PPSM-70: Complaint Resolution

I. POLICY SUMMARY

This policy provides direction and authority to resolve complaints made by employees in the Professional & Support Staff (PSS) and Managers & Senior Professionals (MSP) personnel groups, except for employees appointed to per diem positions.
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II. DEFINITIONS
Detailed information about common terms used within Personnel Policies for Staff Members can be found in Personnel Policies for Staff Members 2 (Definition of Terms) and Personnel Policies for Staff Members 3 (Types of Appointment).

Administrative Review (PSS): One of three possible options available at Step II if an employee appeals the Step I decision.

Administrative Review (MSP I-VII): An appeal at Step II of the Step I decision. For PSS employees, Administrative Review is one of three possible options available at Step II if an employee appeals the Step I decision.

Appeal: A request for a review of a decision.

Career Appointment: An appointment established at a fixed or variable percentage of time at 50 percent or more of full-time that is expected to continue for one year or longer. Contract and limited appointments are not career appointments.

Complaint: A written claim by an employee regarding a specific management action(s) that meets the criteria in Section III, C.1.a. or III.C.1.b. A.3, III.B.4.a.i, or III.B.4.a.ii, as applicable.

Complaint Liaison: The office or individual designated locally to receive complaints eligible for review under this policy.

Conflict of Interest: For purposes of this policy, a situation where a factfinder, University hearing officer, and/or decision-maker has a bias or personal interest in the outcome that would prevent him/her from serving impartially.

Contract Appointment: An appointment established at a fixed or variable percentage of time for a definite period. Terms and conditions of employment are specified in a written employment contract.

Employee: For the purposes of this policy, an “employee” is defined as an active employee or a former employee who was involuntarily separated.
Exception to Policy: An action that exceeds what is allowable under current policy or that is not expressly provided for under policy. Any such action must be treated as an exception.

Executive Officer: The University President or the Chancellor.

Factfinder: A person appointed by local procedures to determine whether the material allegations of the complaint are supported by the preponderance of the evidence.

Limited appointment: An appointment established at any percentage of time, fixed or variable, during which the appointee is expected to be on pay status for less than 1,000 hours in a 12-month period.

Make Whole Remedy: Restoration of University pay, University benefits, and/or rights provided under University policy that the employee could have been awarded if the employee prevailed at a Step III Hearing (PSS) or Step III Factfinding (MSP I-VII Manager 3 and below and equivalent positions) under this policy. See Sections III.B.8 and III.B.12. See Section G. (Early Complaint Resolution (Career Employees Only)) and Section L. (Remedy).

Preponderance of Evidence: The standard that the employee or University must meet in order to prevail. It is satisfied when one party has shown that its version of the relevant events is more likely than not the correct version.

Remedy: Relief that addresses the adverse effect(s) of the management action(s) that was reviewed under this policy.

Top Business Officer: Executive Vice President–Business Operations for the Office of the President, Vice Chancellor for Administration, or the position responsible for the location’s financial reporting and payroll as designated by the Executive Officer.

III. POLICY TEXT STATEMENT

A. Managers & Senior Professionals – Above Manager 3 and Equivalent Positions

1. Applicability
   Section III.A of this policy applies to Manager & Senior Professional employees as follows:
   a. Career Tracks
      For positions that have transitioned to the Career Tracks structure, Section III.A of this policy applies to employees in MSP positions classified above Manager 3.
   b. Non-Career Tracks
      For positions that have not yet transitioned to the Career Tracks structure, Section III.A of this policy applies to employees in the MSP positions listed below until these positions transition to Career Tracks:
      • MSP positions in salary grades 8 and above, except those MSP positions at UC Irvine Medical Center (covered under Section III.B.1.b below); and
• MSP positions at UC San Diego in salary grades E-F.

2. General
Appointees appointed to positions at MSP salary grades VIII and IX above Manager 3 and equivalent serve at the pleasure of the Chancellor. Concerns about conditions and actions affecting employment conditions are expected to be discussed with the individual's immediate supervisor. If the concerns cannot be resolved through such discussions, those concerns may be submitted in writing to the Chancellor for review. The Chancellor shall take such action as deemed appropriate.

2.3. Discrimination Complaints
An appointee employee who alleges a discriminatory practice pursuant to Staff Policy 12, Personnel Policies for Staff Members 12 (Nondiscrimination in Employment), may submit a complaint in writing to the Chancellor. The Chancellor shall appoint a factfinder who shall review the facts of the case, provide an opportunity for the appointee employee or that person's representative to present witnesses and evidence, and submit a written report of the facts to the Chancellor. The Chancellor then shall take such action as determined appropriate.

B. Professional & Support Staff and Managers & Senior Professionals – Manager 3 and Below and Equivalent Positions

1. Applicability
Section III.B of this policy applies to all Professional & Support Staff employees. Section III.B of this policy applies to Manager & Senior Professional employees as follows:

a. Career Tracks
For positions that have transitioned to the Career Tracks structure, Section III.B of this policy applies to employees in MSP positions classified at Manager 3 and below, unless the location has grandfathered these employees under the complaint resolution provisions that applied to their pre-Career Tracks classification.

b. Non-Career Tracks
For positions that have not yet transitioned to the Career Tracks structure, Section III.B of this policy applies to employees in the MSP positions listed below until these positions transition to Career Tracks:

• MSP positions in salary grades 1–7;
• MSP positions at UC Irvine Medical Center and UC Santa Barbara;
and
• MSP positions at UC San Diego in salary grades A-D.

2. General
It is the policy of the University to facilitate the resolution of address complaints arising from employment with the University through the processes described in this policy. Locations may incorporate mediation and other alternative complaint resolution techniques into local procedures.
An employee should attempt to resolve the issue informally with his or her immediate supervisor, although this does not extend the deadline for filing a written complaint (see Section D. (Timeliness)B.5 below). An employee who alleges sexual violence or sexual harassment may choose to substitute the local Sexual Harassment Complaint Resolution Procedures implementing procedures for the Policy on Sexual Violence and Sexual Harassment rather than attempting informal resolution with his or her immediate supervisor under this section of this policy.

See Section V of this policy for the procedures regarding how to file and process a complaint.

3. Eligibility
With the exception of current and former per diem appointees, the following employees are eligible to file a complaint under this policy:

a. PSS employees;

b. all current PSS and MSP I-VII employees appointed at Manager 3 and below and equivalent positions;

c. are eligible to file a complaint under this policy. In addition, a Former PSS or MSP I-VII employee who was involuntarily separated is eligible to file a complaint under this policy if the complaint is timely filed in accordance with Section D. (Timeliness).

d. Former MSP employees appointed at Manager 3 and below and equivalent positions who were involuntarily separated; and

e. A Former PSS employees separated by layoff who is eligible for recall or preference for reemployment as provided in Personnel Policies for Staff Members 60 (Layoff and Reduction in Time from Professional and Support Staff Career Positions), may file a complaint alleging violations of recall and/or preference for reemployment rights.

Depending on the terms of their respective contracts, PSS and MSP contract employees may be eligible to file a complaint under this policy.

