



OHSU POLICY MANUAL

Policy Number: 03-50-001

Policy Title: UNCLASSIFIED EMPLOYEE GRIEVANCE PROCEDURE

Effective Date: December 15, 2017

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1. Definitions

The following words and phrases mean:

- A. *Applicable University Office*: The Office of Academic Affairs for academic employees and the Human Resources Department for unclassified administrative employees.
- B. *Grievance*: A complaint that the employee was wronged in connection with compensation, tenure, promotion, or other conditions of employment or that the employee's legal rights were denied as to reappointment; however, non-renewal of a fixed term contract at the expiration of the term is not otherwise grievable.
- C. *Other conditions of employment*: Includes, but is not necessarily limited to, violations of policies and procedures under which the University operates, but shall exclude challenges to actions or procedures described in Section 2.
- D. *Days*: Calendar days, Sunday through Saturday unless expressly designated otherwise.
- E. *Weekdays*: Monday through Friday excluding official holidays designated by the President.

2. Purpose and Application

The following procedures provide unclassified employees and former employees terminated no more than one month with a grievance process that affords peer review.

These procedures apply to all academic and administrative unclassified employees. The process is managed for academic employees by the Office of Academic Affairs and by the Human Resources Department for unclassified administrative employees. Should a grievance directly involve one of the Applicable University Offices (Affected Office), the other Applicable University Office will act in place of the Affected Office.

Trainees overseen by the Graduate Medical Education office, including post-doctoral resident and fellow physicians, are subject to a different grievance process maintained by the Graduate Medical Education office.

3. Exclusions

These provisions are not available to grieve or appeal sanctions for cause, affirmative action or discrimination grievances, the termination of faculty due to program or department elimination or reduction or financial exigency, or to other circumstances where an OHSU policy provides that this grievance policy is not applicable. Separate procedures apply to those matters. This procedure shall conclude within 180 days of the filing of a grievance at the informal stage. All time periods in this procedure may be extended by authorization of the Applicable University Office.

4. Grievance Pool

All faculty and administrative staff are eligible to serve on a grievance committee and will be expected to participate in the grievance pool as part of their service to OHSU. Unclassified employees will constitute a grievance pool available to serve on *ad hoc* committees when necessary.

5. Initiation of Grievance Process

A person who has a grievance shall bring the grievance to the attention of an appropriate individual (i.e., immediate supervisor, advisor, department chairman, or appropriate administrator) within 20 weekdays from the date that the grievant knew or should have known of the alleged grievance. Upon being notified of the matter, the appropriate individual will arrange for a meeting, at a time convenient to the grievant, but within 10 weekdays of notification, if feasible.

6. Informal Phase of Grievance Process

If the grievant is unable to resolve the grievance to the grievant's satisfaction, the grievant may file a grievance with the Applicable University Office. The grievant shall describe in writing the nature of the grievance, the underlying facts in support of the grievance and the nature of the redress which the grievant seeks. Grievances shall be reviewed by the Applicable University Office and the Legal Department to determine whether the matter is grievable.

Grievances that are determined to be discrimination complaints shall be forwarded to the Affirmative Action and Equal Opportunity Department.

After filing the grievance, the grievant may elect an informal process involving an internal mediator. Grievants are encouraged to utilize the informal process and both the grievant and respondent shall participate in the selection of the mediator. The mediator shall be appointed by the Applicable University Office within 10 weekdays of the request for an informal process by the grievant, if feasible. The mediator and the two parties shall meet within the next 10 weekdays to discuss the problem. The informal process shall be limited to no more than 30 days and may be terminated at any time upon request of the grievant or the mediator.

If a satisfactory resolution is reached, the mediator shall prepare a statement for both parties to sign. The statement shall include a summary of the grievance and the agreed to resolution. A copy of the agreement shall be given to both parties and the Applicable University Office. That office shall be responsible for overseeing the implementation of the agreement.

When the informal grievance procedure is terminated without a resolution, the grievant may within 10 weekdays after receiving the mediator's written report (described below) to file a formal grievance. The grievant may terminate the informal procedure by informing the mediator in writing. The mediator will acknowledge receipt of the termination notice in writing to both parties and the Applicable University Office.

Whenever the informal procedure is terminated without a resolution, the mediator shall prepare a written report within 10 weekdays of the termination. The report shall include:

- A. A summary of the grievance; and
- B. A summary of the information gathered by the mediator.

The report shall also inform the grievant of the grievant's right to file a formal grievance and explain to the grievant the steps necessary to accomplish this. A copy of the report shall be sent to both parties and to the Applicable University Office.

