



## **Texas Tech University**

### **Operating Policy and Procedure**

#### **OP 70.10: Non-faculty Employee Complaint and Grievance Procedures**

**DATE:** May 31, 2006

**PURPOSE:** Texas Tech University/Texas Tech University System (TTU/TTUS) is an at-will employer. Employment is for an indefinite duration and can be terminated at any time. Nothing in this or any other TTU/TTUS policy constitutes an employment agreement, either express or implied, a contract, a contract relationship, a guarantee of continued employment, or a property right. The purpose of this Operating Policy/Procedure (OP) is to establish a procedure to provide fair, consistent, and prompt internal consideration of complaints and grievances and provide resolution when possible. In the event the employee files substantially the same issues as the grievance or complaint before or during this procedure with any external agency or court, the employee may elect to remove such issues of grievance or complaint from further consideration through this process.

Faculty should address concerns regarding their employment in accordance with the faculty grievance procedures published in the *Faculty Handbook*. Staff and student employees with a concern regarding their employment should contact their supervisor first and attempt a resolution. If no resolution is reached, the employee should then proceed in accordance with this policy. Students wishing to discuss issues arising from their student status should do so with the Center for Campus Life. Other complaints by employees not related to employment or student status should be addressed with the managing director of Equal Employment Opportunity (MDEEO). In addition, complaints and concerns of job applicants and other individuals who are not employees should also be addressed with the MDEEO.

**REVIEW:** This OP will be reviewed in March of each even-numbered year by the managing director of Equal Employment Opportunity, the managing director of Personnel, and the vice chancellor/general counsel with recommended revisions forwarded through administrative channels to the senior vice president for administration and finance by March 31.

### **POLICY/PROCEDURE**

#### **1. Policy**

##### **a. Definitions**

- (1) Complaint – A complaint is an employee’s formal expression of disagreement concerning issues pertaining to wages, hours, working conditions, performance evaluations, merit raises, job promotions, job assignments, or similar matters involving management decisions concerning the employee.

- (2) Grievance – A grievance is an employee’s formal expression of disagreement concerning issues pertaining to terminations and other disciplinary actions, allegations of discrimination, demotions or decreases in salary, and/or suspension without pay, or other similar administrative actions that are alleged to be due to acts of discrimination or other violation of law or violation of TTU/TTUS policy. A termination cannot be grieved unless the employee has reason to believe the action taken is prohibited by law.
- b. Applicability
- (1) Regular Staff Employee – The complaint and grievance procedure is applicable to regular staff employees who are employed at least one-half time and for at least four and one-half months.
  - (2) Student and Non-regular Staff Employees – The complaint and grievance procedure is applicable to student and non-regular staff employees who are employed either less than half time or employed full time, but whose intended employment is less than four and one-half months; however, this procedure ends with the decision by the MDEEO.
  - (3) This procedure is not applicable to other employee groups.
- c. It is the policy of TTU/TTUS to ensure due process and to seek fair, just, and prompt resolution of complaints and grievances by non-faculty employees arising from the employment relationship with TTU/TTUS. In those instances in which the employee’s problem is of such a nature that a satisfactory resolution cannot be achieved by discussion with the immediate supervisor, the employee may present a complaint or grievance in accordance with this complaint and grievance procedure.
- d. An employee may present a complaint or grievance without retaliation. However, the filing of a complaint or grievance shall not affect the ability of TTU/TTUS to pursue disciplinary or separation action for reasons other than the employee’s filing of a complaint or grievance.
- e. All complaint or grievance investigations and procedures will be non-adversarial in nature. Aggrieved employees may represent themselves individually, but they may be accompanied by legal counsel or other representative who does not claim the right to strike. No Texas Tech funds may be used to pay expenses for salary, travel, or per diem of public employees who represent grievants in the presentation of complaints or grievances except that employees are allowed to take annual leave, compensatory leave, or leave without pay, subject to established Texas Tech University operating policies and procedures, to engage in this activity.
- f. Only one subject matter shall be covered in any one complaint or grievance. A written complaint or grievance shall contain:
- A clear and concise statement of the complaint or grievance that refers to the applicable policy or law that is alleged to have been violated;
  - The date the incident took place;
  - The issue involved;
  - The specific resolution sought by the employee; and
  - Additional relevant information to be considered in support of the complaint or grievance.

Once a complaint or grievance has been submitted in writing, it may not be changed or amended without mutual consent of TTU/TTUS and the employee. Multiple grievances will be considered simultaneously.

- g. The MDEEO and/or the managing director of Personnel will, upon request, assist the complainant or grievant by explaining this complaint and grievance procedure. See Attachment A for contact information.
- h. In the event of resolution, the complaint or grievance process will end. Resolution shall be recognized by both TTU/TTUS and the employee.
- i. If an employee separates employment with TTU/TTUS for any reason, any pending complaint(s) and/or grievance(s) shall be dismissed provided, however, that if the employee alleges that he or she has been terminated in an act of discrimination or for any other reason prohibited by law, that termination action may be appealed to the MDEEO. In such case, the finding of the MDEEO shall be the final administrative action of the university.

