

# Augusta University

## Policy Library

# Grievance Procedures for Employees and Postdoctoral Fellows Policy

Policy Owner: University HR Services

### POLICY STATEMENT

Augusta University (“Augusta”) is committed to providing a good working environment for all employees. Conflicts and disagreements between active members of the Augusta community are inevitable. It is the policy of Augusta to resolve disputes fairly, and at the lowest possible level. When conflicts or disagreements occur, individuals should first attempt to resolve them through discussion with their supervisor. Augusta provides for a formal grievance procedure under certain conditions when resolution at a lower level does not occur.

This policy reinforces the institution’s commitment to provide a safe and amicable workplace for all and will outline the grievance procedures for classified employees and postdoctoral fellows.

### AFFECTED STAKEHOLDER AND ORGANIZATION(S)

Indicate all entities and persons within the Enterprise that are affected by this policy:

- Alumni       Faculty       Graduate Students       Health Professional Students  
 Staff       Undergraduate Students       Vendors/Contractors       Visitors

Other: This policy does not apply to employees covered by the Personnel Agreement between Augusta University and the AU Medical Center, and whose services are “leased” to Au Medical Center under the terms of that agreement. These employees are referred to as “Leased Employees” and they are subject to the grievance procedures of AU Medical Center. Upon a final determination by Au Medical Center, a leased employee does have the right to appeal to the President of Augusta University.

### DEFINITIONS

Grievance Hearing Committee: A designated group of staff and postdoctoral fellows who have been identified and trained to hear grievances and who may be asked to serve on a grievance hearing panel. The primary purpose of the Grievance Hearing Committee is to provide a pool of specially trained staff and postdoctoral fellows whose responsibility is to serve on the Hearing Panel.

Grievance Hearing Panel: A designated employee or group of employees assigned to consider a grievance filed by an employee, review the action taken, and make a recommendation to the Provost. The grievance hearing panel will generally be comprised of three (3) individuals. To the extent possible, the make-up of the panel will include a peer of the grievant, a peer of the respondent, and another individual who is neither. At least two individuals from the Grievance Hearing Committee will be a part of any grievance panel constituted when a grievance is filed.

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Office of Compliance and Enterprise Risk Management Use Only

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**Grievance Hearing Officer:** The individual who will preside over the grievance hearing. This individual must come from the Grievance Hearing Committee and have been formally trained as a grievance hearing officer.

## **PROCESS & PROCEDURES**

**Employees and Postdoctoral Fellows:** Employees and postdoctoral fellows may file a grievance only if the employee has been suspended, the employee has been discharged, or the employee has been demoted or their salary has been reduced. An employee who is considering filing a grievance is strongly encouraged to consider mediation as a possible means of resolving the grievance. The employee should contact the Director of Employee Relations to discuss mediation.

Even in the above circumstances, employees may not file a grievance if:

- They are still in their provisional period; or,
- They have been adversely affected by a reorganization, program modification or financial exigency (such employees may apply to the Board of Regents for review); or,
- The issue underlying the grievance is a charge of discrimination on the basis of race, sex, age, disability or religion (such charges should be directed to the Affirmative Action/EEO Officer); or,
- The issues being grieved have been previously heard by any administrative panel at Augusta University.

In his discretion, the President may direct that a hearing be held concerning any matter related to the employment of an employee or postdoctoral fellow.

### **Procedure for Filing a Formal Grievance**

An employee or postdoctoral fellow may file a grievance by completing [Attachment A](#), and submitting it to the Director of Employee Relations. Without good cause for the delay, a grievance must be filed within ten working days of the notice of suspension or discharge. If filed after that time, the grievance must be accompanied by a written explanation for the delay. The Vice President of Human Resources will rule on whether the employee had good cause for filing the grievance late. Good cause consists of fraud, severe illness, or other circumstances beyond the employee's control, which significantly impaired their ability to file the grievance.

The Director of Employee Relations shall refer any appropriate grievance to a Hearing Officer, and inform the appropriate manager or supervisor that the grievance has been filed. This manager or supervisor would normally be the one who imposed the suspension or discharge underlying the grievance. For the purposes of the grievance, this manager or supervisor is

called the respondent. Hearing Officers will be appointed by Human Resources and trained by the Legal Affairs Office. The Hearing Officer is responsible for:

#### Assembling the Hearing Panel

- Assembling the Hearing Panel, appointing a Chair of the Panel, and providing them with copies of the grievance and other appropriate documents. [See Attachment B.](#)
- Making all arrangements for the hearing.
- Counseling both the grievant and the respondent concerning the hearing and answering their questions concerning the procedures which will be followed.
- Presiding at the hearing.

In his or her discretion, the Hearing Officer may require each party to submit, in advance of the hearing, a written statement of their position, copies of all documents to be produced, a list of witnesses who will be called, the identification of their advisor or spokesperson, if any, and any grounds which a party may have for questioning the fairness or impartiality of the Hearing Officer or any member of the Hearing Panel. Copies of any such materials should be given to the other party involved. In his or her discretion, the Hearing Officer may furnish any relevant documents to the panel members in advance of the hearing.

Hearings shall be held in private. Either party may request that the Hearing Officer remove any member of the panel on the basis that the panel member cannot be fair and impartial regarding the matter at issue. The Hearing Officer shall rule finally on all such challenges. If the Hearing Officer himself is challenged, the Provost shall rule finally concerning that challenge.

