

OSU INSTITUTE OF TECHNOLOGY  
POLICY & PROCEDURES

<b>Grievance Procedures</b>	<b>3-015 FISCAL SERVICES July 2014</b>
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POLICY

- 1.01 OSU Institute of Technology's (OSUIT) Grievance Policy applies to disputes that are directly related to the working environment. Employees in a continuing employment status who feel they have sustained a working environment grievance related to working conditions, reassignment, promotion, separation of employment, or retirement, may ask for a grievance hearing. The parties involved may request the formation of a grievance committee to hear the case and make a recommendation for resolution. Employees in their initial probationary status are not eligible to file a grievance.
- 1.02 Disputes not directly related to the working environment are not grievable. Also excluded from the grievance process are complaints concerning wages and salary judgments, performance-related dismissal during a formal probationary period of employment, and university statements concerning policies and rules.

PROCEDURES

- 2.01 Complaints and grievances are processed as follows:
- A. Step One - In an attempt to resolve complaints in a timely manner, all complaints should be considered and, if possible, resolved at the lowest administrative level starting with the immediate supervisor. If the complaint is not resolved at this point, the complainant must discuss the point(s) of dissatisfaction with the appropriate administrator at each level of administrative jurisdiction.
  - B. Step Two - If the disagreement is not resolved it may be referred to Human Resources for assistance and mediation that may lead to a suitable disposition without the need for a formal grievance process.

A grievance hearing should be requested only after it has been determined that it is not possible to resolve the dispute by informal discussion between the parties. Before invoking the procedures for a grievance hearing, the aggrieved party must have exhausted all other informal means available. Informal, as used herein, contemplates but is not limited to the completion of an employee performance plan at the primary or initial level. If the appropriate steps as outlined herein are not followed, the granting of a grievance hearing is discretionary.

- C. Step Three - When the issue is not resolved informally, a written statement requesting a grievance committee hearing must be submitted to the Director of Human

OSU INSTITUTE OF TECHNOLOGY  
POLICY & PROCEDURES

Resources, along with a copy of any supporting documentation. The written request must be made within fourteen calendar days from the end of informal discussion.

The written statement must contain:

1. A clear, detailed statement of the grievance together with a statement describing any supporting evidence.
2. Specific remedial action or relief sought with the reasons why such action is warranted.
3. A brief summary of the results of the previous discussions of the issues involved.
4. A statement whether or not the employee asserts illegal discrimination due to race, religion, sex, veterans, national origin, or qualified disability. Employees are eligible to file complaints due to unlawful discrimination regardless of status as a probationary employee.

D. Step Four - The grievance hearing and report of the committee will normally be held within 30 calendar days of the receipt of the written request for a grievance hearing.

2.02 After receipt of the written request for the grievance, the Director of Human Resources will proceed to convene the committee. The selection of the chair and committee members should normally be held within 15 calendar days of receipt of the written request.

2.03 The Director of Human Resources will randomly select the committee. Notice will be given to the grievant as to the time of the chair and committee selection. The grievant may be present if desired. The parties involved must notify the Director of Human Resources prior to the random selection of the chair and committee members of the names of witnesses to be appearing. Witnesses' names will be excluded from the random selection process.

2.04 Five committee members shall be chosen, with one being selected from each of the following panels to which the grievant belongs, and the others from the remaining panels as designated by the grievant:

- A. Males
- B. Females
- C. Ethnic Minorities
- D. Exempt Staff
- E. Nonexempt Staff
- F. Faculty

The grievant and the responding party shall each be allowed to challenge one selection for the Grievance Committee without showing cause (peremptory challenge). Both parties shall have the right to challenge all other random selections by showing cause.

OSU INSTITUTE OF TECHNOLOGY  
POLICY & PROCEDURES

The Director of Human Resources shall rule on the validity of all permissible challenges for cause, such as bias, prejudice, member of same unit as a party, etc. If the grievant is not present at the selection process, the list of the chair, committee members, and alternates must be delivered to the grievant within 72 hours after the selection process.

