5.27 - P&S Policies and Procedures -- Complaints and Grievances

**Purpose:**
To provide P&S staff a mechanism for addressing concerns regarding conditions of employment and working conditions.

**A. Grievance Procedure Policy Statement**

Complaints and grievances by professional and scientific (P&S) personnel will be resolved in accordance with the procedures set forth below. A P&S staff member has the right to present a matter of concern or dissatisfaction relating to the interpretation, application or alleged violation of written university or Board of Regents policies and/or procedures governing conditions of employment, work schedule, compensation (e.g., general salary schedule and general salary adjustments), Employees should contact the Office of Compliance and Equity Management for situations alleging discrimination based on age, color, creed, disability, gender identity, national origin, race, religion, sex, sexual orientation, veteran status or any other basis protected by federal and/or state law. (This process is not designed to resolve P&S position classification matters; such conditions are undertaken with the Position Classification Appeal Procedure in policy 5.26 Review proceedings.)

Employees should contact the Office of Compliance and Equity Management for situations alleging discrimination based on age, color, creed, disability, gender identity, national origin, race, religion, sex, sexual orientation, veteran status or any other basis protected by federal and/or state law.

**A. Informal Resolution:**

A P&S staff member (or group of P&S personnel) alleging a policy misinterpretation and/or misapplication, discrimination, or taking objection to a disciplinary action must seek, initially, to resolve such complaint by informal means and/or through including a discussion with their immediate supervisor or the appropriate administrative channels. Such informal procedures, e.g., may include consultation with Human Resource Services (HRS), the P&S Council Employee Issues Committee, or any UNI employee with supervisory or administrative duties, inquiry, contact with supervisor, department head, and/or division vice president, etc., must be initiated within fifteen (15) working calendar days following the date the staff member(s) first became aware of, or should have reasonably been expected to become aware of, the occurrence of such matter prompting the condition necessitating the complaint. Additional informal resources beyond discussion with their immediate supervisor or appropriate administrator may include consultation with Human Resource Services (HRS), and/or the P&S Council Employee Issues Committee.

**B. Formal Grievance Procedure**

Failing resolution by informal means, the formal grievance procedure may be initiated. Such procedure is to be initiated within forty-five (45) working calendar days following the failure of the informal resolution attempt; date the grievances first became aware of, or should have reasonably been expected to become aware of, the occurrence of such matter prompting the grievance; however, under no circumstances shall a grievance be considered timely after six (6) months from the date of occurrence.

A formal grievance statement is to be prepared and submitted on an established grievance form located in the Forms Repository, which will be maintained with the original copy of documents related to the grievance and will serve as the grievance file. The grievance form shall contain a statement as to the description of the grievance, the pertinent circumstances and date(s) of occurrence(s) noted. Such statement is to identify the policy allegedly violated, the grievance issue, and cite the relief sought.

**B. Formal Grievance Levels**

Grievance actions will be resolved in conformity with the following review levels:

1. Level
The grievance statement shall be dated and filed with the grievant’s immediate supervisor who shall conduct an investigation, give the aggrieved and/or a representative of his/her choosing the right to present the matter in question orally and respond in writing within ten (10) working days indicating his/her disposition and reasons for same. (This level is waived if the person to whom the staff member is immediately responsible is also the department head.)

2. Level II.

If the grievant is not satisfied with the decision rendered at Level I, or if a decision is not rendered in a timely manner, he/she may, within five (5) working days of receipt of this decision, appeal in writing to his/her The grievant may file the completed grievance form with their department head (and dean, as applicable) and the Director of HRS. The department head (and dean or equivalent level, as applicable) and the Director of HRS or their designee shall, within ten (10) working days of receipt of the grievance file, conduct an investigation on the conditions cited with same, and give the grievant aggrieved and/or a representative of his/her choosing the right to present their case orally and in writing. The department head (and dean or equivalent level, as applicable) shall provide a response within thirty (30) working days of receipt of the grievance.

3. Level III.

If a disposition is not issued within the prescribed period or if the grievant finds the decision as rendered at Level II to be unsatisfactory, he/she may, within seven (7) working days, appeal in writing to his/her division vice-president/head. Such appeal will include all of the information contained in the initial grievance and subsequent reviews. First level of the grievance all decisions related thereto, and any other pertinent information the aggrieved staff member grievant may wish to submit. The appeal will must be signed and dated by the staff member grievant. Within twenty (20) working days of receipt of an appeal, the division vice-president/head or his/her designee will complete an investigation of the grievance, which shall include providing the grievant the right to present their case orally or in writing, and hearing. Notification as to the time, date and place of the hearing shall be provided to the aggrieved staff member within five (5) working days following receipt of the appeal at Level III. Such hearing shall be scheduled not earlier than ten (10) and no more than fifteen (15) working days following receipt of the appeal at Level III. Within five (5) working days following conclusion of the hearing and completion of the investigation the division vice-president or his/her designee shall submit his/her findings in writing to the aggrieved grievant within thirty (30) working days of receipt of an appeal. The vice-president/division head or his/her designee may affirm, reverse, or modify the decision rendered at Level II.