4. Scope

a. Complaints Within the Scope of this Policy
A complaint is a written claim by an employee regarding a specific management action(s) that is alleged to have:

i. adversely affected that employee’s existing terms and conditions of employment in a material way, or

ii. adversely affected that employee’s existing terms and conditions of employment in a material way and violated a provision of the Personnel Policies for Staff Members (PPSM).

b. Matters Outside the Scope of this Policy
i. Concerns or inquiries regarding classification standards, benefits, salary rates for job titles, salary ranges for classes, or the contents of the personnel policies. These concerns or inquiries may be submitted to the local Chief Human Resources Officer for consideration.

ii. With the exception of a corrective salary decrease (which is within the scope of this policy), concerns or inquiries regarding an individual employee’s rate of pay or change in rate of pay, unless the employee’s complaint alleges that the action was taken for discriminatory or retaliatory reasons in violation of Personnel Policies for Staff Members 12 (Nondiscrimination in Employment) or Section NB.14 of this policy. These concerns or inquiries may be submitted to the local Chief Human Resources Officer for consideration.

iii. A request for review of a decision on the classification of a position, which will be processed in accordance with local procedures (See the Procedures section of Personnel Policies for Staff Members 36 (Classification of Positions)), unless the complaint alleges that the action was taken for discriminatory or retaliatory reasons in violation of Personnel Policies for Staff Members 12 (Nondiscrimination in Employment) or Section B.14 of this policy.

iv. A management action taken pursuant to a policy or Presidentially-approved program that states that such an action may be taken at the “discretion,” “sole discretion,” or “judgment” of the University or its management (with the exception of Section III.C of Personnel Policies for Staff Members 65 (Termination of Career Employees – Managers and Senior Professionals, Salary Grades I through VII)) unless the complaint alleges that the action was taken for discriminatory or retaliatory reasons in violation of Personnel Policies for Staff Members 12 (Nondiscrimination in Employment) or Section NB.14 of this policy.

Note that a Step III hearing for PSS employees (Section J.3.) or a Step III factfinding for MSP I-VII employees (Section K.3.) is available only for complaints filed under C.1.b. that allege violation of certain PPSM provisions.

5. Timeliness
The employee must file a written complaint with the office designated in local procedures within 30 calendar days after the date on which the employee knew or could reasonably be expected to have known of the event or action that gave rise to the complaint, or within 30 calendar days after the date of separation from University employment, whichever is earlier. If the complaint alleges a series of policy violations or pattern of management actions that are subject to review under this policy, the complaint must be filed within 30 calendar days after the most recent policy violation or management action.
For a complaint regarding a layoff, the employee must file the written complaint within 30 calendar days after the effective date of the layoff. If a laid off employee is alleging violation of that his or her recall or preference for reemployment rights have been violated, the employee must file the complaint within 30 calendar days after the date on which the employee could reasonably be expected to have known of the alleged violation, but no later than 30 calendar days after the employee’s recall or preferential reemployment eligibility period ends, whichever is earlier.

A complaint is considered “filed” on the date it is postmarked, the date it is personally delivered, the date it is faxed, or the date it is emailed.

An employee may file a complaint regarding sexual violence or sexual harassment under both this policy and the local Sexual Harassment Complaint Resolution Procedures Policy on Sexual Violence and Sexual Harassment. If an employee chooses to do this, the complaint under this policy must be timely filed in accordance with this section. See Sections J.1., and K.1.

6. Appeal to the Office of the President
A designated local official will administer this policy and will determine whether a complaint is timely, whether its claims are within the scope of this policy, and whether the complaint qualifies for review through Step II or Step III. The employee will be notified in writing of these determinations. Local procedures must specify the time limits for appeal at each step in the process. If an employee does not appeal within those time limits, the complaint will be considered resolved and closed on the basis of the last University response.

An employee may appeal only the following certain local decisions to the Office of the President, Human Resources. Only local decisions regarding the following issues may be appealed:

- (1) whether the complaint was timely,
- (2) whether the complaint is within the scope of this policy,
- (3) whether the remedy granted as an early resolution (Section GB.8) constitutes a make whole remedy, and/or
- (4) the dismissal or closure of the complaint due to the employee’s failure to participate (Section IB.10).

The Vice President–Human Resources (or designee) has the final authority for interpreting this policy. An employee’s appeal to the Office of the President must:

- be in writing,
- state why the local decision should be overturned,
- and must include copies of the original complaint, the local decision, and any documents that support the appeal, and
- be filed within 20 calendar days of the date of the local decision.
An appeal is considered “filed” on the date it is postmarked, the date it is personally delivered, the date it is faxed, or the date it is emailed.

7. Informal Complaint Resolution

At any stage in the process after the initial filing of the complaint, either the employee or the University may attempt to resolve the complaint informally. Pursuing mediation may also be an option.

When the employee and the University agree in writing to pursue informal resolution, the University may suspend deadlines during these efforts in accordance with local procedures. If at any time either the employee or the University wishes to stop pursuing informal resolution at any time, written notification must be provided to the other party pursuant to accordance with local procedures. Any suspension of deadlines will end 10 calendar days after that notification is provided and then the formal complaint resolution process will resume where it left off.

8. Early Complaint Resolution (Career Employees Only)

For the types of complaints described below, the University has discretion to grant a make whole remedy to a career PSS or MSP I-VII employee in order to conserve University resources and resolve the complaint more quickly.

a. PSS Career Employees

For complaints filed by a career PSS employee regarding a letter of warning, corrective salary decrease, corrective demotion, suspension without pay, or termination, the University may grant a PSS career employee a make whole remedy no later than 60 calendar days before the scheduled Step III hearing date by notifying the employee in writing that a make whole remedy is being granted and specifying what the remedy will be.

b. MSP Career Employees – Manager 3 and Below and Equivalent Positions

For complaints filed by a career MSP I-VII employee regarding termination, the University may grant an MSP career employee appointed at Manager 3 and below and equivalent positions a make whole remedy at any time up until the Step III factfinder is appointed by notifying the employee in writing that a make whole remedy is being granted and specifying what the remedy will be.

The employee may appeal whether the remedy specified constitutes a make whole remedy to the Office of the President in accordance with Section EB.6 above (Appeal). Once the deadline to appeal has passed or, if applicable, the any appeal has been resolved, the make whole remedy will be presented to the employee, and the complaint will be considered resolved and closed.

9. Withdrawal of a Complaint

Any withdrawal of a complaint must be in writing. For complaints that are at Step I or Step II, the employee may withdraw a the complaint, in whole or in part, at any time when the complaint is at Step I or Step II. The withdrawal must be in
10. Failure to Participate
If an employee fails to participate in a timely manner in key aspects of the review process, the local office may consider the complaint resolved and closed on the basis of the last University response. If a Step I response has not yet been provided to the employee, the entire complaint will be dismissed.

Key aspects of the review process include (as applicable), but are not limited to, scheduling of and participation in factfinding, selection of the hearing officer, scheduling of and attendance at the hearing, and responding on a timely basis to communications from the University's complaint liaison.

