

Georgia State University
Staff Grievance Procedure

I. Purpose

The purpose of the Georgia State University Staff Grievance Procedure is to provide a fair and efficient process to resolve employee grievances.

II. Applicability

A. This Grievance Procedure is available to any classified employee working at least .5 FTE (full time equivalency) who has completed the provisional employment period. This Grievance Procedure is not available to temporary employees, faculty, students or non-University employees (consultants, contractors, etc.).

B. This Grievance Procedure may be used by an eligible employee to bring a grievance about:

- an action or decision that is inconsistent with a specific University rule, regulation or policy;
- a suspension, demotion, or other disciplinary action(s); or
- an involuntary termination (involuntary terminations do not include resignation or retirement).

This Grievance Procedure may not be used to bring a grievance about:

- performance evaluations;
- flexible work option(s) decisions;
- reductions in force;
- salary and grade classification determinations;
- organization of a department or allocation of its resources;
- termination of grant funding; or
- non-renewal of a limited term position.

Complaints regarding allegations of discrimination on the basis of race, color, religion, national origin, sex, age, sexual orientation, veteran status or disability should be filed with the Georgia State University Opportunity Development/Diversity Education Planning Office and in most cases are not appropriate for the Georgia State University Staff Grievance Procedure.

III. Informal Resolution

Employees, supervisors and managers are encouraged to identify and resolve workplace problems as early as possible. An employee who has a

complaint covered by this Procedure is encouraged to first bring the complaint directly to the attention of the person(s) whose actions are the subject of the complaint. At this stage, these individuals should consult with the Office of Employee Relations and/or the Office of the Ombudsperson for assistance in identifying methods for informal resolution (mediation, facilitated discussion, etc.). Audio taping of informal mediations is prohibited.

IV. Grievance Procedure

A. Filing a Grievance

1. If an employee is not able to resolve a complaint informally and wishes to continue to pursue the matter, or the employee has chosen not to discuss the complaint with the person(s) whose actions are the subject of the complaint, the employee may submit a completed Grievance Form to the Office of Employee Relations. The Form may be obtained from the Office of Employee Relations and the web at:
<http://www2.gsu.edu/~wwwhre/forms/GrievanceRequestForm.pdf>. The Form should be submitted to the Office of Employee Relations no more than thirty (30) business days from either the event which caused the complaint or an unsuccessful attempt of informal resolution, which includes but is not limited to an unresolved mediation or an inability to schedule a mediation.
2. The Office of Employee Relations will forward the grievance to the person against whom the grievance is brought (now referred to as "Respondent") within five (5) business days of receiving the Grievance Form. The Respondent will have ten (10) business days from receiving the grievance to submit a written response to the Office of Employee Relations.
3. The Office of Employee Relations will assess the grievance within ten (10) business days of receiving the grievance by reviewing the written grievance and response, and will meet separately with the employee (now referred to as the "Grievant") and the Respondent. Within ten (10) business days of these meetings, the Office of Employee Relations will notify, in writing, the Grievant, Respondent, and the Vice President/Dean for the Grievant's area of employment, if necessary, whether the grievance will be referred for mediation or for review by the Vice President/Dean.

B. Mediation

Mediation is a process that allows the parties involved in a conflict the opportunity to discuss problems and generate solutions. If the grievance is referred to mediation and the parties agree to participate in mediation, the Office of Employee Relations will be responsible for selecting a mediator that is agreeable to the Grievant and Respondent, and for scheduling the mediation at a time that is convenient to all the parties involved. The Office of Employee Relations will schedule the mediation within fifteen (15) days of the party's agreement to participate in mediation. The Grievant and Respondent each may be assisted during the mediation by a non-attorney advisor. The advisor is permitted to serve in an advisory capacity only, not as an advocate or spokesperson for the party. If mediation produces a resolution, the Office of Employee Relations will confirm the resolution with the mediator and notify the parties, in writing, within ten (10) business days of the mediation. If a resolution is reached through mediation, the grievance will be considered closed. If mediation does not produce a resolution, the Office of Employee Relations will submit the grievance to the Vice President/Dean for the Grievant's employment area for review. If a resolution is not reached by the parties, offers of compromise exchanged during the mediation cannot be used by either party during other steps of this Grievance Procedure. Audio taping of formal mediations is prohibited.

C. Review by Vice President/Dean

If the Office of Employee Relations determines that mediation is not appropriate, the parties do not agree to mediation, or mediation is not successful, the Office of Employee Relations will submit the grievance to the Vice President/Dean for the Grievant's area of employment to review. The Vice President/Dean may delegate the responsibilities under this Section to an Associate or Assistant Vice President or Dean in the employee's area of employment, so long as the designee is not the person against whom the grievance is brought. The Vice President/Dean or his/her designee will have fifteen (15) business days from receiving the grievance to issue a decision. After consulting with the Office of Employee Relations, the Vice President/Dean will meet separately with the Grievant and Respondent and review all available evidence related to the grievance. The Grievant and Respondent each may have an advisor present at these meetings. The Vice President/Dean will then issue a decision and notify the parties, in writing.

