GRIEVANCE AND APPEAL POLICY FOR NON-FACULTY EMPLOYEES

1. PURPOSE

1.1 The University of Houston-Clear Lake (UHCL) has a formal commitment to the establishment and maintenance of a constructive problem solving mechanism for the resolution of employee grievances. The purpose of this policy is to provide a means whereby any employee who feels that he or she has been subjected to unfair, discriminatory, or abusive treatment may be assured of a prompt, orderly, and fair response to his or her grievance or appeal.

1.2 This policy applies to all complaints by any regular, non-faculty employees of UHCL. Faculty acting in a supervisory or administrative capacity are subject to this policy when acting in their supervisory or administrative roles and a grievance 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 Human Resources for assistance in addressing employment related issues.

2. DEFINITIONS

2.1 Regular employees - one employed to work at least 20 hours per week for a period of at least four and one-half months, excluding students employed in positions which require student status as a condition of employment.

2.2 Informal complaints - a grievance or complaint that is brought to the attention of the supervisor and or department head in an effort to resolve without a hearing.

2.3 Formal complaint - a grievance or complaint that is presented in writing to the executive director of Human Resources and Affirmative Action after efforts to resolve the problem informally have been unsuccessful.

2.4 Grievant - the person initiating the grievance or complaint.

2.5 Respondent - the individual who has decision-making authority related to the personnel action that is affecting the grievant.

2.6 Faculty acting in supervisory or administrative capacity - Faculty who supervise non-faculty employees, and have the authority to hire, fire, and determine merit pay (e.g., deans, associate deans, or directors of academic centers).

2.7 Faculty - includes tenure track and tenured faculty and those appointed to non-tenure track academic positions. The positions are defined in the Faculty Handbook.

3. POLICY

3.1 UHCL requires that all employees be treated fairly and consistently in all matters related to their employment. Most problems or complaints can be resolved through discussions between the employee and the immediate supervisor. If this does not produce a satisfactory result, the employee may present a grievance under the provisions of this policy.
3.2 The executive director of Human Resources and Affirmative Action ("executive director") will be responsible for the administration and interpretation of this policy. The executive director is authorized to appoint representatives to perform any or all of the duties described in this policy. All references in this policy to the executive director include any such representatives.

3.3 The executive director is responsible for reviewing all informal and formal complaints to assess whether or not there is compelling evidence to warrant convening a grievance panel. If allegations of illegal discrimination are made, the executive director will conduct a complete and thorough investigation of such allegations in accordance with the UHCL NON-DISCRIMINATION POLICY or the UHCL SEXUAL HARASSMENT POLICY.

3.4 The UHCL will provide both informal and formal avenues of resolution for employee job-related problems, or for any perceived violation of University of Houston System ("UHS") policies or procedures, or state or federal employment laws.

3.5 The grievance policy has been established in the interest of due process. It is a means to ensure that employees have a method of redress in those instances where they feel they have been treated unfairly. Grievances may include, but are not necessarily limited to, policy violation, involuntary transfer, and demotion. Assignment of duties, determination of work hours/schedule, and other management responsibilities are reserved as management rights and are not subject to grievance. Appeals regarding reduction in force decisions will be processed in accordance with the UHCL REDUCTION IN FORCE POLICY. The employee must provide evidence to the executive director that a violation of policy, unfair employment practices or illegal behavior has occurred before the grievance process will be employed.

3.6 This policy is intended to provide prompt consideration of sensitive problems while preserving an atmosphere of productivity and accord throughout the work groups of the university. Therefore, time constraints described by the policy should be strictly observed.

3.7 A complete file copy of the documentation of each grievance considered under this policy shall be maintained under separate cover by the executive director and will not be placed in the personnel file of the parties involved.

3.8 The following acts on the part of the employee may constitute abandonment of a grievance:

3.8.1 Failing to respond or take an action required by this policy within a time limit specified in this policy;

3.8.2 Failing to appear for a scheduled meeting without adequate cause; or

3.8.3 Otherwise failing to advance the grievance in a timely manner as determined by the executive director. The executive director may unilaterally declare a complaint to be abandoned and close the file, or may undertake a review of the status of the complaint upon request of the department head or complainant. No further action or appeal will be allowed following such determination of abandonment and closure of the file.

3.9 A grievant or respondent may submit to the executive director a written request for a delay or extension of time because of inability to appear for a scheduled meeting, or inability to comply with an established deadline. The executive director will approve such delay only when the request is reasonably justified.

3.10 Intimidation, harassment, coercion or reprisal against any employee for good faith presentation of a grievance is strictly prohibited.

4. INFORMAL COMPLAINTS
4.1 A grievant should first discuss a complaint with his or her immediate supervisor or, if the grievant does not feel comfortable discussing the complaint with his or her supervisor, the grievant may request a meeting with the executive director. The executive director may take a statement from the grievant and provide the statement to the supervisor. In addition, the executive director may provide information and assistance to the grievant concerning policies and procedures including an explanation of available options, and may assist the grievant with any other step in the complaint and appeal process.

4.2 If the complaint is not resolved through informal discussions with the supervisor, the grievant may request a meeting with his or her department head. The purpose of the meeting will be to seek a mutually satisfactory resolution through discussion. The grievant may request the meeting personally or may request that the executive director make the arrangements.

4.2.1 The executive director may attend the meeting to serve as a facilitator and/or to provide assistance in interpreting policies and procedures. The executive director may not serve as advisor to either party at the meeting.

4.2.2 The supervisor may attend the meeting if agreeable by both parties.

4.2.3 The department head may advise the grievant of the decision at the time of the meeting. A written decision must be provided to the grievant and copies sent to the executive director and the supervisor soon after the meeting (usually within 5 working days).

