



The University of Vermont

Policy V. 7.5.3

Responsible Official: Vice President
for Human Resources, Diversity and
Multicultural Affairs

Effective Date: June 9, 2016

Grievance and Peer Advisor Policy for Non-Represented Staff

Policy Statement

The University of Vermont is committed to the fair and equitable treatment of all employees, and to establishing and maintaining a workplace atmosphere where all employees are encouraged to seek solutions to workplace concerns through free and informal communication with appropriate levels of management. Employees are therefore encouraged, though not required, to discuss concerns with their supervisor directly and informally prior to initiating a grievance under this policy. Nothing in this policy shall preclude the parties from engaging in informal methods to resolve potential grievances, including mediation.

Reason for the Policy

This policy and associated procedures are designed to enhance working conditions for all employees and to provide:

- Peer support and resources for non-represented employees involved in a grievance, disciplinary, or other administrative process related to their employment; and
- An internal mechanism to effectively and efficiently resolve workplace disputes at the lowest possible level.

Applicability of the Policy

This policy applies to all non-represented staff (“employees”) at the University of Vermont who have completed their probationary period.¹ Temporary wage employees and Officers of Administration (as defined in the *University Manual*) are not covered by this policy.

Policy Elaboration

See Procedures.

¹ A probationary staff member may grieve termination if the staff member completed probation in a prior position and there was no interruption in service.

Definitions

Days: The term “days” when used in this policy shall refer to calendar days, provided that, when a day upon which an action must be taken falls on a weekend or a University holiday, then the action is required to be taken on the next University business day.

Grievance: A formal complaint by an employee against a supervisor, administrator or other official of the University, that there has been a misapplication, misinterpretation or violation of specific rules, practices, or policies of the University or one of its subdivisions.

Peer Advisor: A volunteer, non-represented University staff member who has been trained by the Office of Human Resource Services to provide assistance to non-represented staff who are involved in a disciplinary, grievance, or other administrative University process related to their employment. A Peer Advisor may not be a spouse, partner in civil union, or other relative to any of the parties involved, and may not be an attorney.

Retaliation: Any threats or acts of interference, coercion, restraint, discrimination or reprisal for any form of good faith participation in the Grievance Process.

Procedures

Role of Peer Advisors

The role of a Peer Advisor is to:

- Help the staff member analyze the situation;
- Suggest strategies for addressing disputes;
- Help identify gaps in information and resources for finding information;
- Assist in case preparation; and
- Identify support and service that may be helpful to the staff member (e.g. Employee Assistance Program, ADA Coordinator, etc.).

Any non-represented staff member may request assistance from a Peer Advisor during a disciplinary, grievance, or other administrative University process related to their employment, but Peer Advisors may not attend informal meetings between a supervisor and an employee for the purpose of evaluating performance or providing verbal or written feedback (such as an MOU). A Peer Advisor may be utilized at any point in the above-described processes at the employee’s discretion, and the University may not refuse the Peer Advisor’s presence. A Peer Advisor may offer advice and may attend meetings and hearings as an observer and support person, but may not advocate for the Grievant or otherwise interfere with meetings, hearings, or other administrative processes.

Recruitment, Selection, and Term of Peer Advisors

The Staff Council Administrator and Officers are responsible for the recruitment and selection of Peer Advisors. Human Resource Services and Affirmative Action, in conjunction with Professional Development and Training, will offer training for Peer Advisors at least annually.

Individuals selected as Peer Advisors must attend this training prior to serving in the role. The Staff Council Administrator and Officers shall have the discretion to require additional training, and to remove Peer Advisors.

There shall be no more than ten (10) institutionally designated Peer Advisors at any time. Peer Advisors shall serve for a term of two years, at the end of which a Peer Advisor may be reappointed for an additional term or terms. A Peer Advisor may step down at any time during the two-year term. In such a case, a new Peer Advisor shall be designated to serve the remainder of the term, and may subsequently be appointed to an additional term or terms at the discretion of Staff Council Administrator, after consultation with the Staff Council President and VP of Executive Operations.

Individuals who wish to serve as Peer Advisors must obtain prior approval from their supervisor; however, supervisors should make every effort to allow employees who wish to do so to participate as peer advisors, as long as participation does not interfere with the operational needs of their business units.

Peer Advisors who are FLSA non-exempt employees may only participate in meetings related to their role as peer advisors during their normal workday.

