



# The University of Georgia<sup>®</sup>

## **GRIEVANCE AND DISCIPLINARY REVIEW POLICY**

### **1. Availability of Grievance:**

A grievance or disciplinary review will be available to handle claims that a person has been harmed by any action that violates the policies of either the University of Georgia ("the University") or the Board of Regents of the University System of Georgia ("the Board of Regents") or for requested disciplinary review pursuant to the University policy, entitled Conduct, Dismissal, Demotion or Suspension, which can be accessed at <http://www.busfin.uga.edu/app/hr/hrpol.htm>.

A grievance will not be available to dispute:

- promotion and tenure decisions,
- performance evaluations,
- hiring decisions,
- classification appeals,
- challenges to grades or assessments,
- challenges to salary decisions,
- challenges to transfers or reassignments,
- termination or layoff because of lack of work or elimination of position,
- a notice of intent not to renew a contract for employment,
- investigations or decisions reached under the University's Non-Discrimination and Anti-Harassment Policy, and
- normal supervisory counseling.

In addition, these formal procedures will not be available to a student or employee who has chosen to seek relief through a department, school or unit's internal grievance procedure unless such procedure failed to provide a fair and impartial hearing and an adequate mechanism for appeal or review.

### **2. Grievance Coordinator:**

A Grievance Coordinator is located in the Office of Legal Affairs and is responsible for helping to coordinate the expeditious and fair resolution of grievances and disciplinary reviews raised pursuant to this policy. The role of the Grievance Coordinator is to assist

the parties and the Grievance Committee in administering these procedures. To that end, the Grievance Coordinator will remain neutral throughout the proceedings and will serve primarily as a facilitator.

### **3. Procedures:**

Grievances and disciplinary reviews will be processed under the procedures set forth below.

All complaints must be reviewed at a minimum of two levels within the complainant's employment department, including the head of the academic or administrative unit or his/her designee. The initial appeal must be filed within 5 working days of the event that has given rise to the grievance or request for disciplinary review. The complainant will have 5 working days from the date of the decision letter to appeal to the next level within the complainant's employment unit. After completion of the employment unit's review of the matter, a petition for review must be submitted to the Grievance Coordinator within 5 working days of the date of the final decision letter of the head of the academic or administrative unit or his/her designee.

Complainants are required to prepare a petition to ensure that the Grievance Committee will address the specific issues that most concern the complainant. The guidelines set forth below for preparing the petition are designed to ensure that the petition identifies clearly those issues.

The attached petition form must be filled out and must include the following information:

- the complainant's name and, when applicable, job title;
- the department/unit/course in which the complainant is employed or enrolled;
- the nature of the problem or complaint;
- the communication that has taken place between the complainant and his or her academic department head, supervisor and/or second level supervisor concerning the matter;
- the supervisor's and/or other superior's response;
- the reason the complainant disagrees with that response;
- the complainant's suggestion for proper resolution of the matter; and
- identification of any witnesses who may have relevant information regarding the complaint.

Any documents the complainant wishes to offer as evidence to the Grievance Committee also should be submitted to the Grievance Coordinator at the time a petition is made. A copy of the documents will be provided to the other party or parties to the dispute ("respondent"). The respondent will have an opportunity to identify witnesses and provide documents to the Grievance Coordinator. A copy of the documents will be provided to the complainant. Should an objection be raised to the relevance of any documents, the Grievance Coordinator will review such documents and delete those documents which are not relevant.

A complainant who wishes to address the Grievance Committee orally must make the request in the written petition. The purpose of an oral presentation is to provide an opportunity for individuals who may communicate more effectively orally than in writing to supplement their written petition. The University unit or individual against which the appeal is directed will be afforded the opportunity to attend the hearing if one is requested. If no oral presentation is requested, the review will be based upon the written record.