5. FORMAL COMPLAINTS

5.1 Following completion of the informal complaint process, the grievant may elect to pursue a formal complaint. The formal process begins when the grievant completes a complaint form Form A and delivers the form to the executive director notifying the respondent of the complaint. Delivery may be by telefax, personal delivery, campus mail or U.S. Mail (certified, return receipt requested). This form must be received within 5 working days following the receipt of the written decision as stated in 4.2.3, or the most recent occurrence of the objectionable behavior or treatment.

5.2 The executive director is available to answer questions regarding the complaint form and policies and procedures and to provide assistance as needed.

5.3 If the formal complaint alleges illegal discrimination, the executive director will complete a thorough investigation in accordance with the UHCL NON-DISCRIMINATION POLICY or the UHCL SEXUAL HARASSMENT POLICY. If the formal complaint is for issues other than illegal discrimination, the executive director will continue with the grievance process.

5.4 The executive director will retain the original complaint form and within a reasonable time following receipt of the formal complaint, (usually within 5 working days), contact a panel to hear and consider the employee's grievance.

5.5 The panel will consist of five full-time employees selected from the panel of employees who are appointed by the president at the beginning of each fiscal year and who have not been factually involved in any of the events related to the grievance. Three of the panel members will be drawn from the status (either faculty or non-faculty) of the respondent; two of the panel members will be drawn from the status (either faculty or non-faculty) of the grievant.

5.6 The executive director will arrange a time and place for the hearing and will notify both the grievant and the respondent of these arrangements. The hearing will be conducted in accordance with the procedures outlined in this policy.
William A. Staples

Title: President
University of Houston-Clear Lake

Approval Date: April 10, 2003

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GRIEVANCE AND APPEAL FOR NON-FACULTY EMPLOYEES

HEARING PROCEDURES

1. At the beginning of each fiscal year the president of UHCL will appoint a minimum of twelve potential hearing panel members, with at least four appointments from each of the employee work groups listed below:

   a. Support Staff Association
   b. Professional and Administrative Staff Association
   c. Faculty (at least one from each school)

   Each of the above employee groups may decide the procedure for recommending at least 10 potential members to the president for consideration. Those recommended by the employee group will be reviewed by the sr. vice president/provost and the vice president for administration and finance before the final appointment by the president. Each appointment will be for two years, and members may be re-appointed at the president’s discretion.

2. The staff grievance process is not a formal legal proceeding. The grievant may be assisted by other employees in preparing or presenting the complaint; however legal counsel will not be allowed to participate in these proceedings.

3. Upon receipt of the written and signed grievance, the executive director will assess if illegal discrimination is alleged. If illegal discrimination is alleged the executive director will investigate the allegation in accordance with the UHCL NONDISCRIMINATION POLICY. If the complaint is for reasons other than illegal discrimination, the executive director will contact the grievant and respondent to review the list of potential panel members. The grievant and respondent will be allowed to make recommendations of the top five individuals from the list that they would like to be considered for the panel. Appointees selected to serve on a hearing panel should have no factual involvement with events leading to the grievance, nor should they have a reporting relationship to either the respondent or grievant. The executive director will make the final selection and will be responsible for contacting the panel members. Panel members shall not be contacted by the grievant or respondent.

4. The panel chair will be selected by the panel members.

5. The executive director will serve as hearing coordinator to establish a time and location for the hearing, to assemble all exhibits and documentation, and request the participation of witnesses, and to inform participants of hearing procedures. If the executive director is party to the grievance, the process will be facilitated by the vice president of administration and finance or his/her designee.

6. Prior to the time set for the hearing, usually within 5 working days, the hearing panel members may inspect exhibits and documentation in the Office of Human Resources. These exhibits and documents will be used by the hearing panel during the hearing, but will be returned to the Office of Human Resources at the conclusion of the hearing.

7. Each party to the grievance will inform the executive director of the names of individuals who may be asked to appear on his/her behalf to provide information or testimony. No individual may be compelled to participate, and no retaliatory action may be taken against any individual who chooses not to appear or to appear.
8. Each party to the grievance may request that other parties produce relevant records or exhibits. Any such request must be made in writing and directed to the respondent through the executive director. However, such requests may be denied if to accede would not serve the best interests of the university or would violate individual privacy. In the event such request is denied, the executive director must document his/her denial in writing, citing appropriate reasons for denying the request.

9. The complainant and the respondent will be present at the hearing throughout the proceedings and may question witnesses, included each other. Relevant questions will be made through the panel chair.

10. The panel chair will be responsible to maintain order and decorum throughout the proceedings.

11. Hearings will be tape-recorded and the grievant and respondent will have the opportunity to purchase a copy of the tape(s).

12. The executive director may be called by the panel as a participant to advise on applicable regulations, provide personnel information, etc., but will not offer any opinions or testimony except in direct response to questions from the hearing panel.

13. When all evidence and witnesses have been presented by both parties, the complainant and respondent may each make a closing statement, subject to the time limitation set by the panel chair.

14. Within a reasonably brief period (within five working days), the panel members will prepare and submit a report to the executive director. The report will state findings of fact and will include a recommendation. A copy of this report and recommendation will be provided to the appropriate vice president/president and the complete hearing file will be returned to the executive director for storage in the Office of Human Resources.

15. The appropriate vice president/president will review the recommendation of the panel and make a determination as to the action, if any, to be taken. A response will be sent to the panel members with a copy to the grievant and the respondent stating the disposition of the grievance.