D. Grievance Hearing

1. Requesting a Hearing

The Grievant may appeal the Vice President/Dean's decision by requesting a hearing before the Board of Review. The Grievant should submit a request for a hearing, in writing, to the Office of Employee Relations within five (5) business days of the Vice President/Dean's decision. The Office of Employee Relations will notify the Respondent, in writing, of the request for a hearing within five (5) business days of receiving the request.

2. Board of Review Selection

- a. The Staff Council will maintain a standing committee consisting of at least 7 members, from whom the Board of Review members will be selected. The Office of Employee Relations will provide training to all Board of Review members and will provide administrative support throughout the Board of Review process. The Office of Employee relations will also provide advice on procedural matters to the Board of Review, Grievant and Respondent.
- b. Any Staff Council committee member who has personal knowledge of the grievance or is employed in the same department as the Grievant or Respondent may not be considered for the Board of Review.
- c. The Office of Employee Relations will provide to the Grievant and Respondent a list of seven (7) potential Board of Review members who are available to conduct a hearing. From this pool, names may be struck alternately by the Grievant and Respondent until three (3) names remain on the list. The Grievant is permitted to strike the first name in the selection process. The last two names struck from the list will be retained as alternates. From the three (3) names, the Office of Employee Relations will appoint one (1) of the Board of Review members to serve as the Chair. The Office of Employee Relations will notify the parties, in writing, of the Board of Review members and the hearing date. The process of selecting the hearing panel should be completed within five (5) business days and the hearing date schedules within fifteen (15) business days of completing the panel selection.
- d. If the Grievant is unable to attend the hearing because of circumstances beyond his/her control, he/she must notify the Office of Employee Relations and an alternate date will be scheduled. If the Grievant fails or refuses to appear at the hearing, or fails to provide sufficient reasons for non-attendance, the grievance will be

considered closed and the decision of the Vice President/Dean will be upheld.

3. Pre-Hearing Activities

- a. The Grievant will be required to prepare a written summary of the allegations, compile relevant documentation, provide a list of witnesses who can substantiate the allegations or documentation, including a statement as to what each witness will testify about, and supply the name of the advisor who will attend the hearing. The Grievant is responsible for providing the Office of Employee Relations with five (5) copies of the required information. This information must be submitted to the Office of Employee Relations at least ten (10) business days in advance of the scheduled hearing.
- b. The Respondent will be required to prepare a written summary of the responses to the Grievant's allegations, compile relevant documentation, provide a list of witnesses, including a statement as to what each witness will testify about, and supply the name of the advisor who will attend the hearing. The Respondent is responsible for providing the Office of Employee Relations with five (5) copies of the required information. This information must be submitted to the Office of Employee Relations at least ten (10) business days in advance of the scheduled hearing. The Respondent is required to petition the Board of Review to introduce any information or witness testimony not contained within the Respondent's written summary.
- c. At least five (5) business days before the scheduled hearing, the Office of Employee Relations will provide to each the Grievant and Respondent copies of the opposing party's information. The Board of Review will also be provided copies of the parties' information.
- d. If either the Grievant or Respondent wishes to present new evidence that was not available when the appeal was considered by the VP/Dean under Section IV.C above, then the Grievance Hearing shall be postponed so that the VP/Dean can review the new evidence and issue a decision. Only evidence that could not reasonably be discovered by either of the parties at the time of the review by the VP/Dean will be considered. Once the VP/Dean has reviewed the new evidence and issued a decision, then the Grievant may continue

his/her appeal before the Grievance Hearing as set forth under Section IV.D, or abandon the appeal.

4. Board of Review Hearing

- a. Attendance at the hearing is limited to the Board members, the Office of Employee Relations, the Grievant and the Grievant's advisor, and the Respondent and the Respondent's advisor, and University legal counsel, when necessary. Each advisor is to serve only in an advisory capacity and may not present evidence or serve as an advocate or spokesperson. Witnesses may only be present while testifying.
- b. The Board Chair will preside at the hearing and will rule upon all procedural matters, in consultation with the Office of Employee Relations and the Board members, as necessary. The formal rules of legal procedure and evidence will not apply. The Chair will follow these procedures with flexibility and in an atmosphere of collegiality so that the Board is able to receive sufficient information on which to base a recommendation.
- c. The Board will make its decision and recommendations based solely on the information presented by the parties during the hearing. The burden of proof is on the Grievant who shall have the burden of proving the allegations raised in the grievance upon the preponderance of the evidence, which means that the fact sought to be proved is more probable than not.
- d. All relevant evidence, including hearsay, may be admitted. The Board may exclude information if it is immaterial or irrelevant.
- e. The hearing will be audio recorded and the tapes will be stored by the Office of Employee Relations. Deliberations of the Board will not be audio recorded. Copies of the tapes may be obtained, upon request and payment of copying expenses, after the Board has forwarded its recommendation to the Provost.
- f. The hearing will begin with an opening statement from the Board Chair, followed by opening statements first from the Grievant and then the Respondent. Each opening statement will be limited to 15 minutes. Following opening statements, witnesses, if any, may be called to testify. The Grievant and Respondent have the right to question each witness. The party asking questions should not testify while questioning a witness.

