

1. Complaint Resolution Procedures -- PSS

Personnel Action: Complaint Resolution -- Professional and Support Staff **Personnel Action Code:** N/A

Policy Summary: It is the policy of the University to facilitate the resolution of complaints arising from employment with the University.

Policy References: PPSM 70

Authority: A supervisor may resolve a complaint at the informal level. A unit head may resolve a complaint at Step I (p. 3). The appropriate principal administrative officer may resolve a complaint at Step II (p. 4). A University hearing committee or officer or non-University hearing officer may resolve a complaint at Step III (p. 4).

Criteria: Professional/Support Staff employees covered by *Personnel Policies for Staff Members-Policy 70*, with the exception of per diem employees, are eligible to file a complaint regarding either:

- a) a claim that a specific management act is alleged to have adversely affected the individual employee's existing terms or conditions of employment, or
- b) a claim that a provision of the personnel policies has been violated.

Complaints of two or more employees, as well as multiple complaints by, or related to, the same employee, or which relate to the same incident, issue, or course of conduct, may be consolidated for purposes of the Complaint Resolution Procedure at the discretion of the Labor Relations Manager or her/his designee.

Employees who voluntarily terminate their employment or retire from the University are not eligible. Former employees separated by layoff, who are eligible for recall or preference for re-employment are eligible to file a complaint in accordance with Step I below.

Concerns regarding classification standards, benefits, salary rates or ranges for classes are not covered by the Complaint Resolution Policy, but may be submitted to the Staff Human Resources Director for consideration. Review of classification decisions may be submitted to the Staff Human Resources Director according to campus procedure. Refer to Classification/Reclassification procedure, p. A15-1.

Process:

Responsibility

Action

Employee

Informal Resolution

Shall make every effort to resolve the complaint through informal discussion with his/her supervisor. Such discussion is a condition of filing a valid request for formal review.

Complainants alleging sexual assault and/or sexual harassment may elect to substitute the campus *Sex Offense Policy and Procedures for Reports of Sexual Assault(s) and Sexual Harassment* for the informal step.

Responsibility

Action

Employee May discuss any problems relating to these matters and his/her complaint rights with the Labor Relations Manager or her/his representative.

In the event the complaint cannot be resolved through informal discussions, files a formal review as outlined below. The employee may, at any time during the process, withdraw his/her complaint and terminate the complaint resolution process. Employees involved in informal discussions to resolve the complaint are advised to file formally if the thirty-day time limit is approaching. Attempts at informal resolution do not extend the initial thirty-day filing deadline. The formal complaint may be withdrawn if an informal resolution is reached.

Supervisor/Unit May seek guidance from the Labor Relations Manager or her/his representative in the handling of complaint matters.

Employee **Filing of Formal Complaint - All Complaints (Except Those Pursued Through the Sex Offense Policy and Procedures)**

Submits his/her complaint in writing to the Labor Relations Manager on the form provided by the Labor Relations Office. The request for formal review must:

- identify the specific management act(s) to be reviewed, including the date(s) the act(s) occurred;
- specify how the employee was adversely affected;
- list the section(s) and specific provision(s) of policies alleged to have been violated, if any, and how the provision(s) were violated; and
- specify the remedy requested.

Must file the signed complaint within thirty (30) calendar days after the date on which s/he knew or could reasonably be expected to have known of the event or action which gave rise to the complaint, or within thirty (30) calendar days of separation, whichever is earlier.

In the case of layoff, the complaint must be filed within thirty (30) calendar days of the date of the layoff notice. Complaints alleging violation of recall and/or preference for re-employment must be filed within thirty (30) calendar days after s/he knew or could reasonably be expected to have known of the event or action which gave rise to the complaint, but no later than thirty (30) days after the termination of recall/preferential re-employment.

If the complaint includes an allegation of discrimination, may elect to have his/her complaint reviewed, and an attempt at informal resolution made, by the EEO/AA Office prior to the first written response. If the employee elects review by the EEO/AA Office, the deadline for the first written response shall be extended by forty-five (45) calendar days.

