

**SOUTH CAROLINA STATE UNIVERSITY
PERSONNEL POLICIES AND PROCEDURES MANUAL**

SECTION: Employee Relations	Section: VII
	Subject: K
SUBJECT: Non-Faculty Employee Grievance Procedures	Effective: 01/01/06
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NON-FACULTY EMPLOYEE GRIEVANCE PROCEDURES

Policy

It is the policy of South Carolina State University to recognize the right of covered employees to present and seek answers to grievances without fear of discipline, restraint, coercion or reprisal. The President and executive management of South Carolina State University fully expect and will require that all University personnel abide by established grievance policies and procedures, and will take appropriate action against anyone who disciplines an employee or causes an employee to be disciplined or otherwise prejudiced in his or her employment for exercising his or her rights under these policies and procedures.

Purpose and Scope

The purpose of South Carolina State University's Non-Faculty Employee Grievance Procedures policy is to provide a means whereby a non-faculty covered employee may seek a fair administrative review without delay when the employee feels he or she has been subjected to unfair treatment. Any covered employee of South Carolina State University (with the exception of those specifically exempted which follow) is eligible to file a grievance under this grievance procedure. The following University employees are exempt from this grievance procedure and may not file a grievance under it: any employee who becomes a TERI participant after June 6, 2005, teaching or research faculty, professional librarians, academic administrators or other persons holding faculty appointments, athletic coaches and unclassified employees in the Athletic Department.

Grievable and Appealable Actions

As used in the State Employee Grievance Procedure Act, grievances or appeals shall include the following actions:

- A. Terminations - The action taken by an agency against an employee to separate the employee involuntarily from employment.
- B. Suspensions - An enforced leave of absence without pay pending investigation of charges against an employee or for disciplinary purposes.

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- C. Involuntary Reassignments - The movement of an employee's principal place of employment in excess of 30 miles from the prior work station at the initiative of the agency. The reassignment of an employee by an agency in excess of 30 miles from the prior work station to the nearest facility with an available position having the same state salary range for which the employee is qualified is not considered an involuntary reassignment.
- D. Demotions - The assignment of an employee by the appointing authority from one established position to a different established position having a lower state salary range.
- E. Salary Decreases Based on Performance - The reduction of a covered employee's compensation based on the results of an Employee Performance Management System (EPMS) evaluation.
- F. Reductions In Force - A determination made by an agency head to eliminate one or more filled positions in one or more organizational units within the agency due to budgetary limitations, shortage of work, or organizational changes. Reductions in force are only considered grievable if the agency, or appealable if the State Human Resources Director, determines that there is material issue of fact that the agency inconsistently or improperly applied its reduction in force policy or plan.
- G. Promotions - Promotions are not adverse employment actions which may be considered grievances or appeals except in instances where the agency, or in the case of appeals, the State Human Resources Director determines a material issue of fact exists that a qualified covered employee was not considered for a promotion for which he or she formally applied or would have applied if the employee had known of the promotional opportunity. However, when an employee is promoted one organizational level above the promoted employee's former level, that action is not grievable for any other qualified covered employee. Failure to be selected for a promotion is not considered a grievance or an appeal.
- H. Reclassifications - Reclassification is considered a grievance only if an agency or an appeal if the State Human Resources Director determines a material issue of fact exists that the action is a punitive reclassification (the assignment of a position with the sole purpose to penalize the covered employee). Reclassifications, reassignments, and transfers within the same state salary range are not considered grievable or appealable.

Procedures

It is the responsibility of the immediate supervisor to make proper decisions and to work toward solutions that are in the best interest of South Carolina State University and the employee involved in attempting to settle complaints without the employee filing a grievance. Therefore, it is expected that the supervisor will make every effort to effect a satisfactory solution so that the majority of employee complaints will be settled informally between the employee and his or her immediate supervisor.

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When a complaint cannot be resolved through supervisory channels, a covered employee may elect to file a grievance to the University Grievance Committee. Employees have the right to a representative, including counsel, in the grievance and appeal process. If an employee chooses to exercise the right to counsel, it shall be at his or her own expense. The following sets forth the procedures involved:

- A. The covered employee must initiate the grievance with the University's Office of Human Resource Management within 14 calendar days of the effective date of the adverse action by submitting a "Grievance Review Hearing Request" ([Form P-25](#)).
- B. Upon receipt of the "Grievance Review Hearing Request" the University's Human Resources Director or designee shall initially review the complaint to determine whether the matter is grievable as defined by the State Employee Grievance Procedures Act. The Human Resources Director or designee may conduct appropriate investigations and fact findings as necessary to make this determination, normally within 5 calendar days.
- C. If it is determined that the matter is not grievable, the employee shall be notified in writing by the President or designee, normally within 5 calendar days of receipt of the grievance. The President's decision will be final within the agency and the employee will be informed of his or her rights to appeal to the State Human Resources Director.
- D. If it is determined that the matter is grievable, the University's Human Resources Director or designee, will assemble all records, reports and documentation relative to the case to ascertain that there has been full compliance with University policies and procedures. Any initial determination by the Human Resources Director or designee, that an action may be grieved shall entitle the employee to have the matter considered in accordance with the grievance procedures and in no way should be construed to be an adjudication of the merits of the grievance.
 1. If there has not been full compliance, the Human Resources Director may recommend to the President that the adverse action be rescinded or such other corrective action as would be appropriate.
 2. If University policies and procedures and appropriate personnel practices have been followed, the case will proceed with or without mediation.
- E. Once the determination is made that the matter is grievable, the employee and the University representative has 2 calendar days to submit in writing the desire to participate in voluntary mediation.

