University of Houston Clear Lake

MEMORANDUM OF ADMINISTRATIVE POLICY

SECTION: **Human Resources** **Number:** **MAP 02.A.05**
AREA: **General**

SUBJECT: Employee Relations, Grievance, and Appeal MAP 02.A.05

I. PURPOSE AND SCOPE

The University of Houston-Clear Lake has a formal commitment to the establishment and maintenance of a constructive problem-solving mechanism for the resolution of employee grievances or the appeal of an employment action. The purpose of this policy is to provide a means whereby any employee who feels that they have been subjected to unfair or abusive treatment or violation or a policy or procedure may be assured of a prompt, orderly, and fair response to their grievance or appeal. Procedures for faculty grievances are covered in the current Faculty Handbook.

This policy applies to all grievances or appeals by any regular, non-faculty employees of the university. Faculty acting in a supervisory or administrative capacity are subject to this policy when acting in their supervisory or administrative roles and a grievance or appeal is brought against them by a non-faculty employee. This policy excludes faculty not acting in a supervisory or administrative capacity, part-time employees, or student workers whereby student status is a condition of employment. All employees, regardless of status, have access to the Office of Assoc Vice President, Human Resources or designee for assistance in addressing employment related issues.

Complaints involving allegations of discrimination or harassment are processed through SAM 01.D.07, Anti-Discrimination and Harassment Policy or SAM 01.D.08, Sexual Misconduct Policy through the Office of Title IX and Equal Employment.

II. DEFINITIONS

2.1 Grievant: A non-probationary staff employee who files a grievance under this policy.

2.2 Informal Grievance Resolution: The informal grievance resolution process has been established in an attempt to provide an informal means to resolving a grievance. Staff employees shall complete informal grievance resolution processes prior to seeking recourse through the formal grievance process.

2.3 Formal Grievance: A disagreement between an employee and management on the terms or conditions of employment. A formal grievance may be filed as a result of one of the following adverse employment actions: written reprimand, suspension without pay, demotion, involuntary transfer to a different job classification, denial of promotion, or termination. The assignment of duties, scheduling of work hours, rate of pay, and other management decisions are reserved as management rights and cannot be grieved through

the grievance process. Complaints involving allegations of discrimination or harassment are processed through SAM 01.D.07, Anti-Discrimination and Harassment Policy or SAM 01.D.08, Sexual Misconduct Policy.

2.4 Appeal: Appeal to the President or designee following a decision by the Grievance Panel.

2.5 Respondent: The university manager/supervisor or employee against whom the grievance is filed.

2.6 Staff Employee: A non-probationary employee employed on a regular basis for a period of at least four and one-half months, excluding students employed in positions that require student status as a condition for employment and those holding a teaching and/or research position classified as faculty.

2.7 Faculty serving in supervisory or administrative capacity: A faculty member serving in an administrative role such as but not limited to: program chair, assistant, associate department head or department head/chair, assistant, associate dean or dean.

2.8 Department: The administrative unit in which the staff member performs their primary duties of employment. The department can be defined as but not limited to division, college, department, section, unit, etc.

2.9 Assoc Vice President: The Assoc Vice President of Human Resources, or their designee.

III. POLICY INFORMATION

3.1 It is the policy of the University of Houston-Clear Lake that all employees be treated fairly and consistently in all matters related to their employment, that employment decisions are made on lawful, job related and non-discriminatory criteria, and that employees have the right to express grievances through informal and formal avenues.

3.1.1 Any staff employee who has a disagreement with management on an adverse employment action is provided a prompt, orderly, and fair response to their grievance under this policy.

3.1.2 Intimidation, harassment, coercion, retaliation or reprisal in any form against an employee for filing a good-faith grievance, for participating in good faith on an appeal panel, or for assisting another employee in the filing of a grievance is strictly prohibited.

3.1.3 Employees on probationary status are excluded from filing grievances under this policy. However, if a probationary employee believes that discrimination or harassment was a factor in a personnel action, they may proceed through SAM 01.D.07, Anti-Discrimination and Harassment Policy or SAM 01.D.08, Sexual Misconduct Policy

3.2 Staff Grievance Committee

3.2.1 The Staff Grievance Committee shall be comprised of 8 (eight) full-time benefits-eligible staff members. The University Staff Association will provide 8 names to the Assoc Vice President of Executive Director each August following an election conducted by the University Staff Association.