Labor Relations Manager Shall grant up to an additional fifteen (15) calendar days for timely filed, but technically flawed, complaints to be corrected and resubmitted. Decisions regarding timeliness and scope may be appealed to the Assistant Vice President--Human Resources. Such appeal must be received within twenty (20) calendar days of the issuance of the decision by the Labor Relations Manager, or her/his designee, and shall include a copy of the original complaint and related documents.

Responsibility

Action

Employee

Filing of Formal Complaint - Complaints Processed Through the Sex Offense Policy and Procedures

If the campus *Sex Offense Policy and Procedures* are used in lieu of the informal stage of resolution, as a first step, the employee shall reduce her/his complaint to writing as outlined above. The employee shall sign the complaint and file it with the Labor Relations Manager within ten (10) calendar days of the issuance of the decision under the *Sex Offense Policy and Procedures*.

The complaint shall then be processed as outlined below. If agreed to by both parties, a complaint processed through the *Sex Offense Policy and Procedures* may proceed directly to Step II.

Labor Relations Manager

Step I

Shall, upon receipt of a timely filed, technically correct complaint, forward the written complaint to the unit head for response, with information copies to the appropriate principal administrative officer.¹ If the unit head is the immediate supervisor, the complaint shall proceed to the next administrative level. Shall notify the employee of the date the Step I response is due.

Unit Head

Shall forward his/her decision to the employee within fifteen (15) calendar days from the date the complaint was received from the Labor Relations Office. The written decision shall be in letter or memo format and forwarded by U.S. mail, or delivered in person, with Proof of Service, to the employee, with a copy to the Labor Relations Manager.

Employee

Step II

If there is no resolution of the complaint at the unit head level, may request review by the appropriate principal administrative officer. The request shall be in writing, in letter or memo format, signed by the employee and filed with the campus Labor Relations Manager within fifteen (15) calendar days following the issuance of the unit head's decision, or if not issued, the date due. The request shall detail those issues of the original complaint not resolved by the unit head.

Labor Relations Manager

Shall, upon receipt of a timely filed appeal, forward the appeal to the appropriate principal administrative officer. Shall notify the employee of the date the Step II response is due.

Principal Administrative Officer/
Employee

For those issues not subject to a hearing at Step III, either party may request that a fact finder be appointed to investigate the complaint and report findings of fact. Such a request shall suspend the review process pending completion of the fact finder's report. The findings of fact, if any, shall be in writing. (See Fact Finding below.)

Principal Administrative Officer

Shall forward his/her response to the employee within thirty (30) calendar days from receipt of the request for review from the Labor Relations Office, or ten (10) calendar days from the receipt of a fact finder's report, if any. The written decision of the principal administrative officer shall be forwarded by U.S. mail, or delivered in person, with Proof of Service, to the employee, with a copy to the Labor Relations Manager.

¹ "Principal Administrative Officer" in these procedures refers to the Chancellor, Executive Vice Chancellor, Assistant Chancellor--Human Resources, Vice Chancellor--Business and Administrative Services, Vice Chancellor--Student Affairs, and Vice Chancellor--University Relations.

Responsibility

Action

Principal
Administrative
Officer

The decision of the principal administrative officer is final and binding unless the complaint is otherwise eligible for review at Step III.

Employee

Step III - Hearing

Requests for Hearing

If the decision of the principal administrative officer does not resolve the complaint at Step II, for those policies listed in *Personnel Policies for Staff Members Policy-70.F.*, the employee may request a hearing before a University hearing officer or committee, or non-University hearing officer.² Such request shall be in writing, in letter or memo format, signed by the employee and filed with the campus Labor Relations Manager within fifteen (15) calendar days of the date the principal administrative officer's response was issued or, if not issued, was due. The request shall detail those issues of the original complaint not resolved at the previous level(s) of review.

Assistant
Chancellor - HR

Selection of Hearing Committee/Officer

If an employee elects a hearing before a University hearing committee or hearing officer, the Assistant Chancellor--Human Resources shall determine whether a committee or officer shall be used.

A University hearing committee shall consist of at least three (3) members and shall be comprised of employees other than those in the campus unit or reporting line in which the complaint arose.

A University hearing officer appointed from either this campus, or other location, from within the University of California system, shall not be from the same campus unit or reporting line in which the complaint arose.

Shall provide the Labor Relations Manager with a list of five (5) names drawn from the Santa Cruz Campus Grievance hearing Panel (three (3) names if for a hearing officer).

