

Complaint Policy and Procedure

Policy Statement

This policy is intended to provide fair and prompt consideration to all staff complaints. The University encourages all staff to use the complaint procedure without fear of prejudice or retaliation within the limits of the preview process and with the assurance that his/her confidences will be respected.

It is the policy of the University to provide an effective and timely method for staff to bring forth workplace issues and concerns. These issues and concerns may include working conditions, performance, policies, procedures, or problems with co-workers or supervisors. This complaint policy does not apply to complaints about employment actions based on internal and external department and/or University reorganization, financial necessity or budget determinations, and termination from employment.

Complaints about harassment as defined by the University's policies on *Prohibited Discrimination* and *Sexual and other Unlawful Harassment* will be investigated and resolved according to that policy, not this one. Copies of these policies are available in the Department of Human Resources.

Definitions

Complaint: An issue brought forth by a staff member concerning the workplace which may include, but is not limited to, working conditions, performance, policies, procedures, or problems with co-workers or supervisors. A complaint is **not** an issue that is a "grievance" as defined below. The Complaint Procedure is not a vehicle to alter University, School or College, or local unit policy.

Grievance: A complaint of a staff member concerning termination of employment of that staff member who has passed the introductory period and/or concerning any other adverse employment action directly affecting the staff member and which the staff member believes is a violation of written University policy or is a violation of federal or state employment laws or regulations.

Staff: Regular full-time or part time University employees, excluding

faculty and Union employees.

**Complaint
Procedures**

Only a regular full-time or part-time staff member, i.e. one who has completed his/her introductory period, is entitled to initiate the Complaint Procedure: Staff members in their new hire introductory periods may follow steps one and two in the Informal Complaint Procedure.

Human Resources will keep all expressions of concern, the results of fact-finding and the terms of the resolution confidential. In the course of fact finding and resolving the matter, some dissemination of information to others may be necessary or appropriate.

Retaliation of any kind by an employee of the University against another employee, as a result of that employee seeking resolution under these procedures in good faith, cooperating in an investigation, or otherwise participating in the process, is prohibited and may be the basis for disciplinary action, including termination.

Supervisors will provide the staff members involved in the complaint adequate time away from their duties for proper due process.

**Informal
Complaint
Procedure**

Staff who have work-related concerns are encouraged to discuss them with their supervisor as soon as possible after the event(s) that cause the concern. The supervisor should address the issue within three (3) working days.

If the concern is not resolved with the staff member's supervisor, the staff member may bring the issue to Human Resources. Human Resources will mediate and facilitate a solution satisfactory to all parties.

If the parties cannot reach a satisfactory conclusion, the staff member may choose to file a formal complaint with Human Resources. (Human Resources will notify all parties if it appears that a satisfactory conclusion is not likely.)

**Formal
Complaint
Procedure**

**Step 1
Written
Complaint**

Staff members must submit all formal complaints in writing. The document should describe the incident or complaint and the evidence upon which it is based. The document should describe the issue with specific facts, including: personnel involved, events, dates and other information relating to the complaint. The complaint should be marked “Personal and Confidential” and addressed to the Assistant Vice President for Human Resources. The document should be filed as soon as possible, and within 20 days of when Human Resources has notified the parties that a satisfactory resolution is not likely.

Human Resources records all written complaints and sends the staff member a written acknowledgement that the complaint was received and is under review.

**Step 2
Human
Resources
Inquiry and
Investigation**

Human Resources (or the Assistant Vice President’s designee) investigates the complaint, meeting separately with the staff member and others who either are named in the complaint or who may have knowledge of the facts set forth in the complaint. The investigation is completed within ten (10) working days from the date Human Resources receives the written complaint.

Within ten (10) working days after conclusion of the investigation, Human Resources will prepare a written report of the investigation and findings; written notification to the complainant and the individual or supervisor against whom the complaint is made, that the investigation with recommended resolution is complete.

**Step 3
Appeal of
Decision**

All parties have the right to appeal the complaint resolution. Either party may file a written appeal to the Assistant Vice President for Human Resources within ten (10) working days of the decision. If no appeal is filed during that time, the terms of the resolution will be recorded and signed by the parties and the Assistant Vice President for Human Resources.

The Assistant Vice President for Human Resources will render a final decision normally within ten (10) working days following receipt of the appeal.

Grievance Policy and Procedure

Policy Statement

This policy is intended to provide fair and prompt consideration to staff grievances. It provides an opportunity to resolve disputes concerning adverse employment actions including termination of employment. The University encourages all staff to use the grievance procedure without fear of prejudice or retaliation within the limits of the preview process and with the assurance that his/her confidences will be respected.

It is the policy of the University to provide an effective and timely method for staff to bring forth employment issues and concerns. This grievance procedure is intended to resolve those issues or conflicts regarding a staff member's belief that an adverse employment action, including termination from University employment, violated University policy or violated state or federal law. This grievance policy is the exclusive means of determining if such an action is in violation of University policy. This policy does not apply to complaints about working conditions, performance, policies, procedures, or problems with co-workers or supervisors. Complaints of this nature are addressed in the University's Complaint Procedure.

