

Memo to: All UH-Downtown/PS Holders

UH-Downtown/PS 02.B.01

From: Max Castillo, President

Issue No. 3

Effective Date: 09/29/08

Subject: Staff Grievance Policy

Page 1 of 8

1. PURPOSE

The University of Houston-Downtown (UHD) has a commitment to the establishment and maintenance of a constructive problem-solving mechanism for the resolution of employee grievances. The purpose of this policy is to provide a means whereby an employee may be assured of a prompt, orderly, and fair response to his/her grievance. Procedures for faculty grievances are covered in PS 10.A.02, Faculty Grievance Procedures.

2. DEFINITIONS

- 2.1 Administrative Appeal Process: The administrative appeal process has been established in an attempt to provide a second informal step to resolve a grievance. Staff employees shall complete both the preliminary appeal and the administrative appeal processes prior to seeking recourse through the formal appeal process.
- 2.2 Formal Appeal Process: The formal appeal process has been established to resolve those grievances resulting from adverse employment actions that could not be resolved through either the preliminary or administrative appeal processes. This process is available to all staff employees.
- 2.3 Grievance: A disagreement between an employee and management on the terms or conditions of employment. A grievance may be filed as a result of one of the following adverse employment actions: written reprimand, suspension without pay, demotion, involuntary transfer to a different job classification, denial of promotion, or termination. The assignment of duties, performance evaluations/appraisals, scheduling of work hours, rate of pay, and other management decisions are reserved as management rights and cannot be appealed through the grievance process. Complaints involving allegations of discrimination or harassment are processed through PS 02.B.09, Title IX and Other Discrimination Complaints or PS 02.A.15, Sexual Harassment Policy.
- 2.4 Grievant: A non-probationary staff employee who files a grievance under this policy.
- 2.5 Preliminary Appeal Process: The preliminary appeal process has been established in an attempt to informally resolve grievances resulting from adverse employment actions as quickly as possible and is available to all staff employees.
- 2.6 Respondent: The UHD manager/supervisor against whom the grievance is filed.

2.7 Staff Employee (or Staff): An employee employed on a regular basis for a period of at least four and one-half months, excluding students employed in positions that require student status as a condition for employment and those holding a teaching and/or research position classified as faculty.

3. POLICY

3.1 It is the policy of the University of Houston-Downtown that all employees be treated fairly and consistently in all matters related to their employment, and have the right to express grievances through informal and formal avenues.

3.1.1 Any staff employee who has a disagreement with management on an adverse employment action is provided a prompt, orderly, and fair response to his/her grievance under this policy.

3.1.2 Intimidation, harassment, coercion, retaliation or reprisal in any form against an employee for filing a good-faith grievance, for participating in good faith on a hearing panel, or for assisting another employee in the filing of a grievance is strictly prohibited.

3.1.3 Employees on probationary status are excluded from filing grievances under this policy. However, if a probationary employee believes that discrimination or harassment was a factor in a personnel action, he/she may proceed through PS 02.B.09, Title IX and Other Discrimination Complaints or PS 02.A.15, Sexual Harassment Policy.

3.2 Staff Grievance Committee

3.2.1 The Staff Grievance Committee shall be elected via nominations provided by Staff Council.

3.2.2 Members of the Staff Grievance Committee serve three (3) year terms and are required to have a minimum of two years of full-time staff employment at UHD at the time of their nomination to the committee.

3.2.3 Members of the President's Executive Council and staff in the Division of Employment Services and Operations are ineligible for service on the Staff Grievance Committee.

3.3 Staff Hearing Panel

3.3.1 The Campus Relations/Affirmative Action Officer (CR/AAO) or his/her designee will identify five (5) members of the Staff Grievance Committee to serve as the Staff Hearing Panel and hear the grievance. An alternate member will be selected to replace a regular member of the hearing panel if a regular member is unable to

serve or when a potential conflict of interest exists. A quorum of the panel is three (3) members.

4. PROCEDURES

4.1 The grievance process consists of three steps: the preliminary appeal, the administrative appeal to the respective vice president or division head, and the formal appeal.

4.2 Staff employees who wish to grieve his/her termination of employment may skip the first two steps and proceed directly to the formal appeal.

4.3 Preliminary Appeal

4.3.1 A grievant may begin the preliminary appeal process by submitting a written request to his/her second-level supervisor setting forth the issues the grievant believes need to be addressed, as well as the proposed resolution, no later than five (5) working days following the grievant's notification of the act, event, decision or condition which is the basis of the appeal.