The employee will be notified in writing when his or her complaint is dismissed or closed due to failure to participate in the process. The employee may appeal the decision to dismiss or close the complaint to the Office of the President in accordance with Section E. (Appeal) above.

11. Evidentiary Standard
At Steps I, II, and III (see Section V below), the standard of proof will be the preponderance of the evidence.

12. Remedy
Any remedy granted to the employee will not exceed the restoration of any University pay, University benefits, and/or rights provided under University policy that were lost as a result of the management action. No interest will be earned or paid on any amount restored to the employee; nor will the remedy include payment of attorney’s fees or costs incurred by the employee. Compensation will not be granted for any period of time resulting from an extension of time requested by, or on behalf of, the employee, or any period during which the employee and University agreed in writing to pursue informal resolution under this policy. When calculating a backpay award, the University will offset the award by other income received by the employee during the relevant period, including severance pay and compensation earned from alternative employment. Benefit plan coverage may only be restored retroactively by the University to the extent allowed by benefit regulations and Plan rules. Loss of benefits that cannot be addressed by retroactive restoration of plan coverage will be addressed by the University through other means.

13. Conflict of Interest
If an employee or manager has concerns about a conflict of interest on the part of the factfinder, University hearing officer, and/or decision-maker, the employee or manager should raise those concerns with the office designated in local procedures. Such concerns must be raised promptly in accordance with local procedures. The local office will determine whether an actual conflict of interest exists. In situations where it is determined that the factfinder, University hearing officer, and/or decision-
maker has an actual conflict of interest that would prevent him or her from serving impartially, the local office will designate a different factfinder, University hearing officer, or decision-maker in accordance with local procedures.

14. Retaliation
It is a violation of University policy to retaliate against any employee for using or participating in the complaint resolution process.

IV. COMPLIANCE / RESPONSIBILITIES

A. Implementation of the Policy
The Vice President–Human Resources is the Responsible Officer for this policy and has the authority to implement the policy. The Responsible Officer may develop procedures or other supplementary information to support the implementation of this policy. Such supporting documentation does not require approval by the President. The Responsible Officer may apply appropriate interpretations to clarify policy provided that the interpretations do not result in substantive changes to the underlying policy. The Chancellor is authorized to establish and is responsible for local procedures necessary to implement the policy.

In accordance with Personnel Policies for Staff Members 1 (General Provisions), the authorities and responsibilities delegated to the Chancellor in this policy are also delegated to the Executive Vice President–Chief Operating Officer, Vice President–Agriculture and Natural Resources, Principal Officers of the Regents, and the Lawrence Berkeley National Laboratory Director. Also in accordance with PPSM 1, the authorities granted in this policy may be redelegated except as otherwise indicated.

B. Revisions to the Policy
The President is the Policy Approver and has the authority to approve policy revisions upon recommendation by the Vice President–Human Resources.

The Vice President–Human Resources has the authority to initiate revisions to the policy, consistent with approval authorities and applicable Bylaws and Standing Orders of the Regents.

The Executive Vice President–Business Operations [Executive Vice President–Business Operations] Chief Operating Officer has the authority to ensure that policies are regularly reviewed, updated, and consistent with other governance policies.

C. Approval of Actions
Actions within this policy must be approved in accordance with local procedures. Chancellors and the Vice President–Human Resources are authorized to determine responsibilities and authorities at secondary administrative levels in order to establish local procedures necessary to implement this policy.

All actions applicable to PPSM-covered staff employees who are not Senior Management Group members that exceed this policy, or that are not expressly provided for under any policy, must be approved by the Vice President–Human Resources.

D. Compliance with the Policy
The following roles are designated at each location to implement compliance monitoring responsibility for this policy:

The Top Business Officer and/or the Executive Officer at each location will designate the local management office to be responsible for the ongoing reporting of policy compliance.

The Executive Officer is accountable for monitoring and enforcing compliance mechanisms and ensuring that monitoring procedures and reporting capabilities are established.

The Vice President–Human Resources is accountable for reviewing the administration of this policy. The Director–HR Compliance may periodically monitor compliance to this policy.

**E. Noncompliance with the Policy**

Noncompliance with the policy is handled in accordance with Personnel Policies for Staff Members (PPSM) 61, 62, 63, and 64, 65 and 67 pertaining to disciplinary and separation actions.

**V. REQUIRED PROCEDURES**

The Responsible Officer may develop procedures or other supplementary information to support the implementation of this policy. Such supporting documentation does not require approval by the President.

**A. Review Process—Professional & Support Staff**

A designated local official will administer this policy. Local procedures must specify the time limits deadlines for appeal at each step in the process. If an employee does not appeal within those time limits deadlines, the complaint will be considered resolved and closed on the basis of the last University response.

Local procedures must include provisions that allow the employee and the employee’s representative, if covered by these policies, a reasonable amount of paid time off to participate in hearings (PSS), factfinding (MSP – Manager 3 and below and equivalent positions), and meetings convened by the University to consider the employee’s complaint.

The review of a complaint made by a PSS employee or an MSP employee appointed at Manager 3 and below and equivalent positions will follow the applicable process outlined below. If multiple claims are raised in the complaint, the local complaint liaison may choose to process the claims separately.

**B. Filing a Complaint**

The employee must submit a written complaint to the designated local office and use the locally designated form. The complaint must:

a. identify the specific management action(s) to be reviewed;

b. identify the date on which each management action to be reviewed occurred;
c. specify how the employee was adversely affected;
d. if filing under C.1.b. III.B.4.a.ii, also list the section(s) and specific provision(s) of the policy or policies alleged to have been violated and how each of those provisions was violated;
e. specify the remedy requested; and
f. provide any other information that may be required by local procedures.

C. Initial Assessment
After an employee has filed a complaint per Section B above, the local official designated to administer this policy and will determine whether a complaint is timely, whether its claims are within the scope of this policy, and whether the complaint qualifies for review through Step II or Step III. The employee will be notified in writing of these determinations.

The local office may require the employee to provide additional detail. In such cases, the University’s complaint liaison will identify the additional detail needed. If the employee does not provide the additional detail within the timeframe established in local procedures, the incomplete claims will not be accepted for review. If multiple claims are raised in the complaint, the local complaint liaison may choose to process the claims separately.

The employee may appeal a local decision regarding timeliness, scope, or failure to participate to the Office of the President, Human Resources, in accordance with Section III.B.6 of this policy.

D. Step I – Request for Formal Review
The employee must submit a written complaint to the designated local office. The complaint must:
e. identify the specific management action(s) to be reviewed;
f. identify the date on which each management action to be reviewed occurred;
g. specify how the employee was adversely affected;
h. if filing under C.1.b., also list the section(s) and specific provision(s) of the policy or policies alleged to have been violated and how each of those provisions was violated;
e. specify the remedy requested; and
f. provide any other information that may be required by local procedures.