Non-Represented Staff Grievances

The good faith filing of or participation in the Grievance Process will not result in any negative reflection on the individual filing a grievance or any individual participating in the process, nor will it affect future employment, compensation or work assignments at the University. Any staff member who brings forward a dispute or is called as a witness in the dispute will not experience loss of pay for the time spent in any hearing held during the member's regular work schedule. Staff members participating in the Grievance Process must advise their supervisors of any scheduled hearing or grievance process meeting by following the normal out of office notification procedures established by their home departments. Employees have the right to use and participate in these procedures free from threats or acts of retaliation, interference, coercion, restraint, discrimination, or reprisal. Retaliation against a person who files a grievance in good faith, or who cooperates or otherwise participates in an investigation of a grievance, or who participates in a dispute resolution process, is a violation of this policy and is strictly prohibited. Any such violations will be subject to appropriate and prompt administrative action by the University.

Non-Grievable Matters

Matters expressly **excluded** from the definition of a grievable matter, and which are therefore **not subject to resolution** through the grievance process, include, but are not limited to the following:

- a. Position classification and salary decisions. These matters are covered under separate appeal procedures administered through the Office of Human Resource Services.
- b. The measurement and assessment of work activity, such as a performance evaluation.

- c. Discipline below the level of written reprimand, including verbal warnings and memorandums of understanding.
- d. Termination during a probationary period, unless the employee successfully completed a probationary period in an immediately preceding position, with no interruption in service, and was not terminated for cause from the prior position.
- e. The contents of University policies, procedures, and rules.
- f. The methods, means, and personnel by which work activities are to be carried out, unless the employee proposes to show that their health or safety is endangered as a result of the University's failure to follow VOSHA or OSHA regulations.
- g. Termination, lay-off, demotion, reduction of FTE assigned to a position, or suspension from duties because of reorganization, a lack of work, reduction in the work force, or job elimination.
- h. Release from the University as a result of the declaration by the University of financial exigency as defined in the University Manual, or financial difficulty as defined in the Staff Handbook.
<http://www.uvm.edu/~facsrcs/University%20Manual.pdf>
<https://www.uvm.edu/hrs/handbooks-policies>
- i. Termination of a restricted-fund position due to cessation of funding, as described in the Staff Handbook, Conditions of Employment (see link above).

Termination Claims

In grievances involving termination (except those specifically excluded from the scope of this policy described above), the grievance procedure shall start with Step Three of the grievance process. In such a case, the initial grievance must be filed **within thirty (30) days** of the effective termination date.

If a grievant mistakenly files a termination complaint at Steps One or Two, the supervisor or other University employee who received the complaint shall immediately forward the grievance to the Vice President for Human Resources, Diversity and Multicultural Affairs, or their designee. The University will consider the grievance filed as of the date on which the Grievant mistakenly filed it with the Step One or Step Two supervisor.

Discrimination Claims – Optional AAEO Involvement

If the grievance involves allegations that the University has discriminated on the basis of any protected class, as specified in the Equal Employment Opportunity/Affirmative Action Policy Statement, the grievance shall be processed in the same manner as any other grievance, except that either the grievant or the University shall have the option of forwarding such grievance to the University Office of Affirmative Action and Equal Opportunity (AAEO) after it has initially been filed.

If a grievance is forwarded to AAEO, the processing of the grievance under the terms of this policy shall be suspended pending the completion of the AAEO investigation, or until AAEO determines that an investigation is not warranted, whichever occurs first. If AAEO determines that an investigation is warranted, it will complete the investigation and distribute its findings in

accordance with the terms of the AAEO *Procedural Guidelines for Handling and Resolving Discrimination Complaints* <http://www.uvm.edu/sites/default/files/discrimination.pdf>.

Once the AAEO process is complete, the grievance process will resume at the point at which it was suspended. Both the Grievant and the University retain their rights to present evidence or argument in support of or in opposition to the grievance presented. Any employment action that has been imposed at the time the matter is referred to AAEO shall remain in effect until the conclusion of the grievance process.

Grievance Process

The University provides a formal multi-step process by which a grievance is considered once it is submitted within the deadlines established below. At all steps of the process, the parties will work together to find meeting times as soon as practicable, with due consideration for operational needs.

Effect of Deadlines

Except as provided below (extensions of time), failure of the Grievant to comply with the time limitations set forth in this policy at any of the Steps shall preclude any further processing of the grievance. Failure of the University to answer a grievance within the time limitations set forth in this policy shall allow the grievance to be processed automatically to the next step.

Extensions of Time

Notwithstanding the timeframes required by steps one through four, below, all time limits may be extended by mutual agreement in writing (which may include email), and shall not be unreasonably denied. Grievant's requests for extension of a deadline shall be made to the person hearing the grievance at each step (i.e., to the Manager if the request pertains to a Step Two deadline).