4.3.2 The second-level supervisor has ten (10) working days from the date of receipt of the appeal to respond to the grievant in writing, by either upholding the decision or overturning the action that resulted in the grievance.

4.3.3 The appeal to the second-level supervisor regarding the subject of the grievance may lead to a satisfactory resolution to both parties and end the grievance process.

4.4. Administrative Appeal

4.4.1 The administrative appeal seeks administrative resolution of the grievance through the review of the respective vice president or division head.

4.4.2 If the grievant's petition to the second-level supervisor does not resolve the grievance, he/she may proceed to the administrative appeal by submitting a written administrative appeal to the respective vice president or division head, by no later than five (5) working days after receiving notice from the second-level supervisor on the grievant's appeal.

4.4.3 The vice president or division head overseeing the administrative appeal must communicate his/her decision on the appeal, in writing, to the grievant within ten (10) working days from the date the administrative appeal was received by the vice president or division head, either upholding the decision or overturning the action that resulted in the grievance.

4.4.4 If the grievant's second-level supervisor is a vice president or division head, the grievant will bypass the preliminary appeal and file the administrative appeal within five (5) working days following the grievant's receiving notice/being

notified of the act, event, or decision regarding the condition which is the basis of the grievance.

- 4.4.5 If the employee's first-level supervisor is a vice president or division head, the employee may bypass both the preliminary appeal and the administrative appeal processes and proceed directly to the formal appeal process.
- 4.4.6 If the grievance is a result of a termination of employment, the grievant may proceed directly to the formal grievance process.

4.5 Formal Appeal

- 4.5.1 If the grievant is not satisfied with the decision resulting from the administrative appeal process, the grievant may seek resolution of the grievance through the formal appeal process. This is the final step in the grievance process.
- 4.5.2 The grievant will complete the Grievance Complaint Form (Exhibit A) stating the details of the grievance, the names of any witnesses who the grievant believes may have knowledge of the nature of the grievance, and the relief sought.
- 4.5.3 The Grievance Complaint Form must be submitted by the grievant to the CR/AAO within five (5) working days of the grievant's receipt of the decision on the grievant's administrative appeal.
- 4.5.4 Failure to submit the Grievance Complaint Form to the CR/AAO within five (5) working days from receipt of the decision from the administrative appeal as established in this policy will be deemed a waiver of the right to pursue a formal grievance.
- 4.5.5 A hearing to review the issues surrounding the grievant's complaint will be scheduled by the CR/AAO and the Staff Hearing Panel appointed no later than thirty (30) working days after the CR/AAO's receipt of the Grievance Complaint Form. The CR/AAO or his/her designee will identify five (5) members of the Staff Grievance Committee to serve as the Staff Hearing Panel and hear the grievance. An alternate member will be selected to replace a regular member of the hearing panel if a regular member is unable to serve or when a potential conflict of interest exists.
 - a. No member of the hearing panel may be involved in any of the events surrounding the grievance.
 - b. Neither the grievant's nor the respondent's department may be represented on the hearing panel.
 - c. The hearing panel must represent a broad cross section of university staff.

- d. No more than one member of any department may serve on the hearing panel.
- 4.5.6 No later than fifteen (15) working days prior to the hearing, the CR/AAO or his/her designee will send a notice to the grievant and respondent stating the date, time, and place of the hearing.
- 4.5.7 No later than five (5) working days prior to the hearing, the parties will submit to the CR/AAO the following:
- a. All documents to be considered by the hearing panel;
 - b. A list of witnesses, not to exceed four (a witness list including five or more names must receive prior approval from the CR/AAO) expected to testify at the hearing;
 - c. Request for the removal of one member of the hearing panel, if desired; and
 - d. Notification if he/she will be represented by legal counsel (including the name, address and telephone number of counsel).
- 4.5.8 No later than three (3) working days prior to the hearing, the CR/AAO or his/her designee will distribute copies of all documentation and witness lists to both parties.
- 4.5.9 No later than two (2) working days prior to the hearing, the CR/AAO or his/her designee will convene the hearing panel to review copies of the submitted materials, assist the Panel in electing a chair, and discuss hearing guidelines (Exhibit B).
- 4.5.10 The CR/AAO or his/her designee will attend the hearing for purposes of providing guidance on hearing procedures, but will not take an advocacy position.
- 4.5.11 All grievance hearings are audibly recorded. Upon request of either party to the CR/AAO, duplicate audio recordings of the proceedings will be made available to the requesting party. The party requesting audio duplicates will bear the actual production costs.
- 4.5.12 When all the evidence is presented and the hearing panel members have no further questions of either party or any of the witnesses, the hearing panel chair will adjourn the hearing, ensuring that the tape recording has ceased. After meeting with the CR/AAO or his/her designee who will address policy/procedural questions, the hearing panel members will proceed to closed session deliberations.
- 4.5.13 No later than three (3) working days following the conclusion of the hearing, the panel will make a recommended finding as to whether or not university policy

was violated. The chair will communicate the panel's recommended findings on the Grievance Complaint Form and forward it to the CR/AAO for final review.

