

Georgia State University
Staff Grievance Policy

I. Purpose

The purpose of the Georgia State University (“University”) Staff Grievance Policy (“Policy”) is to provide a fair and efficient process to resolve employee work-related grievances.

II. Applicability

A. The process described by this Policy is available to any University staff working at least .5 full time equivalency (“FTE”) who has completed the provisional six-month employment period. It is not available to temporary employees, faculty, students, retirees, volunteers, or non-University employees (e.g., independent contractors, vendors, etc.).

B. Pursuant to this Policy, an eligible employee may bring a work-related grievance about:

- an involuntary termination (involuntary terminations do not include resignation or retirement);
- a suspension or demotion; or
- an adverse action or decision that allegedly violates, misinterprets, or improperly applies a specific University policy, procedure, rule, or regulation.

This Policy may not be used to bring a grievance about other concerns, including, but not limited to:

- performance evaluations;
- letters of reprimand or other similar progressive disciplinary actions;
- performance action, development or improvement plans;
- normal supervisory/managerial counseling;
- salary and grade classification determinations;
- reassignment or transfer of job duties and responsibilities;
- relocation of worksite locations;
- organization of a department or allocation of its resources;
- termination of grant funding;
- non-renewal of a limited term position;
- department hiring decisions;
- flexible work options decisions;
- reductions in force;
- furloughs;
- voluntary separation agreements; or
- allegations of discrimination on the basis of race, color, religion, national origin, sex, age, sexual orientation, veteran status, disability, or allegations of retaliation. Complaints regarding allegations of such discrimination or retaliation should be filed with the University’s Affirmative Action/Equal Employment Opportunity (“AA/EEO”) Office. In the event that an eligible employee files a grievance while he/she has an open AA/EEO investigation, the eligible employee’s grievance will be placed on hold until the conclusion of the AA/EEO investigation and all deadlines will be modified accordingly.

III. Informal Resolution

Employees, supervisors and managers are encouraged to identify and resolve workplace problems as early as possible. An employee who has a grievance covered by this Policy is encouraged to first bring the grievance directly to the attention of the person(s) whose actions are the subject of the grievance. The Office of Employee Relations (“Employee Relations”) and/or the Office of the Ombudsperson are available to such parties for assistance in identifying methods for informal resolution.

IV. Staff Grievance Procedure

A. Filing a Grievance

1. If an employee is not able to resolve a grievance informally or chooses not to attempt informal resolution, the employee may submit a completed Grievance Complaint Form to Employee Relations (at which time the employee shall be referred to as “Grievant”).

Unless there is good cause for delay, Grievant must submit the Grievance Complaint Form to Employee Relations no more than ten (10) days from the event that caused the grievance. If filed after that time, the Grievance Complaint Form must be accompanied by a written explanation for the delay. The Director of Employee Relations will rule on whether the Grievant has good cause for filing the Grievance Complaint Form late. If there is no good cause for delay, failure to submit the Grievance Complaint Form within ten (10) days of the event that caused the grievance will result in the forfeiture of grievance rights and the applicable employment decision shall stand.

The Grievance Complaint Form is available in person from Employee Relations and online on the Employee Relations’ website. Submitted Grievance Complaint Forms must include:

- a thorough written explanation of the exact nature of the allegations, including relevant dates;
- identification of the exact University policy, rule, or procedure allegedly violated, if applicable;
- copies of relevant supporting documents;
- the specific remedy requested;
- a list of witnesses who can substantiate the allegations (including a statement as to what each witness would testify about at a grievance hearing);
- the name of Grievant’s advisor, if applicable; and
- if past the ten (10) day filing deadline, a written explanation of Grievant’s good cause for such delay.

Only issues and allegations identified in the Grievance Complaint Form will be considered.

2. Within five (5) days of receipt of the completed Grievance Complaint Form, Employee Relations will review the Grievance Complaint Form, determine whether or not the grievance meets the applicability criteria set forth in Sections II(A) and (B), above, and take the applicable action described below.