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1. With Mediation

- a) When the employee and the University's representative(s) both agree in writing to participate in voluntary mediation, the Human Resources Director will schedule a mediation conference to occur within 5 calendar days and make the necessary arrangement for the selection of the mediator.
- b) The mediator will serve as an impartial third party who will encourage and facilitate a resolution to the dispute without advising what the result should be. The mediation conference(s) will be confidential and limited to the parties and their representatives. Other persons may attend with the permission of the mediator and the other party. The mediator may not be compelled by subpoena or otherwise divulge any records or discussions to testify in regard to the mediation conference in any adversary proceeding or judicial forum.
- c) If the parties agree to settle the matter, the mediator will assist in crafting a mediation agreement which both parties must sign. A signed agreement will end the grievance. The mediator may share terms of the settlement agreement with the University's designated officials who need to finalize and assist in implementing the agreement.
- d) If the matter is not settled within 7 calendar days of the initial mediation conference, the mediator will inform the University's Human Resources Director that settlement has not occurred. The Human Resources Director will then schedule a conference with the University Grievance Committee to hear the employee's grievance, normally within 5 calendar days.

2. Without Mediation

If the matter is grievable and the employee or University representative submits a written decision not to participate in voluntary mediation or fails to respond within 2 days, the Human Resources Director will refer the grievance to the University Grievance Committee for action, normally within 5 calendar days of receipt of the grievance (as referenced in item "B" under the Procedures Section of this policy).

University Grievance Committee

A. Function

The University Grievance Committee is established to provide covered employees who have grievances and have fully complied with University policies and procedures the opportunity to have their cases reviewed by an unbiased and impartial review panel. While the committee will make recommendations to the President regarding specific grievances, it is not the purpose or function of the panel to establish or amend policy.

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In conducting reviews, after having carefully analyzed all records, reports and other documentation, the Committee shall conduct informal fact-finding conferences and/or interviews with the grievant, his or her representative, if any, and other individuals it deems necessary and appropriate in order to ascertain the fair and equitable disposition of the grievance. The grievant and/or representative and appropriate University personnel may submit additional documentation and may suggest the names of individuals with relevant information who the Committee may interview.

B. Composition

The University Grievance Committee shall be comprised of members representing supervisory and non-supervisory employees appointed by the President. One member shall be designated as Chairperson for each grievance review and serve as presiding officer at that review. At least three members will be assigned to review each case. More members may be assigned to participate in any grievance review in which the Committee Chairperson determines their presence is needed due to the complexity of the case. Committee members representing the department from which the grievance originated shall be disqualified from participating in the grievance review.

C. Committee Action

The Committee will conduct the grievance review not later than 5 calendar days after receipt of the request for a grievance review. Within 5 calendar days after the review, the Committee will submit its findings and recommendations to the Human Resources Director. The Committee in its recommendations may accept, reject or modify the disciplinary action taken against the covered employee.

Final Decision

Within 5 calendar days after receipt of the University Grievance Committee's findings and recommendations, the Human Resources Director will forward a copy of the Committee's findings and recommendations to the President or designee, for review and final agency decision. The President, or designee, may accept, reject or modify the Committee's recommendations.

The President or designee will make a final decision normally within 5 calendar days after receipt of the Committee's findings and recommendations. The final decision will be communicated in writing to the grievant, the grievant's department, the University's Human Resources Director, the University's General Counsel, and the University's Grievance Committee and will constitute the final agency decision.

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Appeal to the State Human Resources Director

The State Employee Grievance Procedure Act provides for an appeal of a grievance beyond the agency to the State Human Resources Director. Any covered employee may appeal the decision of the Agency Director. Such appeal must be in writing and submitted to the State Human Resources Director within 10 calendar days of receipt of the agency final decision or 55 calendar days from the initial date the grievance was filed within the agency, whichever occurs later.

As to the 55 calendar days, the Act provides that a covered employee may appeal directly to the State Human Resources Director in the event the agency does not complete its entire internal grievance procedure within 45 calendar days from the time the grievance is initially filed within the agency.

Failure by the agency to issue a final decision within a 45 calendar day period from the time the grievance was initially filed is considered an adverse decision. The failure to issue a final decision allows the covered employee to proceed with an appeal to the State Human Resources Director after 45 calendar days, but not later than 55 calendar days from the initial date the grievance was filed within the agency. Failure by the covered employee to file an appeal within the time periods referenced in this paragraph shall constitute a waiver of the right to appeal.

The Act allows the covered employee to appeal to the State Human Resources Director after all administrative remedies to secure relief within the agency have been exhausted.

Time Periods

- A. Calendar days as outlined in this directive are computed by excluding the first day and including the last. If the last day falls on a Saturday, Sunday or legal holiday, it must be excluded.
- B. The internal time periods of the agency grievance procedure may be waived upon the mutual written agreement of both parties. However, the 14 days for filing a grievance request cannot be waived. The 45 calendar day period for action by the agency may not be waived except by mutual written agreement of both parties.