The Hearing Officer shall preside and rule finally on all matters of procedure. The grievant has the burden by a preponderance of the evidence to show either: (a) that management's actions were based on alleged facts, which are untrue; or (b) that management's actions were unreasonably harsh. The order of the hearing is within the discretion of the Hearing Officer, but normally would include, in order:

- A brief opening statement by the grievant.
- A brief opening statement by the respondent.
- The presentation of documentary or testimonial evidence by the grievant. The grievant's documents should be marked as, "G-1," "G-2," etc. If witnesses are called, the grievant shall question the witness, followed by the respondent, and then the panel members. In

the Hearing Officer's discretion, each party and the panel may continue to question a witness in turn so long as new and relevant testimony is being offered.

- The presentation of documentary or testimonial evidence by the respondent. The respondent's documents should be marked, "R-1," "R-2," etc. The questioning of the respondent's witnesses follows the same procedure as with the grievant's, except that the respondent questions their witnesses first, followed by the grievant and then the panel.
- In the Hearing Officer's sole discretion, each party may present further documents or testimony to rebut evidence from the other side.
- A closing argument (not normally to exceed ten minutes) from the grievant.
- A closing argument (not normally to exceed ten minutes) from the respondent.
- A very brief final statement from the grievant.

The Script in [Attachment C](#) may be used for the Hearing Officer's convenience. The parties may present any relevant written or testimonial evidence. Each party is responsible for arranging for the attendance of their own witnesses, though either party may request the assistance of the Hearing Officer if a witness has refused to come, or if a witness' supervisor has refused to allow them to attend. All supervisors should make all reasonable efforts to allow relevant witnesses to attend grievance hearings. All Augusta University employees are required to cooperate in grievance hearings, if their testimony is relevant. Either side may bring one advisor or spokesperson to the hearing. This advisor or spokesperson should not be a potential witness at the hearing, unless they are merely a character witness for one of the parties. The *advisor* may be anyone, including an attorney. Such advisors are not allowed to participate in the hearing, though they may advise the party for whom they are present. A *spokesperson* may be anyone from Augusta University who voluntarily agrees to be the party's spokesperson, and this spokesperson may help present the case. The Hearing Officer has the discretion to impose time limits within which each party must present their case. The Hearing Officer may require the attendance of witnesses or the production of documents other than those presented by the parties.

The Hearing Panel shall then deliberate in private. As stated above, the grievant has the burden to show that management's actions were based on alleged facts, which are untrue, or that management's actions were unreasonably harsh. In considering these questions, the panel should remember several points:

- The grievant has the burden to prove their case by a preponderance of the evidence. By saying that the grievant has the burden of proof, we mean that management does not

have to prove that their actions were appropriate; rather, the grievant must prove that they were inappropriate. For the grievant to prove this, their evidence must amount to a “preponderance of the evidence.” This phrase simply means that the evidence in favor of a point is more convincing than the evidence against it. In other words, if the weight of the evidence tips the scales in favor of the grievant, even slightly, then the grievant has established a preponderance of the evidence. The weight of the evidence does not depend on how many witnesses or documents a side presents, but on how convincing and believable those witnesses and documents are.

- A grievant’s past misconduct may be relevant, no matter how long ago it occurred.
- While progressive discipline is often appropriate, it is not required. For instance, just because a grievant has not been suspended or even warned, this does not mean that they cannot be discharged.
- The panel is not to decide whether they would have handled the situation in question the same way as management did. Rather, they should decide whether the underlying alleged facts are true, and if so, whether the actions taken by management were consistent with Augusta University policies, and also whether these actions were reasonable under the circumstances. It is inevitable that different managers will impose different discipline for the same offense. So long as each manager’s decision is reasonable, this does not violate Augusta University policies, and should not form a basis for recommending that the manager’s decision be overturned.

The Hearing Panel is charged with making a recommendation to the Provost based on the evidence presented at the hearing. The panel’s recommendation shall be based on the findings and opinions of any two members of the panel. If any member disagrees with the recommendation of the panel as a whole, they should explain their dissent in the recommendation.

The Provost shall forward the Panel’s recommendations, along with his own, to the President within five working days, absent good cause. The President shall rule finally on the matter. An employee may appeal the decision of the President to the Board of Regents pursuant to subsection 8.6 of the policies of the Bylaws of the Board of Regents of the University System of Georgia.

The Vice President of Human Resources may amend the attachments to this policy.

The Hearing Panel shall consist of three persons from the list of panel members as selected by the Director of Employee Relations in coordination with the Grievance Hearing Officer. The

Director of Employee Relations and the Grievance Hearing Officer may select panel members from outside the pre-selected list as necessary. In cases involving alleged conduct which did or could have adversely affected a patient, at least one panel member shall have relevant experience in the clinical area or field in question.

Absent good cause, the hearing should be held within fifteen working days of the submission of the grievance.

Note: Witnesses should not be allowed in the room where the hearing is taking place except when they are testifying. Of course, the parties themselves may be present at all times, even if they testify at some point during the hearing.

The recommendation must be issued within five working days of the close of the hearing, and should follow the suggested format and content in [Attachment D](#).

#### **FORMS AND RELATED DOCUMENTS**

- Statement of Grievance (Attachment A)
- Sample Letter (Attachment B)
- Script (Attachment C)
- Sample Panel Recommendation (Attachment D)

#### **AUTHORIZING SIGNATURE**

President, Augusta University and CEO, AU Health System    Date: Not Approved Yet