- a. If the grievance does not satisfy the applicability criteria, the matter will be closed and Employee Relations will notify the Grievant of this action.

- b. If the grievance satisfies the applicability criteria, Employee Relations will forward the Grievance Complaint Form to the person against whom the grievance is brought (now referred to as “Respondent”) with notice that Respondent is required to prepare a response to the Grievance Complaint Form (which will thereafter be referred to as the “Grievance Response Form”) within ten (10) days, which must include:

- a thorough written response to Grievant’s allegations, including relevant dates;
- copies of relevant supporting documentation;
- a list of any witnesses who can substantiate the Respondent’s actions (including a statement as to what each witness would testify about at a grievance hearing); and
- the name of Respondent’s advisor, if applicable.

3. Within five (5) days of receipt of the Grievance Response Form, Employee Relations will provide written notice to both Grievant and Respondent whether the grievance will be referred for mediation or reviewed pursuant to the Board of Review process. At this time, Employee Relations will also provide a copy of the Grievance Response Form to Grievant.
4. If Grievant asserts more than one (1) grievance based on similar facts and circumstances against the same Respondent (e.g., grievances about a suspension and a subsequent involuntary termination), Grievant's grievances shall be consolidated into one (1) grievance for purposes of administration through the review process; however, each grievance will be considered separately by the applicable review bodies.

B. Mediation

1. Mediation is a process that provides the parties involved in a conflict with the opportunity to discuss problems and generate solutions. If the grievance is referred to mediation and the parties agree to participate in mediation, Employee Relations will refer the matter to University's Mediation Coordinator, who will be responsible for selecting a mediator and scheduling the mediation within ten (10) days of the parties' agreement to participate in mediation. The Grievant and Respondent may each choose to bring an advisor to the mediation but are responsible for selecting advisors who are available at the scheduled mediation time. Advisors are permitted to serve in an advisory capacity only and may not serve as an advocate or spokesperson for a party.
2. If mediation produces a resolution satisfactory to both parties, Employee Relations will, within five (5) days of the end of mediation, confirm with Grievant and Respondent that a resolution has been achieved and subsequently close the grievance. Employee Relations will notify all applicable parties in writing of the closure of the grievance following a mediation resulting in a resolution for the Grievant and Respondent.
3. If mediation does not produce a resolution to which both parties agree, the Grievant may request a hearing before the Board of Review by making a written request to Employee Relations within five (5) days of the end of mediation. Employee Relations will notify the Respondent of the request for a hearing within five (5) days of receiving Grievant's request.
4. 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 Policy.
5. Parties participating in mediation must keep all information related to the grievance and mediation confidential, except as necessary to fulfill the requirements of this Policy or to comply with applicable law.

C. Grievance Hearing

1. Board of Review
 - a. The University shall maintain a standing committee consisting of selected staff members from which the three (3) person Board of Review members will be selected.
 - b. Every two (2) years, each officially-designated University dean and vice president shall appoint three (3) staff members from his/her department/unit to serve on the standing committee, each of whom should have a reasonable understanding of University policies and procedures, including, but not limited to, University employment and business practices, and at least one of whom shall have

supervisory responsibilities. The list of appointed staff members shall be sent to Employee Relations.