The local office may require the employee to provide additional detail. In such cases, the University’s complaint liaison will identify the additional detail needed. If the employee does not provide the additional detail within the timeframe established in local procedures, the incomplete claims will not be accepted for review.

A written Step I response will be provided to the employee in accordance with local procedures.

Any complaint filed under this policy regarding sexual violence or sexual harassment will be referred to the local Title IX Office for processing under the Policy on Sexual
Violence and Sexual Harassment. However, if an employee chooses to file a complaint regarding sexual harassment under both this policy and the local Sexual Harassment Complaint Resolution Procedures, the investigation-conducted under the local Sexual Harassment Complaint Resolution Procedures will serve as Step I under this policy. After that process has concluded, the employee may submit a written appeal to Step II under this policy if the employee believes that there are sexual violence or sexual harassment claims that were not satisfactorily resolved to the employee’s satisfaction. The investigative report issued under the local Sexual Harassment Complaint Resolution Procedures may be used as evidence in proceedings under this policy.

E. Professional & Support Staff

1. Step II – Appeal

If the employee believes that any of the claims alleged in the complaint were not satisfactorily resolved to the employee’s satisfaction at Step I, the employee may submit a written appeal. In that appeal, the employee must state which claims alleged in the complaint were not satisfactorily resolved at Step I, specify the remedy requested, and select one of the following Step II options:

   a. Administrative Review. If the employee selects administrative review, the appeal must state which claims alleged in the complaint were not satisfactorily resolved at Step I and specify the remedy requested. The Administrative Review will be conducted in accordance with local procedures and a written Step II decision will be provided to the employee. The standard of proof will be the preponderance of the evidence. The decision is final and binding unless the complaint is eligible for review at Step III (Section J.3.E.2).

   b. Factfinding. If the employee selects factfinding, the appeal must state which claims alleged in the complaint were not satisfactorily resolved at Step I and specify the remedy requested. Local procedures will determine how the factfinder will be appointed. The factfinder will review the complaint and other relevant materials, conduct the factfinding in accordance with local procedures, and issue a report in accordance with local procedures that contains findings of fact. The report will be provided to the official designated in local procedures as the decision-maker. The decision-maker will issue a final and binding written Step II decision that will be provided to the employee in accordance with local procedures. The standard of proof will be the preponderance of the evidence.

   If the employee selects factfinding, the employee is not eligible to appeal the Step II decision to Step III, even if the complaint alleged a policy violation that would otherwise be eligible for review at Step III.

   c. Proceed Directly to Step III (Career Employees Only). If the University agrees, a career employee may select this option to proceed directly to Step III for hearing, provided that the complaint alleged a policy violation eligible for review at Step III (Section J.3.E.2).

2. Step III – Hearing (Career Employees Only)
If a career employee’s complaint alleged a policy violation eligible for review at Step III (see below) and those claims have not been satisfactorily resolved to the employee’s satisfaction at Step I or Step II, the employee may, submit the unresolved claims for a final and binding decision by a hearing officer, provided that the employee did not select the factfinding option at Step II.

a. Complaints Eligible for Review at Step III
The only complaints eligible for review at Step III are complaints that alleged the violation of a policy listed below:

1. Nondiscrimination in Employment (PPSM 12), provided that the complaint alleged the discriminatory application of a personnel policy listed in Section E.2.a.2 through E.2.a.8 J.3.A.2. through Section J.3.A.10. below

2. Compensation (PPSM 30), provided that the complaint alleged violation of one of the following sections of that policy:
   a. Hours of Work (Section III.C)
   b. Overtime and Over-Schedule (Non-Exempt Employees Only) (Section III.D)
   c. Ancillary Pay (Section III.E.1-4) Hours of Work (PPSM 31)

2. Overtime (PPSM 32)

3. Shift and Weekend Differential (PPSM 33)

4. Absence from Work (PPSM 2.210), provided that the complaint alleged violation of one of the following sections of that policy:
   a. Vacation Leave (Section III.B.), except with regard to scheduling
   b. Sick Leave (Section III.C.)
   c. Leaves Related to Life Events (Section III.D.1-10)
   d. Military Leave, Civil Duty, and Service Leaves and Other Service-related Leaves (Section III.E.)
   e. Holidays (Section III.H.)

5. Layoff and Reduction in Time from Professional and Support Staff Career Positions (PPSM 60), provided that the complaint alleged violation of the provisions pertaining to notice, order of layoff, recall, preference for reemployment, or severance

6. Corrective Action (PPSM 62), provided that the complaint alleged violation of the provisions pertaining to temporary or indefinite within-range salary decrease, corrective demotion, suspension without pay, and/or written warnings pertaining to such actions Section A, B, or C of that policy

7. Termination of Career Employees—Professional and Support Staff and Job Abandonment (PPSM 64), provided that the complaint alleged violation of Section III.B of that policy

8. Medical Separation (PPSM 66)

9. Retaliation in violation of this complaint resolution policy
b. Hearing Process

The employee may choose to use either a University or non-University hearing officer. If the employee chooses to use a non-University hearing officer, the hearing officer’s fee will be shared equally by the employee and the University. Local procedures will determine how hearing officers will be appointed and how hearings will be conducted.

The hearing process will provide an opportunity for the employee (or the employee’s representative) and the University (or the University’s representative) to examine witnesses and to submit relevant evidence. Each party must provide the other with relevant material to be introduced at the hearing and the names of all witnesses who are to testify at the hearing, with the exception of rebuttal materials and witnesses. To the extent possible, each party should provide this material at least seven calendar days prior to the hearing. Offers of settlement are not admissible, nor are documents prepared for mediation or other informal resolution efforts.

The standard of proof will be the preponderance of the evidence. In cases of corrective action or termination by the University, the University will bear the burden of proof and will present its case first. In all other cases, the employee will bear the burden of proof.

Hearings must be recorded by a method determined by the University. If the University decides not to record the hearing by stenography, the employee may choose to do so. The party choosing to record the hearing by stenography (if any) will be responsible for the stenographer’s appearance fee unless the employee and the University agree to an alternate arrangement in advance. Any party requesting a transcript will be responsible for the fee for that transcript.

Hearing officers do not have authority to:

- Order that the hearing be recorded by stenography or order transcripts from the hearing,
- Issue subpoenas, or
- When rendering a decision, add to, delete from, or otherwise modify personnel or other University policies, plans, or benefit regulations, or local implementing procedures.

The hearing officer will issue a final and binding written Step III decision. The hearing officer is limited to restoring any University pay, University benefits, and/or rights provided under University policy that were lost as a result of the management action.

45. Paid Time Off for Hearings and Meetings

Local procedures must include provisions that allow the employee and the employee’s representative, if covered by these policies, a reasonable amount of paid time off to participate in hearings and meetings convened by the University to consider the employee’s complaint.