The Board members may ask questions of the witness(s), Grievant and Respondent at any time. The hearing will end with closing statements, limited to 15 minutes each. The first closing statement will be made by the Respondent, followed by the Grievant, and then the Board Chair.

5. Post Hearing Activities

- a. The Office of Employee Relations will attend the Board of Review deliberations in order to clarify any issues for the Board and will assist the Board in preparation of the Board's report.
- b. The Board of Review will prepare a report consisting of a summary of the testimony, findings of fact, and recommendations. The Board's recommendations for resolving the grievance will be separated from those that provide suggestions or comments on the operations or management of the unit, if any, so as to specify clearly those sections of its decision that relate to the resolution of the specific grievance and those that relate to operations.
- c. Within five (5) business days of the hearing, the Board Chair will submit the report to the Office of Legal Affairs for review to ensure that the Board's recommendations are in compliance with the policies of the Board of Regents and the University. If there is a policy concern, the Office of Legal Affairs will contact the Board Chair to clarify the recommendation. If necessary, the Board of Review may be convened to reconsider the recommendations to bring them into compliance with the policies of the Board of Regents and the University. The Office of Legal Affairs review will be completed within five (5) business days unless the Board Chair or Board of Review must reconsider the recommendations.
- d. Once the Office of Legal Affairs has completed the review of the Board's report, the Office of Legal Affairs will submit the report to the Provost.
- e. The Provost will make a final decision within ten (10) business days of receiving the Board's report. The final decision will be communicated, in writing, to the Grievant and Respondent. The Board's report may also be provided to the parties. Copies of the Provost's decision will be provided to the Office of Employee Relations and other parties, as necessary.

E. Appeal to the President

The Grievant may appeal the Provost's decision by submitting a written appeal to the President within five (5) business days of the Provost's decision. The President's review will consider only the written record; no new evidence will be considered. The President will have ten (10) business days from receiving the Grievant's appeal to issue a decision, in writing, to the Grievant and Respondent. Copies of the President's decision will be provided to the Office of Employee Relations and other parties, as necessary.

F. Appeal to the Board of Regents

The Grievant may appeal the President's decision by submitting a written appeal to the Board of Regents within twenty (20) business days of the President's decision, as provided by Article IX of the bylaws of the Board of Regents.

V. Miscellaneous Provisions

A. Deadlines

The University strives to resolve grievances by the deadlines established in this Procedure, however each grievance is unique and the circumstances of a particular grievance may prevent the meeting of a deadline. If it is not possible for a deadline to be met, every effort will be made by the parties involved to minimize the delay and proceed through the processes outlined in this Procedure as close to the deadlines as possible.

All deadlines established in this Procedure are stated in terms of business days. If a deadline falls on a weekend or scheduled holiday, the deadline will be the next scheduled workday of Georgia State.

B. Advisors

Each party in the grievance may elect to have an advisor to assist or support the party. Except for mediation, the advisor may be an attorney. The advisor is permitted to serve in an advisory capacity only, not as an advocate or spokesperson for the party.

C. Time allowed for Preparing an Internal Grievance

An employee filing a grievance under this Procedure is not permitted to prepare his/her grievance during working time. An

employee may take vacation time to prepare a grievance, as long as such vacation time is approved in advance by the employee's supervisor.

D. Confidentiality

All individuals participating in a grievance under this Procedure must keep information related to the grievance confidential, except as necessary to fulfill the requirements of this Procedure or to the extent permitted by law.

E. Non-Retaliation

Employees have the right to use this Procedure free from threats or acts of retaliation. Employees may not be retaliated against for participating in a grievance as a grievant, witness, advisor or Board of Review member. If an employee believes he/she has been retaliated against due to his/her participation in the grievance process, he/she may file a grievance under these Procedures.

F. Internal Procedures

If an employee appeals to an outside organization or agency, or initiates litigation related to the subject matter of the grievance before this grievance procedure has been completed, the review of the grievance will be suspended, pending the outcome reached by the outside organization or agency.

G. Grievance Against a Vice President/Dean

If an employee has filed a grievance against the Vice President/Dean of his/her employment area, then the employee may choose to have the grievance reviewed by the Provost or to submit the grievance to the Board of Review. If the employee selects to have the Provost review the grievance, the Provost will do so in accordance with the procedure outlined in Section IV.C., above. An appeal of the Provost's decision will follow the procedures outlined in Sections IV.E and F above.