



853 Classified 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

It is the policy of Middle Tennessee State University (MTSU or University) to provide an effective procedure for resolution of problems arising from the employment relationship or environment. To this end, a formal grievance and complaint policy has been established for the use and benefit of classified employees in addressing certain workplace concerns. This policy complies with T.C.A. § 49-8-117, which establishes this procedure for review of grievances by classified employees relating to demotions, suspensions without pay, terminations, and work assignments or conditions that the grievant believes violate statute or policy.

II. General Provisions

- A. The President of MTSU has the ultimate responsibility for implementing the grievance and complaint policy set forth herein and will provide the final decision.
- 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. Classified staff may complete an online [Grievance Form](#) or [Complaint Form](#), but no grievance or complaint will be denied because the online form was not used.

- E. For purposes of this policy, the term "working days" refers to Monday through Friday. Days when MTSU is officially closed shall not be included as "working days."
- F. 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.

III. Scope

A. Covered Employees

This grievance and complaint policy is available to classified employees. Classified employees means employees who are neither faculty nor executive, administrative/professional staff. Probationary employees in this classification are also included in this definition. Student workers, graduate assistants, adjunct faculty, and temporary workers are not included in the definition of classified employees for purposes of this policy.

B. Concerns Excluded from this Grievance and Complaint Policy

1. 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](#).
2. Personnel actions such as performance evaluations, rates of pay, position re-classifications, or position terminations due to reduction in force do not fall under the definition of grievance or complaint. Employees may follow the procedure outlined in [Policy 810 Performance Evaluations](#) to rebut a performance evaluation.

C. Employment Concerns Subject to Review as a Grievance

An employee may only grieve those matters defined below. All employees wishing to present grievances that are not covered by this policy should follow the procedures set forth in the applicable policy or procedure, if any. Employees may also proceed under the complaint procedure of this policy.

1. Demotion, suspension without pay, or termination for cause;
2. Work assignments or conditions of work that violate statute or policy.

D. 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.

IV. 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 proceeding 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 with specified time limits.
2. The Assistant Vice President of Human Resource Services (HRS) may grant reasonable extensions of the applicable time limit at each stage of the procedure upon the 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 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. Testimony, Witnesses, and Representation

At every step, the employee may testify and present witnesses and materials in support of their position. The testimony of an employee, given either on their own behalf or as a witness for another employee, will not subject any employee to retaliatory action. 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. During the course of a Grievance Committee Hearing, the Committee Chair or Hearing Officer may allow additional employee representatives to attend the hearing.

E. Steps of Review

Step 1: Immediate Supervisor:

1. Within fifteen (15) working days after the employee receives notice or becomes aware of the action that is the basis for the grievance, the employee must notify HRS of the grievance, by completing a [Grievance Form](#). The completed form should be submitted to HRS.
2. HRS shall determine whether the grievance is appropriate for processing pursuant to this policy and has been timely filed as set forth in Section IV.C. above.
3. Within fifteen (15) working days after receipt of the grievance form, the immediate supervisor and the employee shall meet and discuss the grievance either in-person or a synchronous online meeting. Within fifteen (15) working days from the employee/supervisor meeting, the supervisor will issue a written decision citing specific reasons for the decision. This decision will be forwarded to the employee along with a copy to HRS. If the supervisor fails to respond within the specified timeframe or if the decision is not satisfactory to the employee, the employee may request in writing to HRS that their grievance be elevated to Step 2.

Step 2: Next Higher Level of Management

Within fifteen (15) working days after receiving the written decision at Step 1, if the employee is not satisfied with the result of Step 1, the employee must notify HRS in writing that they want further review. Within fifteen (15) working days after receiving notice that the employee wants to elevate their grievance to the next step, HRS will forward the decision and materials from Step 1 to the next higher level of management for review. Management will schedule either an in-person or synchronous online meeting with the employee to discuss the grievance. Within fifteen (15) working days after the meeting, the next higher level of management will issue a written decision that includes specific reasons for the decision. The next higher level of management shall forward a copy of their written decision to the employee and HRS. Any documents or other evidence received or considered will be forwarded to HRS.

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

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/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: Hearing

1. If the employee and Provost/Division Vice President cannot reach a mutually satisfactory resolution, the employee may submit a request in writing to HRS within fifteen (15) working days of the Provost/Vice President's decision, asking that the grievance be elevated to Step 4.
 - a. Under T.C.A. § 49-8-117(b)(3), if the grievance concerns a demotion, suspension without pay, or termination, the employee may elect a hearing before an employee grievance committee or a hearing held pursuant to [Policy 110 Cases Heard Pursuant to the Uniform Administrative Procedures Act](#). The employee's written request for a hearing should indicate the type of hearing desired.

- b. If the grievance concerns any other work assignment or condition of work that the employee contends violates statute or policy, the employee may request a hearing before an employee grievance committee.
2. All hearings held pursuant to this policy shall be conducted in accordance with the hearing procedures set forth below.
3. Hearing Procedures
 - a. Employee Grievance Committee Hearings

In the event that the employee requests a hearing before a panel of employees, the following Grievance Committee Process shall apply.

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 which is a peer of the employee.

No committee member with an interest in the outcome of the decision will be selected. Should it be discovered that a member has a particular 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 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's Department Head will represent the University (MTSU representative). The parties to the hearing (the employee and the MTSU representative) shall be allowed to be present for all proceedings.

The employee and the MTSU representative should be allowed to present any pertinent evidence to the committee and to have the committee call those witnesses who have testimony pertinent to the decision.

The committee will provide the employee and the MTSU representative with advance notice of the time and location of all proceedings before the grievance committee. The MTSU representative and the employee shall be permitted to cross-examine all witnesses called by the other. The committee may also question witnesses and the parties. 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. The employee will be notified of the President's decision along with a copy of the committee's recommendation. The President's decision will be final and binding as to all parties concerned.

b. Uniform Administrative Procedures Act (UAPA) Hearings

All proceedings under the UAPA shall be conducted according to the parameters set forth in [Policy 110 Cases Heard Pursuant to the Uniform Administrative Procedures Act](#). Attorneys' fees and costs shall not be recoverable by the prevailing party. The grievant shall bear the burden of proof.

The chair of the grievance committee or hearing officer shall provide the grievance decision to HRS which shall promptly forward it to the President. The decision is subject to review by the President, who may adopt the decision, in whole or in part, or may arrive at a different conclusion. The employee will be notified of the President's decision along with a copy of the committee or hearing officer's recommendation.

V. Complaint Procedures

The following procedures shall be followed when a classified employee wishes to file a complaint.

A. Steps for Filing a Complaint

1. Step 1: Discussion with Immediate Supervisor

A complaint 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 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 the 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 the complaint to Step 2.

2. Step 2: Discussion with 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 level of management will schedule 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.

3. 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.

VI. 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 a least three (3) years.

Forms:

[Complaint Form](#)

[Grievance Form](#)

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

Last Reviewed: _____ 2022.

References: T.C.A. § 49-8-117; 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; 110 Cases Heard Pursuant to the Uniform Administrative Procedures Act; 810 Performance Evaluations.