F. Review Process–Managers & Senior Professionals salary grades I-VII – Manager 3 and Below and Equivalent Positions
The review of a complaint made by an MSP I-VII employee will follow the process outlined below. If multiple claims are raised in the complaint, the local compliant liaison may choose to process the claims separately.

b. **Step I–Request for Formal Review**

The employee must submit a written complaint to the designated local office. The complaint must:

a. identify the specific management action(s) to be reviewed;

b. identify the date on which each management action to be reviewed occurred;

c. specify how the employee was adversely affected;

d. if filing under C.1.b., also list the section(s) and specific provision(s) of the policy or policies alleged to have been violated and how each of those provisions was violated;

e. specify the remedy requested; and

f. provide any other information that may be required by local procedures.

The local office may require the employee to provide additional detail. In such cases, the University’s complaint liaison will identify the additional detail needed. If the employee does not provide the additional detail within the timeframe established in local procedures, the incomplete claims will not be accepted for review.

A written Step I response will be provided to the employee in accordance with local procedures.

However, if an employee chooses to file a complaint regarding sexual harassment under both this policy and the local Sexual Harassment Complaint Resolution Procedures, the investigation conducted under the local Sexual Harassment Complaint Resolution Procedures will serve as Step I under this policy. After that process has concluded, the employee may submit a written appeal to Step II under this policy if the employee believes that there are sexual harassment claims that were not satisfactorily resolved. The investigative report issued under the local Sexual Harassment Complaint Resolution Procedures may be used as evidence in proceedings under this policy.

1. **Step II – Appeal**

If the employee believes that any of the claims alleged in the complaint were not satisfactorily resolved to the employee’s satisfaction at Step I, the employee may submit a written appeal for Administrative Review at Step II regarding the unresolved claims. The appeal must state which claims alleged in the complaint were not resolved at Step I and specify the remedy requested. The Administrative Review will be conducted in accordance with local procedures and a written Step II decision will be provided to the employee. The decision is final and binding unless the complaint is eligible for review at Step III (Section K.3.F.2).

Alternatively, if the University agrees, a career employee may elect to proceed directly to Step III for factfinding, provided that the complaint alleged a policy violation eligible for review at Step III (Section K.3.F.2).
2. Step III – Factfinding (Career Employees Only)
   If a career employee’s complaint alleged a policy violation eligible for review at Step III (see below) and those claims have not been satisfactorily resolved to the employee’s satisfaction at Step I or Step II, the employee may submit the unresolved claims in writing for factfinding and specify the remedy requested.

   a. Complaints Eligible for Review at Step III
      The only complaints eligible for review at Step III are complaints that alleged the violation of a policy listed below:

      1. Nondiscrimination in Employment (PPSM 12)
      2. Termination of Career Employees—Managers and Senior Professionals, Salary Grades I through V and Job Abandonment (PPSM 65), provided that the complaint alleged violation of Section III.C of that policy
      3. Medical Separation (PPSM 66)
      4. Retaliation in violation of this complaint resolution policy

   b. Factfinding
      Local procedures will determine how the factfinder will be appointed. The factfinder will review the complaint and other relevant materials, conduct the factfinding in accordance with local procedures, and issue a report in accordance with local procedures that contains findings of fact. The report will be provided to the official designated in local procedures as the decision-maker. The decision-maker will issue a final and binding written Step III decision that will be provided to the employee in accordance with local procedures. The standard of proof will be the preponderance of the evidence.

10. Paid Time Off for Factfinding and Meetings
    Local procedures must include provisions that allow the employee and the employee’s representative, if covered by these policies, a reasonable amount of paid time off to participate in factfinding and meetings convened by the University to consider the employee’s complaint.

VI. RELATED INFORMATION
    • Personnel Policies for Staff Members 2 (Definition of Terms) (referenced in Section II of this policy)
    • Personnel Policies for Staff Members 3 (Types of Appointment) (referenced in Section II of this policy)
    • Policy on Sexual Violence and Sexual Harassment (referenced in Sections III.B.2, III.B.5, and V.D of this policy)
• **Personnel Policies for Staff Members 60 (Layoff and Reduction in Time from Professional and Support Staff Career Positions)** (referenced in Sections III.B.3.e and III.J.3.A.6.V.E.2.a.4 of this policy)


• **Personnel Policies for Staff Members 36 (Classification of Positions)** (referenced in Section III.C.2.c.B.4.b.iii of this policy)

• **Personnel Policies for Staff Members 33 (Shift and Weekend Differential)** (referenced in Section III.J.3.A.4. of this policy)

• **Personnel Policies for Staff Members 64 (Termination of Career Employees–Professional and Support Staff) and Job Abandonment** (referenced in Sections III.J.3.A.8.B.4.b.iv, IV.E, V.E.2.a.6, and V.F.2.a.2 of this policy)

• **Personnel Policies for Staff Members 1 (General Provisions)** (referenced in Section IV.A of this policy)

• **Personnel Policies for Staff Members 62 (Corrective Action)** (referenced in Sections III.J.3.A.7. V.E and V.E.2.a.5 of this policy)

• **Personnel Policies for Staff Members 2.210 (Absence from Work)** (referenced in Section III.J.3.A.5. of this policy)

• **Personnel Policies for Staff Members 62 (Corrective Action)** (referenced in Section III.J.3.A.7. of this policy)

• **Personnel Policies for Staff Members 64 (Termination of Career Employees–Professional and Support Staff)** (referenced in Section III.J.3.A.8. of this policy)

• **Personnel Policies for Staff Members 61 (Release During the Probationary Period or From Limited, Casual/Restricted, and Floater Appointments)** (referenced in Section IV.E of this policy)

• **Personnel Policies for Staff Members 63 (Investigatory Leave)** (referenced in Section IV.E of this policy)

• **Personnel Policies for Staff Members 30 (Compensation)** (referenced in Section V.E.2.a.2 of this policy)

• **Personnel Policies for Staff Members 2.210 (Absence from Work)** (referenced in Section III.J.3.A.5. V.E.2.a.3 of this policy)

• **Personnel Policies for Staff Members 66 (Medical Separation)** (referenced in Sections III.J.3.A.9.V.E.2.a.7 and III.K.3.A.3.V.F.2.a.3 of this policy)

• **Personnel Policies for Staff Members (PPSM) 62, 63, 64, 65 and 67** (referenced in Section IV.E. of this policy)

• **Personnel Policies for Staff Members 71 (Resolution of Concerns – Managers and Senior Professionals, Salary Grades VIII and IX)**
VII. FREQUENTLY ASKED QUESTIONS

To be added.

Eligibility (Section III.B.)

1. Can an employee who does not hold a career appointment file a complaint for review under this policy?
   Yes. Employees who hold contract, limited, casual/restricted, or floater appointments are eligible to file a complaint under this policy. However, they are not eligible for a Step III–Hearing (PSS) or Step III–Factfinding (MSP I-VII). Employees who hold per diem appointments are not eligible to file a complaint under this policy.

2. Can a probationary employee file a complaint for review under this policy? Is he/she eligible to have his/her complaint reviewed at Step III?
   A probationary employee is eligible to file a complaint under this policy and is eligible to have his/her complaint reviewed at Step III if the complaint alleged a policy violation that is eligible for review at Step III.

