
PROFESSIONAL STAFF EMPLOYEES - GRIEVANCES AND APPEALS

PURPOSE: To establish a grievance procedure for professional staff employees.

The Due Process Procedure is designed for use only when disciplinary action is being taken by the University against a professional staff employee during the term of an employment contract. "Disciplinary action" includes dismissal for cause, suspensions without pay and demotions. This process generally requires the University to provide the affected employee with a notice of contemplated action and an opportunity to be heard before making any decision to impose disciplinary sanctions.

The Problem-Solving Process deals with non-disciplinary matters (job related issues other than those defined as disciplinary or those alleging illegal discrimination or harassment). It generally requires an employee to meet with his or her immediate supervisor to resolve the matter; file for problem solving if the matter is not resolved; meet with upper-level management; and receive a final decision from the Provost, applicable Vice President, or the President.

Neither the Due Process Procedure nor the Problem Solving Process are applicable to non-renewal of appointment or contract renewal situations.

I. THE DUE PROCESS PROCEDURE

A professional staff employee is entitled to due process before the University makes any decision to impose dismissal for cause, suspension or demotion during the term of an existing employment contract. Due process requires the employee receive written notice of the disciplinary action being contemplated and an opportunity to be heard before a decision is made. If a professional staff employee needs assistance with this process, s/he should contact the University Human Resource Services for assistance.

A. Notice:

If the University is contemplating disciplinary action the department must provide notice of the contemplated action to the employee in writing.

1. Notice of the Contemplated Action: The Dean or Department Director will work with Human Resource Services to develop the written Notice and such notice will be given to the employee with a copy of the notice to Human Resource Services.
2. Contents of the Notice of Contemplated Action must include:
 - a) Disciplinary action contemplated (i.e., dismissal for cause, suspension without pay or demotion).
 - b) The basis (reason and corresponding legal or policy citation) for this action or reason for this action.

- c) An explanation of the information or evidence pertinent to the contemplated action.
- d) The time frames for the response.

B. Opportunity to Respond:

An employee who receives a notice of contemplated action is entitled to an opportunity to respond verbally or in writing. The employee's response shall be the opportunity for the employee to respond to the content of the notice and to present reasons why the contemplated action should not be taken. The employee must respond in writing within the time period indicated in the notice, otherwise the opportunity is deemed waived by the employee. The response, if any, shall be provided by the employee to the Dean or Department Director who issued the notice with a copy to Human Resource Services.

1. **Time to Respond:** The notice of contemplated action shall provide a set time period of no less than five (5) working days within which an employee may respond after the receipt of notice. The Dean or Department Director issuing the notice may extend the time period for a response, but in no event may that time period exceed ten (10) working days after the employee has received notice unless both the Dean or Department Director issuing the notice and employee agree to file an extension in writing with a copy to Human Resource Services.
2. **Right to Representation:** The employee has the right to be represented by a person of his or her choosing during this procedure and, if applicable, during the Optional Mediation Process. If the employee chooses to be represented, the employee must notify the Dean or Department Director who issued the notice with a copy to Human Resource Services.

C. University's Decision:

The Provost, Vice-President, or their designee will notify the employee of the final decision no later than ten (10) working days after the employee has responded, failed to respond, or otherwise waived his or her right to respond. The University's final decision will be sent or delivered to the employee. The Due Process Procedure is completed when the Provost, Vice-President, or designee notifies the employee of the University's decision. Human Resource Services will coordinate processing the University's final action. If a disciplinary sanction is imposed, it may be implemented immediately. The employee has the right to request an appeal of the University's disciplinary decision to the State Board of Education within fifteen (15) days of the date of the University's decision. However, such appeal to the Board is not a matter of right and is at the discretion of the State Board pursuant to its Governing Policies and Procedures Section II.M.

D. Optional Mediation Process:

The Dean or Department Director and the employee may mutually agree to engage in mediation after notice of contemplated action has been sent during the Due Process Procedure. If both sides agree in writing to mediation, the time limits for the opportunity to respond and the University's decision will be suspended pending mediation. Mediation is not possible unless both the Dean, Department Director or supervisor and the employee agree. Human Resource Services shall assist in identifying a mediator and coordinating this process.