7. **Formal Grievance Procedure**

To initiate a formal grievance following an informal process, the grievant must notify the Applicable University Office in writing that the grievant intends to proceed with the formal procedure. Such notice shall be provided given within 20 weekdays after (a) the termination of the informal grievance procedure without resolution; or (b) the informal process was rejected by the grievant.

The Applicable University Office shall within 20 weekdays of receipt of the notice by the grievant appoint the initial Grievance Committee (hereinafter "Committee").

Upon notification that the grievant has initiated the formal procedure, grievant(s) and the respondent(s) may nominate potential Committee members as a non-exclusive list of candidates for the Applicable University Office to consider. To the extent possible and practical peers of both parties shall be represented on the Committee. The Applicable University Office shall appoint a Committee of five members. Following initial selection and agreement to serve from the members, the grievant and respondent each have a total of two peremptory challenges with which to object to the inclusion of a member selected to serve on the Committee. After the Committee is appointed it shall convene within 10 weekdays for its first meeting, if feasible. The

Applicable University Office and the Legal Department shall be responsible for instructing the Committee regarding the conduct of the Committee and the scope of the Committee's authority.

At the first meeting, the Committee shall elect one member to act as Chair until the grievance under consideration has been resolved or until a recommended solution has been forwarded to the Applicable University Office. The Committee shall hear all sides of the matter and review such documentation as is made available to it. All parties to the grievance and individuals having custody of records, special knowledge, or other factors relevant to the grievance, are expected to cooperate with the Committee, to supply any relevant documentation it requests, and to appear before the Committee if it so requests.

The grievance procedure outlined in this document is not intended to be an adversarial legal process. However, at any stage of the proceedings, each party to the grievance may be accompanied by an advisor of that party's choice (at no cost to the other party). If authorized by the party to the grievance and the Chair of the Committee, such advisors may speak on the party's behalf.

Besides its role as a fact-finding body, the Committee may attempt to resolve the grievance. At any time during the hearing procedure an acceptable resolution is reached, the Committee shall prepare a statement for both parties to sign. The statement shall include a summary of the grievance and the agreed to resolution. A copy of the agreement shall be provided to both parties, to the Applicable University Office, and to the members of the Committee. The Applicable University Office shall oversee implementation of the agreement.

8. Grievance Committee's Report

At the discretion of the Committee or upon request of either party, the hearing shall be recorded and all parties to the grievance shall be provided access to this recording. If the hearing is not recorded, the Chair of the Committee shall prepare a written summary of each meeting. After amendments as appropriate, each Committee member shall sign and attest to the accuracy of these summaries. The summaries shall be appended to the copy of the Committee's report which shall be sent to the Applicable University Office and the parties. If a satisfactory resolution is reached, the Chair of the Committee shall prepare a statement for both parties to sign. The statement shall include a summary of the grievance and the agreed to resolution. A copy of the agreement shall be provided to both parties and to the Applicable University Office. That office shall oversee the implementation of the agreement.

If a satisfactory resolution to the grievance is not reached within 30 days after the Committee hears the matter, then a written report from the committee shall be forwarded to the Applicable University Office. The report shall include:

- A. A report of the Committee's findings of fact in the matter;
- B. Written findings based only on the evidence presented at the hearing;
- C. A list of solutions and/or compromises which have been proposed to the parties to the grievance by the Committee, if any; and
- D. The recommended solution or determination of the grievance.

Copies of the Committee's report shall be forwarded to all parties to the grievance. The Applicable University Office shall act on the grievance within 20 weekdays of receiving the Committee's report. If the Applicable University Office rejects or modifies the recommendation of the Committee, the reasons shall be stated in writing and a copy provided to both parties to the grievance and the members of the Committee.

9. Appeals

The Applicable University Office's decision may be appealed by the grievant within 20 days of receipt of the decision to the Provost if the grievant is an academic employee or the Vice President for Human Resources if an unclassified administrative employee. To initiate an appeal, the grievant must submit the request in writing and the Provost or Vice President must respond within 60 days.

The appeal must identify one of the following by clear and convincing evidence:

- A. Procedural error committed by the institution during the grievance procedure and the error resulted in substantial prejudice to the grievant;
- B. The decision of the Applicable University Office is not supported by substantial evidence; or
- C. The decision is in conflict with applicable rules or law.

The Provost's or Vice President for Human Resources' decision shall be in writing and shall be sent to the grievant, the respondent(s), the Applicable University Office and the members of the Committee. The Provost's or Vice President's decision is final.

Related Policies and Procedures:

Policy 03-05-050, Equal Opportunity Complaints

Policy 03-70-005, Procedures for Sanctions of Pay, Reduction, Suspension or Termination of Unclassified Employees

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Responsible Offices: Academic Affairs and Human Resources