- c. Employee Relations will provide regular training to the standing committee and will provide administrative support throughout the Board of Review hearing process. Employee Relations will also provide advice on procedural matters to the standing committee and the Board of Review.
- d. If a grievance meets the criteria for a Board of Review hearing, Employee Relations will appoint three (3) members of the standing committee to a Board of Review and will appoint at least three (3) members of the standing committee to serve as an alternate Board of Review member. At least one (1) member of the Board of Review must have supervisory responsibilities. Employee Relations will not select any standing committee member who has personal knowledge of the grievance, is employed in the same unit/department as the Grievant or Respondent, or who has any other conflict of interest with the parties or the Staff Grievance Policy process itself. The three (3) non-alternate members shall select a Chair from among themselves.
- e. Employee Relations will promptly notify Grievant and Respondent of the composition of the Board of Review. The Grievant and Respondent are each authorized to request one (1) proposed member of the Board of Review be removed from the Board of Review for any reason, but such party must submit his/her request in writing to Employee Relations within five (5) days of the notice of the Board of Review's composition. Failure to meet this deadline forfeits such party's authorization to request a Board of Review member be removed from the panel. The order of replacement in the event of granted requests to strike shall begin with the Board of Review alternate member and then move to the standing committee, as applicable. Any decisions regarding Board of Review alternate members shall be in the sole and absolute discretion of Employee Relations, or its valid designee.
- f. Within ten (10) days of completing the Board of Review selection, Employee Relations will give the parties written notice of the hearing date and time. If Grievant or Respondent is unable to attend the hearing due to material circumstances beyond his/her control, he/she must notify Employee Relations as soon as possible to request a rescheduled hearing date and time. Rescheduling will only be considered when reasonably warranted, as determined in the sole discretion of Employee Relations. If the Grievant fails to appear at the hearing without a materially sufficient reason for non-attendance, as determined in the sole discretion of Employee Relations, the grievance will be closed and the underlying work-related actions will be upheld.

2. Board of Review Hearing

- a. Employee Relations will distribute copies of Grievant's Grievance Complaint Form and Respondent's Grievance Response Form to the Board of Review at least five (5) days before the Board of Review hearing.
- b. Attendance at the hearing is limited to the Board of Review members, Employee Relations, the Grievant and Grievant's advisor, the Respondent and Respondent's advisor, and University legal counsel, when applicable. 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. It shall be the responsibility of the Grievant and the Respondent, as applicable, to ensure that his/her advisors and/or witnesses are present for the Board of Review hearing. In

limited circumstances approved by Employee Relations, witnesses may be made available during the Board of Review hearing by phone. In such instances, witnesses must be available for a period of time to allow for testimony, cross-examination, and questions from the Board of Review. Affidavits from witnesses may not substitute for witnesses' participation in the Board of Review hearing.

- c. The Chair will preside at the hearing and will rule upon all procedural matters, in consultation with Employee Relations and the Board of Review 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 of Review is able to receive sufficient information on which to base its recommendation.
- d. The Board of Review will make its decision and recommendations based solely on the information presented in the Grievance Complaint Form and Grievance Response Form and information presented by the parties, including their witnesses, during the hearing. The Board of Review will not consider any written materials not included in the Grievance Complaint Form or Grievance Response Form, unless the applicable party provides reasonable evidence that he/she did not have access to such written materials at the time of submission of the applicable document. The Chair shall have the authority to admit or exclude such materials.
- e. The burden of proof is on the Grievant to prove the allegations raised in the grievance upon a preponderance of the evidence, which means that the claims sought to be proved are more probable than not.
- f. All relevant evidence, including hearsay, may be admitted. The Board of Review may exclude information the Chair determines to be immaterial or irrelevant.
- g. The hearing will be audio recorded except for the Board of Review deliberations which will not be audio recorded. Copies of recordings may be obtained upon request to Employee Relations and payment of copying expenses.

3. Post Hearing Activities

- a. The Board of Review will deliberate to determine whether or not, given the Grievance Complaint Form, Grievance Response Form, and information presented by the parties at the hearing, the Grievant has met the burden of proof as to each claim in the grievance and whether to recommend upholding or overturning the decision or actions complained of in the grievance. The Board of Review will then complete Grievance Report Form with the Board of Review's findings and recommendations.

A representative from Employee Relations will attend the Board of Review deliberations in order to answer procedural questions regarding the issues to be decided and report to be prepared.