Complaints about harassment as defined by the University's policies on *Prohibited Discrimination* or *Sexual and other Unlawful Harassment* will be investigated and resolved according to that policy. Copies of these policies are available in the Department of Human Resources and on the Human Resources website at <http://web.pacific.edu/x3730.xml>.

Grievance Procedure

Only a regular full-time or part-time staff member, i.e., one who has successfully completed his/her new hire introductory period, is entitled to use the Grievance Procedure.

Grievances by two or more employees, related to the same incident, may be consolidated for purposes of the Grievance Procedure by mutual agreement between the University and the staff members with the grievances.

Step 1 Initial Resolution of

The staff member with the grievance will discuss the issue with the supervisor responsible for the employment action. A representative from Human Resources may be present for the discussion. This

Grievance discussion should take place within five (5) working days after learning of the action or decision being grieved. The staff member and supervisor shall attempt in good faith to discuss the grievance and resolve it. Where resolution of a grievance is not possible, the staff member may proceed to the next step of the grievance process.

**Step 2
Department
Head Review**

If the matter is not satisfactorily resolved in Step 1, the staff member may file a written grievance with the head of the department in which the grievance arose within five (5) working days after the initial discussion. If the department head is the staff member's direct supervisor, the written grievance should be addressed to the department head's supervisor. The document should describe the grievance with specific facts, including: the reason for the grievance, personnel involved, events, dates, the remedy requested, and other information relating to the grievance. A copy of the grievance should be provided to the Assistant Vice President for Human Resources.

The department head or designee will review the grievance and meet with the staff member(s), supervisor and others who may have knowledge of the decision or action, as appropriate. The department head should inform his/her supervisor of the pending grievance. This review will take place within five (5) working days of receiving the grievance.

The department head or designee shall provide the staff member(s), supervisor, his/her own supervisor and the Assistant Vice President for Human Resources a written decision regarding the grievance within five (5) working days after completing the review.

**Step 3
Human
Resources
Review**

If the matter is not resolved, the staff member may file an appeal with the Assistant Vice President for Human Resources. This appeal should be filed within five (5) working days of receipt of the department head's decision in Step 2. The written appeal should include the written grievance submitted to the department head in Step 2, the basis for the appeal, and why the department head's decision should be reviewed.

The Assistant Vice President for Human Resources or his designee will review the appeal, and meet with the staff member(s), supervisor and others who may have knowledge of the decision or action, as appropriate. The Director will review the appeal within ten (10) working days after receiving the written appeal.

The Assistant Vice President for Human Resources shall provide the staff member, supervisor, and department head a written decision regarding the appeal within five (5) working days after completing the review.

**Step 4
Neutral
Arbitration**

Neutral arbitration allows the staff member and the University to each present their case to an independent, impartial professional arbitrator for final disposition.

If the staff member disagrees with the decision in Step 3, he/she may file a written request for neutral arbitration with the Assistant Vice President for Human Resources. The request must be submitted within twenty (20) calendar days of receipt of the determination of the Step 3 appeal. If the staff member does not request neutral arbitration, then the written decision at Step 3 shall be final and binding as to any and all allegations of a violation of University policies.

In order for neutral arbitration to be considered, the grievance must concern the termination of employment or an adverse employment action (after the successful completion of the introductory period of employment). The staff member must maintain the action was a violation of written University policy or a violation of federal or state law.

The staff member and the Assistant Vice President for Human Resources will sign a written agreement within fourteen (14) calendar days to initiate the request to proceed with arbitration, and that the arbitrator's decision is final and binding and judgment thereon may be entered in court.

A neutral arbitrator will be selected by mutual agreement of the staff member and the Assistant Vice President for Human Resources. If they cannot agree on an arbitrator, they will jointly submit the matter to the American Arbitration Association ("AAA"). AAA will select an arbitrator from its employment panel of arbitrators experienced in university employment matters. Staff may learn more about AAA at its website: www.adr.org.

The arbitrator will conduct the review according to the Employment Dispute Rules of AAA San Francisco. The arbitrator will determine the dispute and schedule hearings as appropriate.

Within thirty (30) calendar days of completing the hearings, the

arbitrator will issue a written decision, which shall be final, binding and conclusive upon the parties. The decision is binding in any state or federal court with jurisdiction.

The staff member and the University will equally share the cost of the professional fees of the arbitrator, unless the arbitrator awards otherwise pursuant to the law.

**Other Issues
Relating to
Complaints and
Grievances**

Other Forums

If at any time before or during this procedure the staff member files a complaint or grievance in another forum, the University reserves the right to discontinue the complaint or grievance proceedings if, in its judgment, it determines that continuation will not conclude the matter with finality or will be unnecessarily duplicative.

Procedure Changes

Changes to these procedures may be made as needed. Request for changes should be directed to the Assistant Vice President for Human Resources.
