



852 Administrative, Professional, and Faculty Grievance or Complaint

Approved by President

Sidney A. McPhee, President

Effective Date: _____, 2022

Responsible Division: Business and Finance

Responsible Office: Human Resource Services

Responsible Officer: Assistant Vice President, Human Resource Services

I. Purpose

This policy outlines the solutions available to administrative/professional staff and faculty members of Middle Tennessee State University (MTSU or University) to resolve bona fide complaints or grievances arising from the employment relationship or environment. To this end, formal grievance and complaint procedures have been established for the use and benefit of administrative/professional staff and faculty members in addressing certain workplace concerns. MTSU is committed to resolving a grievance or complaint at the lowest possible level of the organization.

Employees should seek resolution of problems through this procedure without fear of coercion, discrimination, or retaliation.

II. Scope

A. Covered Employees

This grievance and complaint policy is available to all administrative/professional staff and faculty members (including full-time faculty on term or temporary contracts). Probationary employees in these classifications are also included in this definition. Student workers, graduate assistants, adjunct faculty, and temporary workers are not included in the definition of employees for purposes of this policy.

Support staff with grievances should refer to [Policy 853 Classified Grievance or Complaint](#).

B. Concerns Excluded from the Grievance or Complaint Policy

Not all categories of employment concerns are covered by this policy including the following examples:

1. A termination procedure initiated against a tenured faculty member under [Policy 204 Tenure](#), Procedures for Termination for Adequate Cause.
2. Appeals of negative recommendations for tenure or promotion as set forth in [Policy 206 Tenure and Promotion Appeals Process](#).
3. Non-renewal of tenure-track faculty.
4. Claims of unlawful discrimination or unlawful harassment based on protected class status as set forth in [Policy 26 Discrimination and Harassment Based on Protected Categories Other Than Sex](#), [Policy 27 Misconduct, Discrimination, and Harassment Based on Sex \(Including Pregnancy, Sexual Orientation, and Gender Identity/Expression\)](#), and [Policy 29 Title IX Compliance](#).
5. Performance evaluations, rates of pay, or position terminations due to reduction in force do not fall under the definition of grievance or complaint. Employees may follow the procedures outlined in [Policy 810 Performance Evaluation Reviews](#) to rebut a performance evaluation.

III. General Provisions

- A. All employees are encouraged to discuss any problem with their supervisor or unit head prior to initiating a grievance or complaint in an effort to resolve the concern.
- B. No employee shall retaliate or discriminate against another employee because of the latter's filing of a grievance or complaint. In addition, no employee shall coerce another employee to interfere with the action of another employee in the latter's attempt to file a grievance or complaint.
- C. Supervisory personnel must inform and make available to all employees information concerning their right to file a grievance or complaint and their right to be protected from retaliation. Supervisory personnel must also ensure that the employee is not retaliated against, coerced, and/or discriminated against as a result of having filed or intended to file a grievance or complaint.
- D. Any matter that is reviewed through the grievance or complaint process may not be subsequently resubmitted for review through the other process.
- E. Administrative/professional staff and faculty members may complete an online [grievance](#) form or [complaint](#) form, but no grievance or complaint will be denied because the online form was not used.
- F. For purposes of this policy "working days" refers to Monday through Friday. Days when MTSU is officially closed shall not be included as "working days."

IV. Employment Concerns Subject to Review as a Grievance

An employee may only grieve those matters defined in Items A-C below. Employees may choose instead to proceed under the complaint procedure of this policy.

If not otherwise excluded pursuant to Section II.B., a grievance may result from any action taken against the employee that the employee contends:

- A. Violates MTSU policy or involves an inconsistent application of the same policy.
- B. Violates state or federal law.
- C. Violates any constitutional right. The most likely areas of concern are the First, Fourth, and Fourteenth Amendment of the federal Constitution regarding impediments to free speech, freedom of religion, the right to association, improper search and seizure, and neglect of constitutionally required notice or procedures.

V. Employment Concerns Subject to Review as a Complaint

A complaint is any employment concern that an employee wants to discuss with supervisory personnel in an effort to resolve the matter.

VI. Grievance Procedure

A. General Matters

1. So long as it does not interfere with the normal workflow of MTSU, employees shall be given reasonable opportunity to pursue grievances during their assigned work time. The parties to the grievance proceedings will be given access to all persons, places, and official records (consistent with the Tennessee Public Records statutes) for information necessary to the determination and processing of the grievance within specified time limits.
2. The Assistant Vice President of HRS may grant reasonable extensions of the applicable time limit at each stage of the procedure upon a timely showing of good cause. The request for an extension and the approval or denial of the request must be in writing.
3. A grievance may be withdrawn in writing at any stage of the process.
4. Once a final determination is made on a grievance, the employee may not later challenge the same employment concern in an attempt to gain a more favorable outcome.