4. Level IV.

If the grievant finds the decision at Level III to be unacceptable or if a decision is not rendered in a timely manner within the prescribed period, he/she may, within seven (7) working days, appeal to the President of the University. Such appeal will include all of the information contained in the initial grievance and subsequent reviews. First level of the grievance all decisions related thereto, and any other pertinent information the aggrieved grievant agrees to an alternative selection procedure, a joint written request for a list of arbitrators shall be made to the Federal Mediation and Conciliation Service. Such list is to contain the names of seven (7) potential arbitrators. The parties will, within fourteen (14) working days of receipt of the list, select the arbitrator to hear the case by alternately striking a single name until one name remains. The grievant will be the first to strike a name. The person whose name remains shall be the arbitrator. The arbitrator so selected shall hold a hearing promptly and issue a report to the President no later than thirty (30) days from the date of the close of the hearing. Such report shall be in writing and shall set forth findings of fact, reasoning, and conclusions on the issue(s) submitted.

The President or his/her designee will review the report of the arbitrator, vice-president's the Level II disposition, the hearing officer's report and other pertinent information submitted with the
case record. After reviewing such materials, the President or his/her designee may complete a further investigation, conduct an oral hearing, or take other appropriate action. A decision will, on the basis of information compiled with such actions, be rendered within fifteen (15) working calendar days following receipt of the arbitrator’s findings and recommendation(s).

C. Miscellaneous Provisions
The following general conditions will be applicable with grievance proceedings.

DC. Alternate Procedures
The University shall not be required to process the same or a substantially equivalent claim or complaint through the grievance procedure when such a complaint has been filed or if it has been adjudicated in any other form other than under the procedures described.

ED. Settlement Offers
No offer of settlement of a grievance by an aggrieved staff member or a University administrator will be admissible as evidence in later grievance proceedings or elsewhere. No settlement of a grievance shall constitute a binding precedent in the settlement of a similar grievance.

FE. Grievance Review Standards
If a grievance concerns non-reappointment, salary, denial of promotion, denial of continuing service status, or placement rejection of reassignment with continuing service, the scope of the review standard will be limited to determining whether the action taken failed to follow procedures.

The staff member holding continuing service status who is serving with a provisional appointment shall not have the right to grieve reassignment to a former or comparable position. Neither shall the University administration’s decision to return a staff member holding a probationary appointment to a former Regents Merit System assignment or comparable position be subject to grievance proceedings.

GF. Open or Closed Arbitration Hearings
Unless the grievant requests otherwise, grievance arbitration hearings will be open, except by agreement between the University and the grievant or if the arbitrator orders the proceedings closed for cause. Should the aggrieved staff member request that the hearing be closed, same shall notify the arbitrator and the University of such interest at least two (2) working days in advance of a scheduled hearing.

HG. Burden of Proof
Except in cases involving the dismissal for cause of a staff member with continuing service status, the grievant shall have the burden of proving by clear and convincing evidence that the action being grieved is improper under one or more of the standards cited above. In the case involving the dismissal of a staff member for cause with continuing service status, the University will have the burden of proving by a preponderance of evidence that grounds exist to justify termination of the appointment of the aggrieved grievant. The party with the burden of proof will present evidence first.

IH. Grievance Timeline Standards
If an aggrieved employee grievant does not appeal a decision rendered at a level of the grievance procedure within the time prescribed, the decision will become final. If a University representative does not reply to an employee’s grievance or appeal within the prescribed time, the employee may proceed to the next level. With the consent of both parties, designated time limits may be extended.

JL. Miscellaneous Provisions
A P&S employee may be represented by a UNI employee of their choosing, legal counsel, or at the employee’s expense. At each level of the grievance procedure, each party shall make the other aware of individuals present in each level as noted on the grievance form. At the beginning of each grievance level, the names and roles of all attendees shall be noted to all parties involved and prior to any meetings. Presentations, reviews, investigations, and hearings held under the grievance procedure may be conducted during working hours, without loss of regular earnings.

The cost of the arbitration, including any cost or fees billed by the arbitrator, shall be borne equally by the university and the grievant. In cases where the grievant is the prevailing party, such cost shall be borne solely by the university.
No retaliatory action shall be taken against a staff member because he/she/they utilized the grievance procedure, or assisted a grievant or served as a representative, and/or acted as a witness within such proceedings.

P&S Council, approved November 14XX, 2019
Human Resource Services, approved XX, November 22, 2019
University Council, approved XX, 2019
President's Cabinet and Executive Management Team, approved January 7XX, 2019