3. If I resign or retire before I file my complaint, can I still file?
   If you resign before you have filed a complaint, you will not be able to file after you resign. If you retire before you have filed a complaint, you will only be eligible to file if you retired after an involuntary separation. See question 6 below.

4. What if I have an active complaint pending when I resign or retire?
   If you have an active complaint when you resign or retire, the complaint will remain active until the complaint is resolved, unless you withdraw the complaint or fail to participate in the process.

5. I was involuntarily separated (terminated or laid off). Can I still file a complaint?
   If you were involuntarily separated, you may file a complaint as long as it is timely.

6. What if I choose to retire after the involuntary separation?
   If you choose to retire after the involuntary separation, you may file a complaint as long as it is timely.

7. Why can an employee separated by involuntary termination or layoff still file a complaint but an employee who chooses to resign cannot?
   An employee who was involuntarily separated can file a complaint because the separation was initiated by the University. In contrast, a resignation is a voluntary separation that is initiated by the employee.

8. I am a retired retiree. Am I eligible to file a complaint under this policy?
   Yes, if you have returned to a position (other than a per diem position) in either the Professional & Support Staff personnel group or the Managers & Senior
Professionals Salary Grades I-VII personnel group. However, you may only file a complaint regarding your current employment.

**Scope (Section III.C.)**

9. Section III.C.1. refers to “management action(s) that...adversely affected that employee’s terms and conditions of employment in a material way.” What does “material” mean?

“Material” means that the effect of the management action is not trivial and that a reasonable person would agree that the action affected your current terms and conditions of employment in a serious/substantial way. There may also be circumstances where one action would be considered trivial, but that action, together with other actions, rises to the level of a material effect on your existing terms and conditions of employment.

Management actions that affect your terms and conditions of employment in a material way include, but are not limited to, termination, discipline, letters of warning, and non-selection for transfer or promotion.

A management action that may affect your future terms and conditions of employment is not within the scope of PPSM 70 because those effects are only speculative at this point.

10. Why are only some alleged policy violations eligible for a hearing (PSS) or factfinding (MSP I-VII) at Step III?

The University has determined that the additional process of a hearing for career PSS employees or factfinding for career MSP I-VII employees is warranted when the complaint alleges violations of the policies listed in Section III.J.3.A. and Section III.K.3.A. of the policy.

11. What if I don’t know which policies were allegedly violated by the management action?

If you are unsure whether a management action violated a specific personnel policy, contact the local office designated to respond to PPSM 70 complaints. The local complaint liaison can direct you to policies potentially relevant to your situation and assist you in identifying the relevant section(s) of the policy which should be included when you file your complaint. If there are no relevant policies, you may still file a complaint under Section III.C.1.a. if you believe the management action(s) has adversely affected your existing terms and conditions of employment in a material way.

12. If the management action did allegedly violate a policy, do I have to list it when I file my complaint?

It is to your advantage to identify the policy and relevant section(s) that you believe were violated because you may be entitled to more process. See question 11 if you don’t know which personnel policy may have been violated by the management action. If you don’t list any policy when you file your complaint, then your complaint will be processed under III.C.1.a.
13. Section III.C.2.d. refers to policies that state a management action may be taken at the “discretion,” “sole discretion,” or “judgment” of the University or its management. What are those policies?

The policies applicable to PSS employees that contain this language include:

- PPSM 3 (Types of Appointment), Section A. (Per Diem Appointment)
- PPSM 22 (Probationary Period), Section F. (Extension of Probationary Period)
- PPSM 32 (Overtime), Section C.4. (Compensation Option)
- PPSM 2.210 (Absence from Work), Section III.D.d. (Reinstatement), Section III.D.3.a. (Reduced Schedule or Intermittent Leave), Section III.G.2. (School Activities)
- PPSM 60 (Layoff and Reduction in Time from Professional and Support Staff Career Positions), Section A. (General)
- PPSM 61 (Release During Probationary Period or From Limited, Casual/Restricted, and Floater Appointments), Section A. (General)
- I-2 (Policy on Substance Abuse)

The policies applicable to MSP I-VII employees that contain this language include:

- PPSM 3 (Types of Appointment), Section A. (Per Diem Appointment)
- PPSM 2.210 (Absence from Work), Section III.D.d. (Reinstatement), Section III.D.3.a. (Reduced Schedule or Intermittent Leave), Section III.G.2. (School Activities)
- PPSM 61 (Release During Probationary Period or From Limited, Casual/Restricted, and Floater Appointments), Section A. (General)

Note: MSP employees do not serve probationary periods.

- I-2 (Policy on Substance Abuse)

PPSM 65 (Termination of Career Employees–Managers and Senior Professionals, Salary Grades I through VII) also contains this language; however, as stated in Sections B. and C.2.d. of PPSM 70, former MSP employees are eligible to file a complaint regarding termination.

14. If a management action was taken at the “discretion,” “sole discretion,” or “judgment” of the University according to the policies listed above, can I ever file a complaint about that action?

Yes, but only if you believe the management action was taken for discriminatory or retaliatory reasons in violation of PPSM 12 (Nondiscrimination in Employment) or Section III.N. (Retaliation) of this policy.

15. Can I file a complaint about a counseling memo?

Generally, no. Counseling memos are not considered to be discipline for any purpose and are meant to be an informal way to communicate with you about issues that need to be addressed. Therefore, they typically do not affect your existing terms and conditions of employment in a material way. In contrast, a letter of warning is discipline, so you may file a complaint about it. However, check with your local Human Resources office about removing certain documents, like counseling memos, from your personnel file after a period of time.
Timeliness (Section III.D.)

16. I believe I have experienced sexual harassment and want to file a complaint. What are my options?
You have the option to file a complaint regarding sexual harassment under both PPSM 70 and your local Sexual Harassment Complaint Resolution Procedures. If the complaint you file under PPSM 70 also contains claims that are unrelated to the sexual harassment claims, your local complaint liaison may choose to process those claims separately (see Sections III.J. and III.K. of the policy).

After the sexual harassment investigation is finished, your department will take any action(s) it deems appropriate based on the investigator's findings. Your local complaint liaison will then notify you that Step I of this policy has been completed. That notice will also advise you that, if you believe that any of the sexual harassment claims alleged in your complaint are not resolved, you may submit a written appeal to Step II under this policy within the time frame established in local procedures.

17. I received a notice of intent to terminate. Can I file a complaint immediately?
Employees are not eligible to file a complaint over an action that has yet to occur. Because a final decision to terminate has not yet been made and you have an opportunity to respond to the notice of intent, it would be premature to file a complaint now. The University will review any response you provide to the notice of intent before coming to a final decision. If the University decides to terminate your employment, you will receive notification of the termination decision; once that has happened, you will have 30 days to file a complaint.

18. What if I resign or retire instead of going through the separation process?
Employees are not eligible to file a complaint over an action that has yet to occur. If you resign or retire at any time before a decision is issued, you will not be eligible to file a complaint.

Appeal (Section III.E.)