## 2. Procedures

- a. Complaints – A complaint, as defined in Section 1.a.(1), relates to employee-management disagreements and must be processed as follows. A complaint shall not be processed through a formal grievance procedure.
  - (1) Step One – Within ten working days of the date of the action that is the basis of the complaint, the employee shall discuss the complaint with her/his first-level supervisor.
  - (2) Step Two - If no resolution is reached with the immediate supervisor, the employee, if he/she wishes to appeal, must submit a *Statement of an Employee Complaint* form (Attachment B) to the second-level supervisor for consideration and action. The written complaint must be filed within ten working days after discussing the complaint with the first-level supervisor. The employee should provide a copy of the written complaint to the MDEEO. The second-level supervisor will review the complaint with the first-level supervisor and respond to the employee in writing within ten working days. A copy of the response should be sent to the MDEEO and the first-level supervisor.
  - (3) Step Three - If satisfactory resolution is not reached in Step Two, the employee may appeal to the MDEEO by submitting a written request for appeal and enclosing a copy of the *Statement of an Employee Complaint* form and the supervisor's decision within ten working days of receiving the written response from the second-level supervisor. The MDEEO will review the complaint, investigate, and file a written response to the department head or equivalent and the employee. The finding of the MDEEO is final. Failure of any administrator within the complaint procedure to respond within the designated time limits shall be deemed a denial of a complaint.
  - (4) Step Four – If the investigation of the MDEEO in Step Three supports the alleged complaint, a follow-up will be made by the EEO Office no later than 60 days after an investigation has been completed and the findings have been reported in writing to the appropriate university administrator. The follow-up will involve the following:
    - (a) Contact the appropriate university administrator to determine whether appropriate disciplinary action or other corrective action has been taken, as necessary. Confirmation of appropriate disciplinary or corrective action can also be acknowledged via copy of a PAF, resignation letter, termination documents, etc.
    - (b) Contact the complaining party to verify that no harassment or retaliation by any person has occurred since the time of the complaint. The complaining party should

be asked to describe with sufficient detail any incidents that the complaining party alleges to have occurred after the original allegations were filed and may be asked to document those incidents in writing.

- b. Grievances – A grievance, as defined in Section 1.a.(2), is a formal expression of disagreement related to adverse employment action and it must be processed as follows:
- (1) Step One – An employee having a grievance shall submit the grievance in writing (Attachment A) to the MDEEO within ten working days from the date of the action giving rise to the grievance. The employee may request the MDEEO's help in the completion of the grievance statement. The MDEEO will review the grievance and investigate. The investigation will begin with an interview with the employee presenting the grievance and will proceed, as necessary, with examination of relevant documentation and interviews with other employees. The MDEEO will attempt to resolve the dispute to the parties' satisfaction and will file a written response to the department administrator and the employee. The finding of the MDEEO is final for student, temporary, and other non-regular staff employees.
  - (2) Step Two - If the investigation of the MDEEO in Step One supported the alleged grievance, a follow-up will be made by the EEO Office no later than 60 days after an investigation has been completed and the findings have been reported in writing to the appropriate university administrator. The follow-up will involve the following:
    - (a) Contact the appropriate university administrator to determine whether appropriate disciplinary action or other corrective action has been taken, as necessary. Confirmation of appropriate disciplinary or corrective action can also be acknowledged via copy of a PAF, resignation letter, termination documents, etc.
    - (b) Contact the complaining party to verify that no harassment or retaliation by any person has occurred since the time of the grievance. The complaining party should be asked to describe with sufficient detail any incidents that the complaining party alleges to have occurred after the original allegations were filed and may be asked to document those incidents in writing.
  - (3) Step Three – If resolution is not reached, a grievant who is a regular staff employee as defined in 1.b.(1) may make a written request to the MDEEO within ten working days of receipt of the MDEEO's response to have the grievance heard by a Grievance Review Board (Board). An employee may have more than one grievance pending Board review; however, all unresolved issues will be joined and heard simultaneously by the same Board. The MDEEO will make a written request to the managing director of Personnel to convene a Grievance Review Board and forward to the managing director of Personnel a copy of the grievance(s) to be heard by the Board.
  - (4) Step Four – Grievance Review Board. The managing director of Personnel shall appoint a Grievance Review Board within ten working days following the date of receipt of the request. The Grievance Review Board will convene a hearing as expeditiously as possible considering the individuals' schedules. Procedures for selection of the Board and for the hearing are outlined in Attachment D. A written report and recommendation from the Grievance Review Board shall be given to the appropriate vice chancellor/vice president/dean within five working days following the conclusion of the Grievance Review Board hearing. The recommendation of the Grievance Review Board is a recommendation only and it is not binding on the vice chancellor/vice president/dean.

- (5) Step Five – Vice Chancellor/Vice President/Dean. Within ten working days following receipt of the recommendation of the Grievance Review Board, the appropriate vice chancellor/vice president/dean will make a written response to the grievant. The decision of the vice chancellor/vice president/dean is final except in the case of employees who report directly to a vice president/dean, in which case the decision of the chancellor/president shall be the final decision in a grievance.

### 3. **Time Periods**

All time limits set forth in this policy are defined in working days and may be extended with the mutual consent of the parties involved. Without mutual consent, the failure of the employee to process the appeal in a timely manner to the next level shall constitute a withdrawal of the appeal, and the failure of supervisory or administrative personnel to respond in a timely manner to a complaint or grievance in accordance with this policy shall be deemed a denial of the complaint or grievance and shall constitute authorization for the employee to process the appeal to the next step.

### 4. **Right to Change Policy**

TTU/TTUS reserves the right to interpret, change, modify, amend, or rescind this policy, in whole or in part, at any time without notice to or consent of its employees.

[Attachment A: Contact Information](#)

[Attachment B: \*Statement of an Employee Complaint\*](#)

[Attachment C: \*Grievance Statement\*](#)

[Attachment D: \*Grievance Review Board\*](#)

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