4.5.14 The CR/AAO will submit the Grievance Complaint Form to the President within three (3) working days of receipt from the panel.

4.5.15 No later than ten (10) working days after receipt of the hearing panel's recommended finding, the President or designee will take one of the following actions and communicate his/her decision in writing to the grievant, the respondent, both parties' attorneys (as appropriate), and the CR/AAO:

- a. Accept the panel's recommended finding;
- b. Reject the panel's recommended finding; or
- c. Remand the case to the panel with instructions to reopen the hearing, conduct further deliberations, or answer specific questions posed by the President.

4.5.16 The President's decision is final and binding to all parties.

4.6 A flow chart depicting the staff grievance process is outlined in Exhibit C.

4.7 Staff Grievance Committee

4.7.1 The Staff Grievance Committee shall be comprised of eighteen (18) full-time benefits-eligible staff members. The Staff Council will submit nominations to Employment Services and Operations each August, as follows:

<u>Division</u>	<u># of Nominees</u>
Academic Affairs	12
Administration and Finance	12
Student Services and Enrollment Management	6
President's Office	1
University Advancement	1
Public Affairs	1

4.7.2 The Staff Grievance Committee shall be ethnically diverse, and include a good mix of males and females.

4.7.3 Selection of the Staff Grievance Committee membership will occur by election each August.

4.7.4 Members of the Staff Grievance Committee are required to have a minimum of two years of full-time staff experience at UHD at the time of their nomination to the committee.

4.7.5 The election is to be conducted by the Vice President for Employment Services and Operations.

a. Only benefit-eligible staff members are qualified to vote.

b. Under the stated membership constraints, the nominees receiving the highest numbers of votes become committee members.

4.7.6 Members of the Staff Grievance Committee serve rotating three-year terms with no more than one-third of the membership rotating off the Committee annually in September. The composition of the committee will be as follows:

<u>Division</u>	<u># of Positions on Committee</u>
Academic Affairs	7
Administration and Finance	7
Student Services and Enrollment Management	3
President's Office, University Advancement, & Public Affairs	1
(one employee will represent the division of the President's Office, University Advancement and Public Affairs)	

4.7.7 Members of the President's Executive Council and staff in the Division of Employment Services and Operations are ineligible for service on the Staff Grievance Committee.

5. EXHIBITS

Exhibit A: Grievance Complaint Form

Exhibit B: Staff Grievance Hearing Panel Rules and Guidelines

Exhibit C: Staff Grievance Process Flow Chart

6. REVIEW PROCESS

Responsible Party (Reviewer): Vice President for Employment Services and Operations

Review: Every three years on or before October 1st.

Signed original on file in Employment Services and Operations.

7. POLICY HISTORY

Issue #1: 5/12/89

Issue #2: 10/16/95

8. REFERENCES

UH System Memorandum 02.A.05

PS 02.A.15

PS 02.B.09

PS 10.A.02

WITNESSES: *State the names and contact information of anyone who may have witnessed or may have first hand knowledge of the nature of the grievance.*

EXPECTED OUTCOME: *State what outcome or resolution you expect as a result of filing this grievance.*

I believe the information contained herein to be true and factual.

(Employee Signature) (Date)

TO BE COMPLETED BY STAFF HEARING PANEL CHAIR

Date Grievance Hearing was Held: _____

RECOMMENDED FINDINGS:

Was there a violation of any University of Houston-Downtown policy?

