall ensure to the extent possible that the composition of the Review Committee reflects the diversity of the Unclassified Professional constituency.

Conflict of Interest:

A Review Committee member having a conflict of interest regarding a specific grievance case, as determined by the Facilitator, shall be excused, and an alternate member shall be selected from the Pool by the Steering Committee. If the Facilitator has a conflict of interest, another member of the Steering Committee shall assume the functions of the Facilitator for the duration of the case.

Challenges to Review Committee Membership and Appointment of Alternate Members:

If a grievance culminates in a formal hearing, each party may challenge up to two members of the Review Committee without providing justification. If this occurs, the Facilitator shall appoint alternate members from the Pool as necessary to maintain the Review Committee at nine members.

GRIEVANCE PROCESS

This process includes several methods, ranging from very informal to formal, which may be employed in the efforts to resolve disputes.

1. Initially, Unclassified Professional Personnel with complaints must make bona fide efforts to resolve their grievances through informal administrative channels. In most instances, this should occur within the department or office and should involve the complainant's immediate supervisor. Access should then be available to successively higher levels of authority, i.e., the budget officer, budget review officer, etc., to allow various administrative levels to evaluate and recommend resolution on an informal basis. Only when all appropriate informal channels have been exhausted should a case be referred to the Steering Committee for processing under the procedures described in this policy.
2. Other informal channels are available as well to assist in the resolution of problems. If the grievance involves conduct alleged to be discriminatory in violation of applicable laws or University policy, the complainant should contact the University's Director of Equal Employment Opportunity. In other cases, the complainant may contact the Director of Human Resources for advice. These avenues are available for assistance in coordinating the review process in the informal stages, and these two offices will, if necessary, facilitate the informal grievance process by arranging meetings and by providing coordination, advice, and assistance to both the complainant and the respondent in a serious attempt to resolve the issue.
3. If informal methods fail to resolve the dispute and the complainant wishes to file a formal grievance, the complainant shall request a grievance form from either the Director of Equal Employment Opportunity or the Director of Human Resources. The complainant must submit a written grievance

three months from the date on which the action complained of occurred or from the date on which it became known. The complainant shall submit the petition to the Director of Equal Employment Opportunity or the Director of Human Resources (as appropriate), who will coordinate the transition from informal discussions to a formal review process.

4. Upon receipt of a formal written grievance, the Director of Equal Employment Opportunity or the Director of Human Resources shall forward the complaint to the Steering Committee Facilitator for consideration and action.
5. The grievance petition, along with any supplied documentation, shall be reviewed by the Steering Committee to ensure that it is filed in a manner which will permit the grievance process to proceed. If the Steering Committee believes the petition is inappropriately or inadequately prepared, it may return the grievance petition to the complainant for clarification and/or revision. As part of this initial review process, additional information may be sought from any involved party or from the University in the form of memoranda, employee evaluations, appointment notices, formal correspondence, or other materials or documentation deemed pertinent by the Steering Committee. Collection of additional information and evaluation of the information shall continue until the Steering Committee is satisfied that sufficient data has been provided to permit effective review and resolution of the grievance. The Steering Committee shall then decide on a plan for the grievance review. Generally, this plan shall include one or more of the following resolution processes, although the Steering Committee has the authority to modify the processes as necessary to fit the circumstances of individual cases and to maximize the probability of reaching a resolution to the grievance.

The Steering Committee has the authority to move the case from one process to another as it believes necessary to resolve the grievance. The Steering Committee also has authority to terminate the grievance process or to refer the grievance directly to a Review Committee for formal hearing due to non-cooperation of one or more parties in the case. In addition, the Steering Committee may delay or terminate proceedings under these procedures if any party to the complaint initiates litigation or files a complaint with an administrative agency. Actions of the Steering Committee shall be determined by individual circumstances of each case.

6. Generally, attempts should be made to resolve grievances in the least formal methods possible. The progression from least formal process to most formal process may be followed in any order deemed appropriate by the Steering Committee and may, in special circumstances, include steps or procedures not specifically outlined in this document.
7. If any party in a grievance proceeding requires special assistance due to a disability, the party should communicate that need in advance of the proceeding to the Facilitator, who shall confer with the Director of Disability Services to provide reasonable accommodation.

RESOLUTION PROCESSES

1. Discussions between the Parties

The Steering Committee may require additional discussion between the parties and may specify the participants. All parties shall provide the Steering Committee with written evaluations of progress achieved in these meetings. The discussion process may continue as long as the parties' evaluations to the Steering Committee indicate that progress is occurring. All parties involved in a grievance resolution attempt shall be expected to make bona fide efforts to participate in the discussions and to

resolve the conflict through this avenue. Recording devices shall be prohibited unless approved by the Facilitator as a reasonable accommodation for a disability.