Interim Periods

An employee pursuing a grievance shall, during the pendency of the grievance, continue to observe all assignments, rules or directives of the University until the outcome of the grievance has been duly determined. The filing or pendency of a grievance shall not prevent the University from taking the action that precipitated the grievance.

STEP ONE:

A grievance must be filed at Step One **within thirty (30) days** following the time when the grievant knew or could reasonably have been aware of the existence of the situation which is the basis for the grievance. The grievance must be presented by the grievant in writing to the employee's immediate supervisor, and must state:

- i. the nature of the grievance(s), including relevant facts;
- ii. the provision(s) of any rule, policy or procedure alleged to have been violated;
- iii. the date(s) of any alleged violations; and
- iv. a clear statement of the remedy(ies) sought.

Within five (5) days of the receipt of a grievance, the Grievant's supervisor shall arrange and hold a discussion about the grievance with the Grievant and the Grievant's Peer Advisor, if desired, and shall submit a written answer to the Grievant **within ten (10) days** of the date of the discussion, regardless of whether the grievance is resolved during the discussion.

STEP TWO:

If the grievance is not resolved at Step One, then **within ten (10) days** of receipt of the Step One Written Answer, the Grievant may present the grievance in writing to:

- for non-academic units, the Department Manager or their designee ("Manager");
- for academic units, the Dean or their designee.

The grievance presented shall contain all of the same information that was contained in the Step One grievance, along with all other documents and evidence in the record from Step One. No new evidence may be submitted or considered. The Manager/Dean/designee shall hold a meeting with the Grievant, the Grievant's Peer Advisor, if desired, and a Labor and Employee Relations Professional. The Grievant and the Manager/Dean/designee are each permitted to have one (1) other witness or interested party attend the meeting as well. The Manager/Dean/designee shall forward a written answer to the Grievant **within ten (10) days** of the Step Two meeting, regardless of whether the grievance is resolved during the meeting.

STEP THREE:

If the grievance is not resolved at Step Two, then **within ten (10) days** of the receipt of the Step Two Written Answer, the Grievant may present the grievance in writing to the Vice President for Human Resources, Diversity and Multicultural Affairs or their designee ("Vice President"). The grievance presented shall contain all of the same information, documents and other evidence in the record from Steps One and Two. No new evidence may be submitted or considered. The Vice President shall hold a meeting with the Grievant, the Grievant's Peer Advisor, if applicable, a Labor and Employee Relations representative, and the Step Two Manager/Dean/designee. The Vice President shall forward a written answer to the Grievant **within fourteen (14) days** of the Step Three meeting, regardless of whether the grievance is resolved during the meeting.

STEP FOUR:

If the grievance is not resolved at Step Three, then **within thirty (30) days** of the receipt of the Step Three Written Answer, the Grievant may file the grievance with the Vermont Labor Relations Board (VLRB). At this stage, the VLRB will process the matter in accordance with

the State Employees Labor Relations Act and its own rules and regulations. Each party shall bear the expense of preparing and presenting its own case. Both the Grievant and the University shall retain whatever rights they may have under applicable laws, rules, and regulations relating to the VLRB process, including any rights to appeal.

Forms

None

Contacts

Questions related to the daily operational interpretation of this policy should be directed to:

Human Resource Services
(802) 656-3150
hrsinfo@uvm.edu

The Vice President for Human Resources, Diversity and Multicultural Affairs is the University official responsible for interpretation of this policy, in active consultation with the Vice President for Finance and Treasurer.

Related Documents/Policies/Resources

Center for Cultural Pluralism

<http://www.uvm.edu/~ccpuvm/> or (802) 656- 8833

Employee Assistance Program

<https://www.uvm.edu/hrs/wellness> or (802) 864-3270

Equal Employment Opportunity/Affirmative Action Policy Statement

http://www.uvm.edu/~uvmppg/ppg/general_html/affirm.pdf

Human Resource Services Employee Advising

hrsinfo@uvm.edu or (802) 656-3150

Office of Affirmative Action and Equal Opportunity

<https://www.uvm.edu/aaeo> or (802) 656-3368 or

Position Classification and Salary Appeals

<https://www.uvm.edu/hrs/non-represented-staff-compensation>

<https://www.uvm.edu/hrs/position-description-guide>

Selection and training process for peer advisors and mediators

<http://www.uvm.edu/staffcouncil/?Page=grievance.html>

Sexual Harassment & Misconduct Policy

<http://www.uvm.edu/~uvmppg/ppg/hr/sexharasemp.pdf>

Staff Council Office

<http://www.uvm.edu/~stffcncl/> or 656-4493

Effective Date

Approved by the President June 8, 2016