19. Which local decisions can be appealed to the Office of the President?
You can appeal to the Office of the President only local decisions regarding:
   a. Whether the complaint was timely,
   b. Whether the complaint is within the scope of this policy,
   c. Whether the remedy granted as an early resolution constitutes a make whole remedy, and/or
   d. The dismissal or closure of the complaint due to the employee's failure to participate.

20. How do I file an appeal with the Office of the President?
Any appeal to the Office of the President must be in writing and include copies of the original complaint, the local decision, and any documents that support your appeal. The appeal must be filed within 20 calendar days of the date of the local decision and must be delivered to the Office of the President using one of the following methods:
   a. By U.S. mail or other mail carrier (such as Federal Express) or personal delivery to:
An appeal will be considered “filed” on the date it is post-marked, the date it is personally delivered, the date it is faxed, or the date it is emailed. If you file your appeal in multiple ways, the earliest date will be used to determine timeliness. The Office of the President will attempt to respond to your appeal within 60 calendar days.

Informal Complaint Resolution (Section III.F.)

21. What are my informal resolution options?
The informal resolution options available to employees may vary by location. Examples might include using the local campus mediation procedures or the services of an ombudsperson. Contact your local complaint liaison to find out which options are available at your location.

22. After I filed my complaint, the University and I attempted to resolve my complaint informally. We have not been able to reach agreement and I want the formal process to resume. How many days do I have left to submit my appeal to the next step of the formal process?
If you have not been able to reach agreement and want the formal process to resume, you must first notify the University that you want the formal process to resume. Once you provide that notice, there will be a period of 10 calendar days before the suspension of deadlines ends. Then you will have as many days to submit your appeal to the next step as you had before that deadline was suspended. For example, if you had 10 days to submit an appeal and the deadline was suspended on day 3, then you would have 7 days left to submit the appeal when the formal complaint resolution process resumes.

Early Resolution (Section III.G.) (Career Employees Only)

23. What is the purpose of early resolution?
Early resolution is a way for the University to resolve a complaint in favor of the employee without going through the entire complaint resolution process. This may conserve University resources and resolve the complaint more quickly.

24. Why is early resolution only granted for certain complaints?
Early resolution is only granted for certain complaints that are eligible for review at a hearing (PSS) or factfinding (MSP I-VII) because the make whole remedy for these complaints is easily identifiable.

25. Why are only complaints made by career employees eligible for early resolution?
Only complaints made by career employees are eligible for early resolution because only career employees are eligible to have a complaint reviewed at a Step III hearing (PSS) or factfinding (MSP I-VII).

26. What is a make whole remedy?
A make whole remedy is the remedy to which you would have been entitled under this policy if the complaint had gone through to hearing (PSS) or factfinding (MSP I-VII) and if you had been completely successful at the end of the process.

27. If I am granted a make whole remedy, when will I receive it?
If the University has notified you in writing that it is granting a make whole remedy and specified what the remedy will be, you will receive that remedy within a reasonable period of time once the time limit for appeal has expired. See Section III.E of the policy for information on the time limit for appeal.

28. What if I don’t think the remedy the University is granting me is a make whole remedy?
If you do not believe that the remedy specified by the University is a make whole remedy, you may appeal that issue to the Office of the President, Human Resources in accordance with Section III.E of the policy. See question 20 for information on how to file an appeal.

Withdrawal of a Complaint (Section III.H.)

29. How do I withdraw my complaint?
You may withdraw your complaint by contacting your local complaint liaison. Your withdrawal must be made in writing.

30. What is the deadline to withdraw my complaint?
There is no deadline to withdraw complaints that are at Step I or Step II. Complaints that are at Step III may be withdrawn without the University’s agreement by a PSS employee at any time prior to 60 calendar days before the scheduled hearing and by an MSP I-VII employee at any time up until the factfinder is appointed. After these deadlines have passed, the University must agree to the withdrawal.

31. Why is there a deadline?
The University has imposed a deadline because, if a complaint is withdrawn too close to the scheduled hearing date (PSS) or after the factfinder is appointed (MSP I-VII), the University may have already incurred non-refundable fees or be required to pay cancellation fees. There may also be other reasons why the University would want to continue the process.

Failure to Participate (Section III.I.)

32. Why can my complaint be dismissed or closed if I fail to participate in the process?
The University intends to respond to and resolve complaints in a timely manner. In order to do so, the University needs you to communicate and make certain decisions in order to keep the process moving forward. If you fail to do that, the University may assume that you no longer wish to proceed with your complaint. You will be
notified in writing if your complaint is dismissed or closed due to your failure to participate in the process. You may appeal this decision to the Office of the President, Human Resources under Section III.E. of the policy. See question 20 for information on how to file an appeal.

33. Section III.I. refers to “key aspects of the review process.” What are they?
Key aspects of the review process include, if applicable, scheduling of and participation in fact-finding, selection of a University or non-University hearing officer, scheduling of and attendance at the hearing, and responding on a timely basis to communications from the University’s complaint liaison. This list is not exhaustive. Local procedures may expand this list.

Review Process (Sections III.J. and III.K.)
34. Can I add new claims to a complaint I have already filed?
No, you will not be able to add new claims to a complaint that has already been filed. However, if the local complaint liaison believes that more detail is required in order to process your original complaint appropriately, he/she may request that you provide additional detail regarding your complaint. You can bring new claims in a separate complaint if it is timely filed.

35. I am a PSS employee and not all of the claims in my complaint are eligible for review at Step III. What choice should I make at Step II?
You may only make one selection at Step II, even if your complaint includes claims that are only eligible for review through Step II and claims that are eligible through Step III. Therefore, you should carefully weigh your options before making a selection.

If you wish to preserve your right to proceed to Step III on any claims eligible for review at Step III, you should choose Administrative Review at Step II. However, you should be aware that this choice will eliminate your option to have a fact-finding on any claims that are not eligible for review at Step III. Either all of the claims in your complaint will go through an Administrative Review, preserving your right to hearing but giving up your right to fact-finding, or all of the claims in your complaint will go through fact-finding and you will give up your right to hearing.

36. I am a PSS employee and I selected Administrative Review at Step II. So why is the University talking about fact-finding?
Local procedures may give the University official conducting the Administrative Review the option to enlist the assistance of a fact-finder. This does not change the fact that an Administrative Review is being conducted, so if your complaint contained claims eligible for review at Step III, you will still have the right to a hearing on those claims if they are not resolved at Step II. The right to go to hearing for eligible claims is only lost if you choose the fact-finding option at Step II.

37. I chose fact-finding at Step II. What can I expect?
Most locations offer a non-evidentiary fact-finding during which the fact-finder will review the complaint and other relevant materials, interview you and other relevant witnesses, and conduct the fact-finding in accordance with local procedures. The fact-finder will issue a report according to local procedures that contains findings of
fact. The report will be provided to the official designated in local procedures as the decision-maker and that person will issue a final and binding decision regarding your complaint in accordance with local procedures.

Some locations may offer evidentiary factfinding in which the factfinder acts as a hearing officer. Contact your local Human Resources office to find out more information.