3.2.2 Members of the Staff Grievance Committee are required to have a minimum of two years of full-time staff experience at UHCL at the time of their nomination to the committee.

3.2.3 Members of the Staff Grievance Committee serve rotating two-year terms with no more than half of the positions rotating off the Committee annually in September. If a vacancy occurs, the University Staff Association may appoint the runner-up in the election to complete the remainder of the year.

3.2.4 Members of the President's Core Leadership, Deans Council, and staff in Human Resources are ineligible for service on the Staff Grievance Committee.

3.3 Staff Hearing Panel

3.3.1 The Assoc Vice President, Human Resources or designee or will identify five (5) members of the Staff Grievance Committee to serve as the Staff Hearing Panel and hear the grievance within ten (10) business days of receipt of the grievance. An alternate member will be selected to replace a regular member of the hearing panel if a regular member is unable to serve or when a potential conflict of interest exists. A quorum of the panel is three (3) members.

3.3.2 In cases where the respondent has a faculty appointment, the Assoc Vice President of Human Resources or designee will include a member of the faculty grievance committee as one of the five (5) panel members. In this case, the faculty member must be part of the three (3) members who establish quorum.

3.3.3 The following requirements will be considered in forming the committee:

a. No member of the hearing panel may be involved in any of the events surrounding the grievance.

b. Neither the grievant's nor the respondent's department may be represented on the hearing panel.

c. The hearing panel must represent a broad cross section of university staff.

d. No more than one member of any department may serve on the hearing panel.

3.3.4 Requests by either grievant or respondent for the removal of one member of the hearing panel, with reasons noted; must be made to the Assoc Vice President within five (5) business days of designation of the panel. The Associate Vice President will have discretion to determine if a member will be replaced.

IV. PROCEDURES

4.1 The grievance process consists of an informal resolution, formal grievance and appeal.

4.2 Staff employees who wish to appeal their termination of employment may skip directly to the Formal Grievance.

4.3 Other staff employees must first initiate the informal resolution and may proceed to the formal grievance process if in disagreement with the respondent's response.

4.4 Informal Resolution

4.4.1 A grievant may begin the informal resolution process by submitting a written request to the Assoc Vice President\ setting forth the issues the grievant believes need to be addressed no later than ten (10) working days following the grievant's notification of the act, event, decision or condition which is the basis of the grievance.

4.4.2 The Assoc Vice President or has no more than five (5) working days from the date of receipt to forward the written request to the respondent.

4.3.3 The respondent will have ten (10) working days to respond to the issues raised in the request and agree the proposed resolution, reject the proposed resolution, or propose alternate resolutions.

4.3.4 Mediation and facilitated meetings are encouraged as means toward reaching an informal resolution.

4.3.5 The informal resolution process concludes if an agreement has not been reached within ten (10) working days of the response in 4.3.3. This becomes the deadline for filing a formal grievance if the grievant wants to continue the grievance process.

4.3.6 By agreement of the grievant, respondent and Assoc Vice President, the deadline for informal resolution may be extended up to (10) business days.

4.5 Formal Grievance

4.5.1 If the grievant is not satisfied with the results from the informal resolution process, the grievant may seek resolution of the grievance through the formal grievance process.

4.5.2 A formal grievance may not be initiated until the informal resolution process has been completed unless termination is being grieved.

4.5.3 The grievant will complete the Staff Grievance Intake and Resolution Form stating the details of the grievance, the names of any witnesses who the grievant believes may have knowledge of the nature of the grievance, and the relief sought.

4.5.4 The Staff Grievance Intake and Resolution Form must be submitted by the grievant to the Assoc Vice President, Human Resources or designee within ten (10) working days of the response in 4.3.3 above or notice of termination...