5. HRS shall be responsible for maintaining all materials produced during the grievance process and for routing them appropriately.

B. Time for Filing

A grievance must be initiated according to the process below within fifteen (15) working days after the employee receives notice or becomes aware of the action that is the basis for the grievance. If the employee is not satisfied with the decision at any step, they must request in writing to HRS that the grievance be elevated to the next step within fifteen (15) working days after receiving the written decision of the lower level. If the employee does not carry the grievance forward within fifteen (15) working days, the grievance procedure will end with the last written decision. For repetitive or ongoing incidents or circumstances, the grievance must be filed within fifteen (15) working days of the last occurrence of such incident or circumstance.

C. Initial Review by HRS

Within five (5) working days of receipt of a grievance, HRS, in consultation with the Office of the University Counsel, will conduct a review of the grievance to ensure that the grievance was timely filed and that the employment action stated therein is subject to this grievance procedure. If HRS determines that, on its face, the grievance is untimely, or that this process is not available for the challenged employment action, HRS shall dismiss the grievance and inform the employee and their supervisor in writing.

Other than the review of the grievance described above, HRS shall not conduct any further review of the grievance or evaluate its factual merits. If there is a question as to the timeliness of the grievance or whether the challenged employment action is subject to a grievance under this procedure, HRS may require the employee to provide additional details.

If an employee attempts to bring a grievance under this policy, and HRS determines that this policy does not apply to that concern, the employee may continue to pursue their grievance under a different applicable policy, provided that the grievance was timely filed pursuant to either the time limitations set forth above or those set forth in the applicable grievance policy.

D. Grievant's Responsibilities and Representation Rights

The employee may be accompanied by an advisor of their choice at each step of the grievance; however, the advisor may not advocate on behalf of the employee during any of the grievance proceedings.

The employee may provide any relevant information to assist the reviewer in reaching a decision. The reviewer may also talk to additional personnel who may have relevant information and may review pertinent documentation.

E. Steps of Review

Step 1: Discussion with Immediate Supervisor

A grievance must be brought to the attention of the employee's immediate supervisor within fifteen (15) working days after the employee becomes aware of the problem. The employee and the supervisor shall discuss the grievance in an attempt to resolve the matter in a mutually satisfactory manner. The supervisor shall conduct any necessary or appropriate investigation and inform the employee in writing of a decision based upon full and fair consideration of all the facts within fifteen (15) working days of the initial discussion. The supervisor will ensure that the decision is communicated to, and receipt acknowledged by, the employee and a copy forwarded to HRS. If the employee's immediate supervisor is the subject of the employee's grievance, the employee may file their grievance at the Step 2 level and skip the Step 1 level. If the employee is not satisfied with the outcome, they may file a written request within fifteen (15) working days of receipt of the Step 1 decision to HRS, requesting that their grievance be elevated to Step 2. If no decision is communicated to the employee by their supervisor within fifteen (15) working days of the initial discussion, the grievance will automatically proceed to Step 2 of the grievance process.

Step 2: Discussion with Next Higher Level of Management

If the employee and the immediate supervisor cannot reach a mutually satisfactory resolution to the grievance, and the employee requests and receives authorization from HRS to elevate the grievance to Step 2, the next higher level of management will schedule either an in-person or synchronous online meeting with the employee within fifteen (15) working days to discuss the grievance. The procedure and time limits for the next level of management shall be the same as outlined in Step 1. If the employee fails to request that their grievance be moved to Step 2 within the specified timeframe, it shall be deemed that the employee has waived the right to further consideration: the grievance shall be deemed resolved at Step 1 and may not be raised again.

If the employee is satisfied with the decision reached by the next higher level management, no additional action is required. If the employee is not satisfied, within fifteen (15) working days, the employee may again request in writing that HRS move their grievance to the next level of review, the Provost/Vice President, based on the employee's work assignment. If no decision is communicated to the employee within fifteen (15) working days of the discussion between the employee and the next higher level of management, the grievance will automatically proceed to Step 3 of the grievance process.

Step 3: Provost/Vice President Review

The Provost/Vice President will review the employee grievance and the prior decisions and conduct either an in-person or synchronous online meeting with the employee. The decision regarding the grievance will be communicated to the employee within fifteen (15) working days of that meeting. The Provost/Division Vice President shall forward a copy of their written decision, as well as all documents or other evidence received or considered, to the employee and HRS.

Step 4: Grievance Committee Hearing

If the employee and Provost/Vice President cannot reach a mutually satisfactory resolution, the employee may submit a written request to HRS within fifteen (15) working days of the Provost/Vice President's decision, asking that the grievance be elevated to Step 4, Grievance Committee Hearing. The President will be notified by HRS of the request and the President or designee shall immediately appoint a grievance committee to review the grievance. The committee shall consist of five (5) employees and one (1) alternate, at least one (1) of whom is a peer of the employee. If the employee is a faculty member, at least three (3) of the committee members shall be tenured faculty holding professor or associate professor rank.