38. I am a PSS employee. I received corrective action under PPSM 62 and want to file a complaint. Would my complaint be eligible to go to Step III?

Your complaint would only be eligible to go to Step III if the type of corrective action you received was one of the following:

   a. a temporary or indefinite within range salary decrease
   b. a corrective demotion
   c. a suspension without pay

In addition, your complaint would have to have alleged either (a) that you did not engage in misconduct or fail to meet performance standards or (b) that you did not engage in misconduct or performance that would justify the type of corrective action you received.

Other types of corrective action may be reviewed through Step II of this complaint resolution process.

39. I am a PSS employee. If I proceed to Step III, who will be the hearing officer?

If your complaint goes to Step III, you can choose to have the hearing conducted by either a University or a non-University hearing officer. If you choose a University hearing officer, there is no fee. If you select a non-University hearing officer, the hearing officer's fee will be shared equally by you and the University.

40. What can I expect from a hearing?

During a hearing, you (or your representative) and the University (or University's representative) will examine witnesses and submit relevant evidence to the hearing officer. If your complaint was regarding corrective action or termination, then the University will present its case first and bear the burden of proof. In all other cases, you will bear the burden of proof. The University will determine how to record the hearing, although you have the option to record the hearing by stenography if the University does not choose to do so. The hearing officer will issue a final and binding written decision.

41. Who can serve as my representative?

Almost anyone can serve as your representative. For example, a fellow employee, a friend, an attorney, or a union representative. However, if you are not a supervisor and wish to have a fellow employee represent you, then you must ask an employee who is also not a supervisor. If you are a supervisor and wish to have a fellow employee represent you, then you must ask an employee who is also a supervisor.

42. Can my representative be present during informal resolution or factfinding?
43. Can I appeal the decision issued by the hearing officer?
   No, you cannot appeal the decision issued by the hearing officer because that
decision is final and binding.

44. I am an MSP I-VII employee. If I proceed to Step III, who will be the factfinder?
   Local procedures will determine how the factfinder will be appointed.

Remedy (Section III.L.)
45. If I am reinstated after separation, what happens to the benefits I would have
    received between my separation and reinstatement?
   Certain benefits (like UCRP) can be restored as if the separation had not occurred.
   Other benefits, such as health benefits, can only be restored to the extent allowed by
   benefit regulations and Plan rules. In that case, the loss of benefits will be
   addressed by the University through other means. Contact your local Human
   Resources Office for additional information.

46. I have a non-UC job that I have worked at for a long time. Will the wages from
    my non-UC job be offset if I am awarded back pay?
   Only wages from employment you engaged in to replace the University income you
   lost as a result of the adverse job action will be offset from your backpay award.

Conflict of Interest (Section III.M.)
47. What is a conflict of interest?
   For the purposes of PPSM 70, a conflict of interest is a situation where a factfinder,
   University hearing officer, and/or decision-maker is unable to serve impartially
   because he/she has a bias or personal interest in the outcome.

48. I am concerned that the factfinder, decision-maker, or University hearing
    officer has a conflict of interest. What do I do?
   You should promptly raise those concerns with the office designated in your
   location’s local procedures. The local office will determine whether an actual conflict
   of interest exists and, if so, will designate someone else to conduct these duties.

Retaliation (Section III.N.)
49. I filed a PPSM 70 complaint earlier this year and believe I have been retaliated
    against because I filed that complaint. Can I file a complaint about the
    retaliation?
   Yes, you can file another PPSM 70 complaint because you are protected from
   retaliation for using or participating in the complaint resolution process. The
   complaint must be timely filed in accordance with Section III.D. of the policy.

50. I wanted to resolve my workplace issue with my supervisor informally. I
    brought the issue to my supervisor’s attention and ever since then I think she
    has been retaliating against me. Can I file a complaint?
Yes. Section III.A. of the policy encourages employees to attempt to resolve their complaint with their supervisor before initiating the formal complaint resolution process. If you were subjected to retaliation for participating in the complaint resolution process in this way, you can file a complaint under this policy.

VIII. REVISION HISTORY

Policy changes effective XX:

- Incorporation into this policy of Personnel Policies for Staff Members 71 (Resolution of Concerns – Managers and Senior Professionals, Salary Grades VIII and IX).
- Added references to non-Roman numeral salary grades and classifications in use for MSP employees.
- Aligned with revisions to Policy on Sexual Violence and Sexual Harassment.
- Added Evidentiary Standard section (III.B.11), Filing a Complaint section (V.B), and Initial Assessment section (V.C).

This policy was reformatted into the standard University of California policy template effective July 1, 2012.

Policy changes effective as of July 1, 2012:

- A former Professional & Support Staff or Managers & Senior Professionals I-VII employee who is involuntarily separated is eligible to file a complaint under this policy.
- Matters outside the scope of this policy now include:
  - Contents of the personnel policies.
  - An individual employee’s rate of pay or change in rate of pay (with the exception of a corrective salary decrease), unless the action was allegedly taken for discriminatory or retaliatory reasons.
  - A management action taken pursuant to a policy or Presidentially-approved program that states that such an action may be taken at the “discretion,” “sole discretion,” or “judgment” of the University or its management, with the exception of PPSM 65 (Termination of Career Employees—Managers and Senior Professionals, Salary Grades I through VII), unless the action was allegedly taken for discriminatory or retaliatory reasons.
- A complaint that alleges a series of policy violations or pattern of management actions must be filed within 30 calendar days of the most recent policy violation or management action.
- A complaint regarding layoff must be filed within 30 calendar days after the effective date of the layoff.
- An employee will be notified in writing regarding whether his/her complaint is timely, whether it falls within the scope of this policy, and whether it qualifies for review through Step II or Step III.
If an employee does not appeal within the time limit(s) specified in local procedures, the complaint will be considered resolved and closed on the basis of the last University response.

Whether the remedy granted under early resolution constituted a make whole remedy and the dismissal or closure of a complaint due to failure to participate can be appealed to the Office of the President.

The review processes for Professional & Support Staff and Managers & Senior Professionals I-VII were split into two separate sections and significant detail was added to each section.

Language regarding filing a complaint under both this policy and the local Sexual Harassment Complaint Resolution Procedures was clarified.

New policy sections were added:
- Informal Complaint Resolution
- Early Complaint Resolution (Career Employees Only)
- Withdrawal of a Complaint
- Failure to Participate
- Remedy
- Conflict of Interest

As a result of the issuance of this policy, the following documents are rescinded as of the effective date of this policy and are no longer applicable:
- Personnel Policies for Staff Members 70 (Complaint Resolution), dated July 1, 2012
- Personnel Policies for Staff Members 71 (Resolution of Concerns – Managers and Senior Professionals, Salary Grades VIII and IX), dated March 1, 2000

The following policies have been rescinded and are no longer applicable:
- Personnel Policies for Staff Members 70 (Complaint Resolution), dated March 1, 2000
- Personnel Policies for Staff Members 70 (Complaint Resolution), dated July 1, 1996
- Staff Personnel Policy 280 (Employee Grievances), dated December 1, 1985