When a hearing has been requested, the following rules will apply:

1. The complainant will be notified of the date, time, and place of the hearing.
2. The hearing will be recorded on audio tape. Recording equipment will be provided by the Grievance Committee.
3. The appeal will be heard by members of the Grievance Committee. This is a three-person standing committee of University personnel appointed by the President on an annual basis.
4. Members of the Grievance Committee will be excused from service on a particular case under the following circumstances:
  - a. If they have a personal or professional relationship with any party to the case which would prejudice them from rendering an objective judgment in the case.
  - b. If the case involves a student, faculty member or staff member in the same department or unit as a member of the Grievance Committee.

In the event a committee member is excused from service on a particular case, the President will select an alternate to serve on the committee for that case.

5. If an oral hearing is to be held, the complainant making the appeal shall appear first in the hearing; other parties who are respondents shall appear after the complainant. The Grievance Committee may invite witnesses identified by either party to participate by meeting with the Grievance Committee; if they prefer they may respond in writing to the Grievance Committee's request for information.
6. If an oral hearing is to be held, the chair of the Grievance Committee will choose the option that the complainant and respondent appear (a) separately, or (b) together. Parties will not be permitted to cross-examine each other during the hearing. Formal legal rules of evidence do not apply in the hearing.
7. The complainant has the burden of proving by the preponderance of the evidence that he/she has been wronged. If at the conclusion of a review the Grievance Committee is unable to reach a decision, the complainant fails to carry this burden and the finding should be in the respondents favor.

## **Report of the Grievance Committee**

When the Grievance Committee has received the information it deems necessary to render a decision in a case, it shall determine by majority vote what the Grievance Committee's findings will be. The findings must be transmitted to the Grievance Coordinator within ten (10) working days of the conclusion of the hearing. The Grievance Coordinator will then transmit the report and any other relevant information to the President of the University.

## **Decision of the President**

The President is the chief executive officer of the University and is authorized by the Board of Regents to exercise such supervision and direction as will promote justice and the effective and efficient operation of the University. The President will use the report of the Grievance Committee to reach a decision that best promotes these goals.

The President normally will furnish a decision to the parties within 30 days after receiving the report of the Grievance Committee. If the President's review of a case requires longer than 30 days, the President will notify the parties of the delay. The President's decision shall be final at the institutional level.

## **Discretionary Review by the Board of Regents**

The Board of Regents reserves discretionary authority to review all decisions made by the member institutions. The Board of Regents normally will accept only in extraordinary cases, such as those where proper procedures may have been violated, where the decision is unsupported by the facts, or where the decision violates University or Board of Regents policy. Any petition to the Board of Regents must be made within 20 days following the final decision of the President.

## **4. Retaliation Prohibited:**

Any attempt to intimidate or retaliate against a person for raising an issue or participating in these procedures is strictly forbidden. Any person who makes such an attempt will be subject to disciplinary action, up to and including termination of employment. If any person involved in the grievance process feels that he/she is being or has been retaliated against for participating in these procedures, he/she should immediately contact the Grievance Coordinator.

## **5. Federal and State Laws:**

There are federal and state laws that cover school and workplace complaints and provide remedies for some school and workplace disputes. Participating in these procedures does not extend the deadlines within which to seek redress from outside agencies or initiate appropriate legal proceedings.

## **6. Advisors:**

Attorneys are not authorized to participate in hearings before the Grievance Committee, however the complainant may select an advisor other than an attorney to assist and advise

the complainant. Attorneys may be authorized by the Grievance Committee Chairman to participate in the hearing if it appears that the hearing will in any way involve, or relate to, an indictment of, or the existence of any criminal charge against the complainant. If requesting authorization for an attorney to serve as an advisor, the complainant must submit a separate written request to the Grievance Committee Chairman at the time of submission of the petition to the Grievance Coordinator. This request should include the reasons why the complainant feels an attorney's participation is appropriate.

For any questions concerning this policy, please contact the Grievance Coordinator, in the Office of Legal Affairs at 542-0006.

This policy and the Dispute Resolution Policy for the University of Georgia supercede and replace the Dispute Resolution Policy for the University of Georgia as adopted in 1998.

Attachment: Petition Form

Revised August 2008