No committee member with an interest in the outcome of the decision will be selected. Should it be discovered that a member has an interest in the outcome of the decision, that committee member will be replaced to avoid a biased decision. Every effort will be made to include ethnic minorities and women in the composition of the committee to reflect the diversity of the University community.

The five (5) committee members and alternate shall elect a committee chair.

The position of the University will be presented at the hearing by the employee's department head. The committee will provide the employee and the department head with fifteen (15) working days' advance notice of the time and location of all grievance committee proceedings.

The committee shall conduct an independent and thorough investigation and shall fully and fairly examine all pertinent facts and circumstances. The committee shall review the material presented and the decisions rendered in the prior stages of the grievance process. It shall receive evidence in the form of testimony and documentation from the employee and from the employee's department head. The committee may call additional witnesses and obtain additional documentation. The committee may allow all witnesses to be present at one time; or, may hear each witness, including the employee, separately. The employee and the department head shall be allowed to be present for all proceedings. The employee, the department head, and the committee may ask

questions of all witnesses. The burden of proof is on the employee to establish the validity of the grievance by a preponderance of the evidence.

Within fifteen (15) working days of the conclusion of the hearing, the committee shall submit to the President a written report of its recommendation and reasons supporting its recommendation, signed by all members of the committee. If the committee members cannot reach a unanimous decision, the committee may present additional reports and recommendations to the President. Each report shall include the signatures of all committee members joining in its recommendation.

The President may then adopt any recommendation of the committee, in whole or in part, or may arrive at a different conclusion. Within five (5) working days of the President's decision, the employee will receive in writing copies of both the President's decision and the committee's recommendation. The President's decision will be final and binding.

VII. Complaint Procedures

Steps for Filing a Complaint:

A. Step 1: Immediate Supervisor

A complaint must be brought to the employee's immediate supervisor within fifteen (15) working days after the employee receives notice or becomes aware of the problem. The employee and supervisor shall discuss the complaint in an attempt to resolve the matter in a mutually satisfactory manner. The supervisor shall conduct any necessary or appropriate investigation and inform the employee in writing of a decision based upon full and fair consideration of all the facts within fifteen (15) working days of the initial discussion. A copy of the decision will also be forwarded to HRS.

If the employee is not satisfied, the employee may file a written request within fifteen (15) working days of receipt of the Step 1 decision to HRS requesting that complaint be elevated to Step 2. If no decision is communicated to the employee within fifteen (15) working days of the initial discussion, the complaint will automatically proceed to Step 2. If the employee's immediate supervisor is the subject of the complaint, the employee may skip Step 1 and move their complaint to Step 2.

B. Step 2: Next Higher Level of Management

If the employee and the immediate supervisor cannot reach a mutually satisfactory resolution to the complaint, the employee may request in writing within fifteen (15) working days to HRS that their complaint be elevated to Step 2. The next higher level of management will schedule either an in-person or synchronous online meeting with the employee to discuss their complaint within fifteen (15) working days. The procedure and

time limits for the next level supervisor shall be the same as outlined in Step 1. If the employee fails to request that their complaint be moved to Step 2 within the specified timeframe, it shall be deemed that the employee has waived the right to further consideration and the complaint shall be deemed resolved at Step 1 and may not be raised again.

C. Step 3: Provost/Vice President Review

If the employee and the next higher level of management cannot reach a mutually satisfactory resolution to the complaint, the employee may request in writing within fifteen (15) working days that HRS move their complaint to the Provost or appropriate Vice President for review. If the employee fails to request that their complaint be moved to Step 3 within the specified timeframe, it shall be deemed that the employee has waived their right to further consideration, and the complaint shall be deemed resolved at Step 2 and may not be raised again.

The Provost/Vice President will review the employee complaint and conduct either an in-person or synchronous online meeting with the employee. Their decision regarding the complaint will be communicated to the employee within fifteen (15) working days from the date of the discussion with the employee. The Provost/Vice President's decision regarding the complaint shall be final and binding.

VIII. Maintenance of Records

Copies of written grievances and complaints and accompanying responses, along with supporting documentation, shall be maintained in the office of HRS for at least three (3) years.

Forms: none.

Revisions: June 5, 2017 (original); _____, 2022.

Last Reviewed: _____ 2022.

References: Policies 26 Discrimination and Harassment Based on Protected Categories Other Than Sex; 27 Misconduct, Discrimination, and Harassment Based on Sex (Including Pregnancy, Sexual Orientation, and Gender Identity/Expression); 29 Title IX Compliance; 204 Tenure; 206 Tenure and Promotion Appeals; 810 Performance Evaluation Reviews; 853 Classified Grievance or Complaint.