Principal
Administrative
Officer/
Employee

Or his/her representative, shall each strike one name from the list of potential hearing officers/Panel Members. The remaining three (or one, in the case of a hearing officer) individuals shall be appointed.

Election by an employee of a hearing before either a University hearing committee or University hearing officer shall be final.

Principal
Administrative
Officer/
Employee

If the employee elects a non-University hearing officer, the hearing officer shall be selected by mutual agreement between the parties. If there is no agreement, the Labor Relations Manager shall make arrangements between the principal administrative officer and the employee and/or their representatives, to make a selection from a panel of prospective non-University hearing officers provided to the parties by the local office of the American Arbitration Association. The parties shall alternately strike names from the panel until one name remains. The individual whose name remains shall be the selected non-University hearing officer. The employee may revoke the election of the non-University hearing officer alternative at any time prior to the incurring of fees to obtain a selection list of non-University hearing officers.

² Employees selecting a non-University hearing officer will be required to pay one-half of all fees associated with the selection and services of the hearing officer.

Responsibility

Action

Hearing
Committee/
Officer

Hearing Committee/Officer Authority

Shall conduct a hearing to determine the facts and whether the management action grieved was in violation of the *Personnel Policies for Staff Members* or the campus implementing procedures, or if the complaint involves corrective action or dismissal, whether the management action was reasonable under the circumstances.

Shall not add to, delete from, or otherwise modify personnel policy or campus implementing procedures, issue subpoenas, or order stenographic records.

Is limited to restoring any pay, benefits, or rights lost as a result of the action taken.

Labor Relations
Manager

Hearing Process

Upon appointment of the University hearing committee, or officer of the non-University hearing officer, shall arrange a timely hearing date and shall so inform the participants.

Principal
Administrative
Officer/
Employee

And/or their representatives, shall have the opportunity to call and examine witnesses and submit relevant documentary evidence at the hearing. Each party shall provide the other with relevant material, including a written list of all witnesses, which either intends to introduce at the hearing. To the extent possible, this material should be provided at least seven (7) calendar days prior to the hearing. At the request of either party, all witnesses other than the principal parties, their representatives (if any), and a representative of the Labor Relations Office, shall be excluded from the hearing except when testifying. Witnesses at the hearing who are employees covered by these policies shall appear on University time. The hearing shall be closed to the general public unless both parties agree in writing to an open hearing.

The hearing shall be tape-recorded by the University if no stenographic record is agreed to by both parties in advance. Fees for stenographic services shall be paid by the party requesting such services, unless both parties agree otherwise in advance. Copies of the stenographic reports may be provided to a party only upon payment of one-half of the total costs for stenographic services.

Hearing
Committee/
Officer

Shall provide the parties with a written hearing report with a final and binding decision within thirty (30) calendar days of the close of the record of the hearing.

Principal
Administrative
Officer

Fact Finding

If either party elects to have a fact finder appointed at Step II (p. 4), the principal administrative officer, or his/her designee, shall appoint the fact finder from this campus or another location within the University of California system. If from this campus, the fact finder shall be from outside the campus unit or reporting line in which the complaint arose.

Fact Finder

Shall arrange a timely meeting with each party to the complaint, separately or jointly. The fact finder shall take whatever steps reasonably necessary to investigate the complaint and report findings of fact to the principal administrative officer.

Responsibility

Action

Employee

Representation

May be self-represented or may be represented by another person at any stage of the review of a complaint. However, an employee who has been designated managerial, supervisory, or confidential by the University shall not represent a non-managerial, - supervisory or - confidential employee and vice versa.

Labor Relations
Manager

Extension of Time Limits

Or her/his designee, prior to the expiration of a time limit, may grant an extension for cause upon the written request of either party.

Unit Head

Pay Status for Time Spent on Complaint Resolution

Shall approve requests for reasonable time off with pay during scheduled working hours to an employee and to an employee's representative (if the representative is an employee covered by the *Personnel Policies for Staff Members* at the Santa Cruz campus and is not paid for such representation by the employee filing the complaint or others) for time spent in hearings or meetings convened by the University to consider and resolve complaints. Time spent by the employee or the representative in the above activities outside of scheduled working hours is without pay.