2. Written Exchanges

The Steering Committee may require a written exchange of perceptions and viewpoints, with all documents to pass through the Steering Committee. As with the discussion process, this procedure may continue until resolution is achieved or until the Steering Committee decides to move to another resolution process.

3. Mediation

The Steering Committee may appoint a mediator to conduct mediation sessions. External and internal mediation services are available to the University and may be used as necessary and appropriate. The method, timing, participants, and location of the mediation process shall be determined solely by the appointed mediator. Recording devices shall be prohibited unless approved by the Facilitator as a reasonable accommodation for a disability.

4. Formal Hearing

The last stage in the grievance resolution process is the formal grievance hearing. This method shall be employed as a last resort and only after the Steering Committee is satisfied that all informal attempts to resolve the grievance have been exhausted or are/would be unproductive.

All parties in the grievance shall be notified of the scheduled date, time and place for the formal hearing. Failure to appear may result in a finding against the party who does not participate.

Lists of witnesses who will be asked to testify and documents which will be submitted at the hearing must be provided at least five working days prior to the hearing for a determination of relevance by the Steering Committee.

If a formal grievance hearing is required, the Review Committee shall fully inquire into all matters at issue, receive written evidence and documents, and, as appropriate, hear testimony and oral arguments. Members of the Review Committee and the Facilitator may address questions to witnesses and any party involved in the grievance.

The parties in the grievance shall have a right to:

a. Appear in person.

b. Invite a current member of the WSU faculty or staff to be present solely as an advisor. The advisor's role shall be limited to providing advice to the party on whose behalf he/she is attending the hearing, and the advisor shall not directly address or communicate with the Review Committee or any of the other parties in the case. No party involved in the grievance shall have legal representation present during the hearing.

c. Submit oral and written argument and offer testimony both themselves and through witnesses.

d. Introduce into the record documentary and other evidence. Formal rules of evidence shall not be used.

e. Cross-examine other parties and witnesses.

The Facilitator has the authority to exclude any individual from the formal hearing for disruptive conduct.

Recording devices shall be prohibited unless approved by the Facilitator as a reasonable accommodation for a disability.

Hearing Agenda:

For the record and for the benefit of all concerned, the Facilitator shall read the grievance, explain the purpose of the hearing, and the nature of the Review Committee's functions and responsibilities.

The agenda will be at the discretion of the Facilitator, but ordinarily will include:

- a. The complainant's opening statement (unless waived).
- b. The respondent's opening statement (unless waived).
- c. Presentation of testimony and other evidence by the complainant. Cross-examination by the respondent. Questions by the Review Committee.
- d. Presentation of testimony and other evidence by the respondent. Cross-examination by the complainant. Questions by the Review Committee.
- e. The Review Committee may recall any person involved for additional questioning. The Review Committee reserves the right to exclude witnesses if it deems them repetitive or non-productive to resolution of the grievance.
- f. Rebuttal or closing statement by complainant, followed by rebuttal or closing statement by respondent.
- g. At the conclusion of the hearing, the Facilitator shall advise the parties that they will be informed in writing of the Review Committee's findings and recommendations within twenty working days.

COMMITTEE RECOMMENDATIONS

Within twenty working days following the conclusion of the grievance hearing, the Review Committee shall forward its findings and recommendations to each of the parties in the dispute and to the proper review authority (University Vice President or President). The review authority may elect to accept, reject, or modify the Review Committee's recommendations. The existence of the grievance procedure assumes that the Review Committee's recommendations shall normally be accepted and will be rejected or modified only for compelling reasons.

If the grievance process is terminated at any point by the Steering Committee due to non-cooperation by one or more parties, the Steering Committee shall provide a report of its action and recommendations to the proper review authority (University Vice President or President).

REVIEW AUTHORITY DECISION

Decisions by the review authority (University Vice President or President) regarding the Review Committee's recommendations shall be communicated to the Facilitator, the complainant, and the respondent by the Director of Equal Employment Opportunity or the Director of Human Resources.

APPEALS

A decision by a University Vice President may be appealed to the University President. No appeal is available when the University President is required to make the initial decision regarding the Review Committee's recommendations.

RECORDS OF GRIEVANCE REVIEWS

Case records of the Unclassified Personnel Grievance Steering and Review Committees shall be filed with the Director of Equal Employment Opportunity.

CONFIDENTIALITY

All details pertaining to grievance cases and formal grievance hearings shall be kept confidential unless subpoenaed by a proper authority.

Revision Date:

June 17, 1999

February 12, 2004



CHAPTER 6



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