_____ No (If not, the hearing panel is hereby dismissed.)

_____ Yes (If yes, what policies were not followed?)

Signature: _____
(Chair, Hearing Panel)

Date: _____

UNIVERSITY OF HOUSTON-DOWNTOWN FORMAL APPEAL PROCESS

STAFF GRIEVANCE HEARING PANEL RULES AND GUIDELINES

General Rules

1. If a grievant elects to be represented by an attorney, the request for such representation must be submitted in writing to the Campus Relations/Affirmative Action Officer (CR/AAO) no later than five (5) working days prior to the hearing. If the grievant elects to be represented by counsel, the University representative (respondent) will also be represented by legal counsel.
2. The hearing must be closed unless an open hearing is agreed to in advance by the hearing panel and both concerned parties. All information presented at a closed hearing must be regarded by all parties as confidential.
3. All hearings are audibly recorded, with the exception of the closed session deliberations of the hearing panel. Upon request of either party to the CR/AAO, duplicate audio recordings of the proceedings will be made available to the requesting party. The party requesting the audio duplicate will bear the actual production costs.
4. The hearing panel chair will direct the proceedings and may set time limits on the presentations by the grievant, the respondent and witnesses.
5. The hearing panel chair will be responsible for supervising the conduct of the hearing and maintaining decorum.
6. The hearing panel chair may terminate a hearing, for due cause, at any point during the hearing.
7. No witnesses may be present in the hearing room before or after their testimony.
8. Upon timely written petition by either party, the CR/AAO may extend any deadline in the grievance process, except for the initial filing of the Grievance Complaint Form.
9. The hearing panel chair may request the attendance of other university personnel at the hearing.
10. The hearing panel is not an investigative body and must assure that only matters identified in the grievance are addressed in the hearing.

Hearing Guidelines

1. Prior to the beginning of the hearing, both parties will be invited into the hearing room.
2. The hearing panel chair will remind all parties that the hearing is confidential. The chair will ask each party, as well as the panel members, to identify him/herself for the record and to state his/her name each time he/she speaks during the proceedings.
3. The panel chair will have the sole discretion to decide who shall remain in the hearing, other than the grievant and his/her advisor, if any, the respondent and his/her advisor, if any, the hearing panel, as well as the CR/AAO.
4. All documents and the names of the witnesses to be relied upon by the grievant or the respondent during the hearing must be submitted by the respective parties (i.e., the grievant and the respondent) to the CR/AAO by no less than five (5) working days before the hearing. Documents and names of witnesses that were not submitted in a timely manner prior to the hearing cannot be utilized/referenced during the hearing.
5. Both parties shall be afforded a reasonable opportunity for oral opening (3-5 minutes) and closing statements (3-5 minutes) and to present evidence including witnesses, relevant documents and their respective oral statements regarding the subject matter of the grievance. Each party will be allowed up to one hour to present their evidence including witnesses, documents and oral statements.
6. The grievant may present up to four (4) witnesses in support of his/her grievance. Any request to present more than four (4) witnesses must be presented in advance of the hearing to the CR/AAO for his/her consideration and approval. Such requests must be based on good cause.
7. After being recognized by the chair, panel members may ask questions of any party or witness, at any time, during the hearing.
8. Each party shall have the right to cross-examine any witness offered by the opposing party after the opposing party has completed questioning that witness. All questions must be related to the grievance and should be directed to the panel chair.
9. After a witness is finished, he/she will be dismissed by the panel chair to leave the hearing room as well as the witness area and instructed not to discuss any information related to the hearing and/or grievance.
10. This is an administrative hearing and legal counsel present will merely serve as advisors to their respective clients (i.e., grievant or respondent) and neither party may proceed or otherwise present evidence or argument through their advisor at any time during the

hearing. The legal advisor may only advise his/her client and at no time may he/she address any panel member or the other party.

11. After completion of the hearing, the hearing panel will dismiss all participants and deliberate in closed session. The panel chair will complete the Staff Hearing Panel Resolution Form and submit it to the Campus Relations/Affirmative Action Officer who will deliver it to the President.

**UNIVERSITY OF HOUSTON-DOWNTOWN
STAFF HEARING PANEL RESOLUTION FORM**

This form will be utilized by the Staff Hearing Panel to communicate its findings to the President of the University of Houston-Downtown.

GRIEVANT INFORMATION

Employee's Name: _____
Please Print (Last Name) (First Name) (M.I.)

Job Title: _____

Reason for the Grievance: _____

Date Grievance was Filed: _____

Date Grievance Hearing was Held: _____

STAFF HEARING PANEL RECOMMENDED FINDINGS

Was there a violation of any University of Houston-Downtown policy?

_____ No (If not, the hearing panel is hereby dismissed. Thank you for your service.)

_____ Yes (If yes, what policies were not followed?)

Signature: _____
(Chair, Hearing Panel)

Date: _____