4.5.5 Failure to submit the Staff Grievance Intake and Resolution Form to the Assoc Vice President, Human Resources or designee within ten (10) working days from receipt of the informal resolution decision or termination notice will be deemed a waiver of the right to pursue a formal grievance.

4.5.6 Absent extenuating circumstances, a hearing to review the issues surrounding the grievant's formal grievance will be scheduled by Assoc Vice President, Human Resources or designee no later than thirty (30) working days after receipt of the Staff Grievance Intake and Resolution Form.

4.5.7 No later than fifteen (15) working days prior to the hearing, absent extenuating circumstances, the Assoc Vice President, Human Resources or designee will send a notice to the grievant and respondent stating the date, time, and place of the hearing.

4.5.8 No later than five (5) working days prior to the hearing, the parties will submit to the Assoc Vice President, Human Resources or designee the following:

a. All documents to be considered by the hearing panel

b. A list of witnesses, not to exceed four (a witness list including five or more names must receive prior approval from the Assoc Vice President, Human Resources or designee) expected to testify at the hearing

c. Notification if the grievant will be represented by legal counsel (including the name, address and telephone number of counsel)

4.5.9 No later than three (3) working days prior to the hearing, the Assoc Vice President, Human Resources or designee or his/her designee will distribute copies of all documentation and witness lists to both parties.

4.5.10 No later than two (2) working days prior to the hearing, the Assoc Vice President, Human Resources or designee will convene the hearing panel to review copies of the submitted materials, assist the Panel in electing a chair, and discuss the Staff Grievance Hearing Panel procedures.

4.5.11 The Assoc Vice President, Human Resources or designee will attend the hearing for purposes of providing guidance on hearing procedures, but will not take an advocacy position.

4.5.12 All grievance hearings are audibly recorded. Upon request of either party to the Assoc Vice President, Human Resources or designee, duplicate audio recordings of the proceedings will be made available to the requesting party.

4.5.13 When all the evidence is presented and the hearing panel members have no further questions of either party or any of the witnesses, the hearing panel chair will adjourn the hearing, ensuring that the tape recording has ceased. After meeting

with the Assoc Vice President, Human Resources or designee who will address policy/procedural questions, the hearing panel members will proceed to closed session deliberations.

4.5.14 No later than three (3) working days following the conclusion of the hearing, the majority of the panel will make a recommended finding on the Staff Grievance Intake and Resolution Form as to whether or not university policy was violated. If the panel is divided, this will be noted on the Form. The chair will communicate the panel's recommended findings on the Staff Grievance Intake and Resolution Form and forward it to the Assoc Vice President, Human Resources or designee for final review.

4.5.15 The Assoc Vice President, Human Resources or designee will deliver the Staff Grievance Intake and Resolution Form with the recommended finding to the parties and to the President or designee.

4.5.16 An informal resolution can be achieved and the formal grievance dismissed at any time during the formal grievance process with the agreement of the grievant, respondent and Assoc Vice President of Human Resources.

4.6 Appeal

4.6.1 The grievant and respondent will then have ten (10) working days to file an appeal to the President or designee.

4.6.2 No later than ten (10) working days after receipt of the staff hearing panel's recommended finding, the President or designee will take one of the following actions and communicate their decision in writing to the grievant, the respondent, both parties' attorneys (as appropriate), and the Assoc Vice President, Human Resources or designee:

a. Accept the panel's recommended finding;

b. Reject the panel's recommended finding; or

c. Remand the case to the panel with instructions to reopen the hearing, conduct further deliberations, or answer specific questions posed by the President.

4.6.3 The President's decision is final and binding to all parties.

V. REVIEW AND RESPONSIBILITY

Responsible Party: HR responsible for implementing and monitoring policy

Review: Review schedule: Every 3 years

VI. APPROVAL

/Mark Denney/
Vice President for Administration and Finance

/Richard Walker/
President

Date of President's Approval: _____

VII. REFERENCES

SAM 01.D.07, Anti-Discrimination and Harassment Policy
SAM 01.D.08, Sexual Misconduct Policy

REVISION LOG

Revision Number	Approved Date	Description of Changes
1	05/09/2019	Initial edition
2	02/24/2023	Reviewed and Updated