II. THE INFORMAL PROBLEM SOLVING PROCESS

A. Problem Solving Process:

1. Professional Staff employees are eligible to file under the Problem Solving Procedure during the term of an employment contract. Any job related matters may be handled through the Problem Solving Process with the exception of the following: (1) compensation, except as it applies to alleged inequities within a particular department; (2) non-renewal; (3) allegations of illegal discrimination or of an ongoing pattern of harassment; and (4) the matters set forth in the Due Process Procedure (dismissal for cause, demotions or suspensions without pay).
2. The Problem-Solving Process is a chain-of-command process which includes the following steps: (1) meeting with the immediate supervisor; (2) filing for problem-solving; (3) meeting with the Dean or Department Director; and (4) receiving a final decision from the Provost or Vice-President. Problem-Solving Request forms are available from Human Resource Services. If an employee fails to meet any time limits of the problem-solving procedure, the problem will be considered resolved unless an extension is agreed upon in writing by both sides and a copy is sent to Human Resource Services.
3. The employee is entitled to be represented by a person of his or her choosing at each step of the problem-solving procedure (including the Optional Mediation Step), except the initial informal discussion with the immediate supervisor.

B. Meeting with Immediate Supervisor:

1. Before actually filing for problem-solving, an eligible employee must first make a reasonable attempt to meet with and resolve the matters with his or her immediate supervisor. Representatives are not permitted at the informal meeting with the immediate supervisor.
2. Employees and supervisors are strongly encouraged to engage in an informal problem-solving meeting in order to identify the precise matters at issue, discuss ways to resolve the matters and hopefully resolve the matters at the lowest level possible.
3. If meeting with the immediate supervisor did not result in resolution of the problem, an employee may then file for problem-solving.

C. Filing for Problem-Solving:

1. An eligible employee is required to file for problem-solving in writing no later than five (5) working days after being notified or becoming aware of any matter which may be handled through the Problem-Solving Process. The time limit for filing shall be extended due to an employee's illness or other approved leave.
2. The employee must file the Problem-Solving Request Form with his or her immediate supervisor with a copy sent to the Dean or Department Director and Human Resource Services. The department may, at its sole discretion, accept a late filing.

D. Meeting with the Dean or Department Director:

1. The employee will meet with the Dean or Department Director no later than five (5) working days after filing for problem-solving. The Dean or

Department Director will consult with the employee's immediate supervisor to determine who may be best able to resolve the problem in this meeting with the employee. The Dean or Department Director may also take into account the employee's preference in deciding who should be present. Since the goal of this procedure is to resolve problems at the lowest level possible, the meeting may involve the immediate supervisor and any additional people who may be helpful in resolving the issues. The Dean or Department Director is responsible for scheduling the meeting.

2. The employee shall receive a written suggested solution from the Dean or Department Director no later than five (5) working days after the meeting. A copy will be sent to Human Resource Services and the immediate supervisor.
3. If the employee is not satisfied with the recommended solution, s/he may request in writing a review by the Provost or Vice-President no later than three (3) working days after receiving the Dean or Department Director's suggested solution. To request a review the employee shall file the written request on the Problem-Solving Request Form with Human Resource Services with a copy to the Dean or Department Director who issued the suggested solution.

E. Final Decision:

The Provost or Vice President or designee may consult with the employee, immediate supervisor, Dean or Department Director, and any others who participated in the problem-solving procedure in order to determine how best to resolve the issue. The employee will receive a final decision from the Provost/Vice-President or designee no later than ten (10) working days after a request for review is submitted, or a meeting is held as determined by the Provost, Vice President or designee, whichever is later. A copy will be sent to Human Resource Services. The employee has the right to request an appeal of the final University decision to the State Board of Education within fifteen (15) days of the date of the decision. However, such appeal to the Board is not a matter of right and is at the discretion of the State Board pursuant to its Governing Policies and Procedures Section II.M.

F. Optional Mediation Step:

The department and employee may mutually agree in writing to engage in mediation during the Problem-Solving Process. If both sides agree in writing, the other steps and time limitations (except for the initial five (5) working day filing requirement) of the Problem-Solving Process will suspend pending mediation. The department and employee must agree upon a mediator. Human Resource Services shall assist with providing mediator names and coordinating this process. Mediation is not possible unless both the department and employee agree.

G. No Retaliation:

No employee shall be retaliated against for utilizing the Problem Solving Process or for serving as a witness or representative in a Problem Solving Process. Any such retaliation is expressly prohibited and may constitute grounds for discipline, up to and including dismissal, against the employee conducting the retaliation.