- b. Within five (5) days of the hearing, the Chair will submit the Grievance Report Form to the Office of Legal Affairs for review to ensure the Board of Review's recommendations are in compliance with applicable federal, state, and local laws, as well as the policies and procedures of the Board of Regents of the University System of Georgia and the University. If there is a policy or legal concern, the Office of Legal Affairs will contact the Chair to discuss the concerns and recommend clarification or modification of the Grievance Report Form as appropriate. If necessary, the Board of Review may reconvene to make such clarification or modifications as necessary to address the concerns raised by Legal

Affairs. The Office of Legal Affairs review will be completed within five (5) days unless the need for clarification or modification is communicated to the Chair in which case the Grievance Report Form will be revised by the Board of Review and review completed by Legal Affairs within ten (10) days.

- d. Once the Office of Legal Affairs has completed its review of the Grievance Report Form, the Office of Legal Affairs shall forward the Grievance Report Form to the Provost for review and decision. The Provost may also, but shall not be required to, review the Grievance Complaint Form and Grievance Response Form in making his/her decision. The Provost will review the Grievance Report Form within five (5) days and issue a written decision to the Grievant and Respondent. Copies of the Provost's decision will be provided to Employee Relations and other persons, as applicable.

D. Appeal to the President

Grievant or Respondent may appeal the Provost's decision by submitting a written appeal to the President (with a copy to Employee Relations) within five (5) days of the Provost's decision. The President's review will consider only the record and the Provost's Decision; no new evidence will be considered. The President will issue a written decision to the Grievant and Respondent. Copies of the President's decision will be provided to Employee Relations and other parties, as applicable.

E. Appeal to the Board of Regents

Grievant or Respondent may appeal the President's decision by submitting a written appeal to the Board of Regents of the University System of Georgia within twenty (20) business days of the President's decision, as provided by the applicable policies of the Board of Regents of the University System of Georgia.

V. Miscellaneous

A. Deadlines/Grievance Closure

1. Days: All deadlines established in this Policy are stated in terms of calendar days. If a deadline falls on a weekend or scheduled University holiday, the deadline will be the next scheduled workday of the University.
2. Extenuating Circumstances: The University strives to resolve grievances by the deadlines established in this Policy, however each grievance is unique and circumstances may prevent the University meeting of a deadline. If it is not possible for a deadline to be met, the University will minimize the delay and proceed through the processes outlined in this Policy as close to the deadlines as possible.
3. Communication: Employee Relations will only communicate with parties through the contact information listed on the Grievance Complaint Form and Grievance Response Form. Failure to comply with deadlines or to respond to communications from Employee Relations by stated deadlines or in a timely manner (in the sole and absolute discretion of Employee Relations) may result in the forfeiture of grievance rights and the closure of the grievance.

B. Advisors

Each party in the grievance may elect to have an advisor. However, advisors are permitted to serve in an advisory capacity only and may not advocate on behalf of or otherwise act as spokesperson for a party. Advisor availability is not taken into account when scheduling the deadlines and

meetings anticipated by this Policy and securing advisor availability is the sole responsibility of the parties.

C. Use of Work Time

An employee filing a grievance under this Policy 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 per normal unit/departmental and University procedure.

D. Withdrawing a Grievance

A grievant may terminate his/her grievance under this Policy at any time by delivering written notice of his/her decision to Employee Relations.

E. Non-Retaliation

Employees have the right to use this Policy free from threats or acts of retaliation. Employees may not be retaliated against for participating in a grievance as a grievant, respondent, 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 should contact Employee Relations.

F. Human Resources Conflicts of Interest

In the event that (1) Grievant files a complaint against a staff member in Employee Relations or (2) if a staff member in Employee Relations has had material involvement with the underlying facts involved in Grievant's grievance, then that particular Employee Relations staff member shall not facilitate the administration of the Policy. In such instances, an alternate neutral staff member in Employee Relations shall facilitate the administration of the Policy during Grievant's grievance. If no Employee Relations staff members are neutral to the grievance, a member of the University's Human Resources Administrative Coordinators ("HRAC") shall be selected by Vice President of the Department of Human Resources, or his/her designee, and subject to the approval of Grievant and Respondent, to facilitate the administration of this Policy during the grievance.