- 2.05 All persons selected for membership on the Grievance Committee shall be expected to serve on the Committee except in cases of illness, necessary absence from the campus, prior service on a Grievance Committee in the current or immediately preceding calendar year, or other extreme hardship. The Director of Human Resources shall decide whether a chosen person should be excused from service, and the Director may replace such a member by the same procedure used for the original selection.
- 2.06 Each party is responsible for producing witnesses on their behalf and sequestering witnesses if so desired. Witnesses should be asked in advance for their willingness to participate. Administratively, witnesses are not required to participate and may reject any request to do so.
- 2.07 A written report of the circumstances of the case may be presented to the chair for distribution to all committee members by either party. However, the report must not be used unless it is served on all parties at least 72 hours prior to the time the hearing begins. The report shall contain all sources of information used in said report.
- 2.08 Parties involved may bring a representative. However, should the grievant retain paid counsel, all costs incurred shall be born by the grievant. Counsel or representative may advise the principals, but shall not be permitted to testify or cross-examine.
- 2.09 In the event of serious illness, necessary absence, or extreme hardship of a Committee member during the course of a grievance hearing, the Director of Human Resources may, at his or her option, or at the request of either the grievant or the responding party, select a replacement for that unavailable Grievance Committee member by using the same procedure that was used for the original selection. In the event that a Grievance Committee member is replaced during the course of the hearing, the successor shall review the record of the proceedings to become familiar with the positions of the parties and with their evidence previously submitted to the Committee.
- 2.10 The members of the Grievance Committee shall select a Chair from their group. The Director of Human Resources shall serve as a non-voting advisor to the Committee, except when the Director of Human Resources is a party to the grievance. In such an event, other arrangements will be made for the advisor.
  - A. The Director of Human Resources shall exercise reasonable discretion in attempting to schedule a hearing at the earliest convenient time and date that all affected parties can be in attendance.
  - B. The Director of Human Resources shall advise the Grievance Committee as to the nature of the charge and the procedures for grievance review in order to promote fairness and equity for all persons involved. The Director of Human Resources shall

OSU INSTITUTE OF TECHNOLOGY  
POLICY & PROCEDURES

- remain neutral in the matter at all times, and may serve as a resource person on procedural questions upon request of the grievant, the responding party, or both.
- C. The Director of Human Resources shall be responsible for obtaining a hearing room and shall notify all appropriate parties of the time, date, and place of all hearings. Attendance at the hearings shall be limited to persons who have an official connection with the case as determined by the Chair. The grievant and the responding party may choose to be accompanied at the hearings by an advisor, colleague, friend, or legal counsel. Others whose participation in the hearing is considered essential in order to assist the Committee in establishing the facts in the case shall appear before the Committee only long enough to give statements and to answer questions from the grievant, responding party or Committee members.
- D. The Chair of the Grievance Committee shall set forth the rules of procedure for the hearing in accordance with the guidelines below. The Chair may, for good cause and with concurrence of a majority of the Committee, authorize minor deviation from the guidelines or format. In cases of deviation, the principal parties shall be notified of the deviation.
1. The grievant shall be heard first in all phases of the grievance hearing(s) and shall be primarily responsible for the presentation of the evidence supporting the grievance.
  2. Counsel or a representative may advise the principals but shall not be permitted to participate directly in the proceedings, testify, or question witnesses except as noted in subsection 9 below.
  3. A reasonable time limit should be established for opening and closing statements, and shall be announced prior to, or at the time of, the beginning of the hearing. Both parties shall make opening statements to the committee to acquaint it with the issues to be presented and an overview of the evidence to be presented. Closing statements should review the evidence actually presented to the committee, together with logical arguments for the party's position.
  4. The length of hearing sessions may be established in advance, and every effort shall be made to conduct the hearing sessions as expeditiously as possible, with fairness to both parties and attending witnesses.
  5. The principal parties shall provide the Chair with the names of potential witnesses at least 48 hours in advance of the first hearing session. These persons will be notified of the hearing session by the grievant or by the responding party, and the witnesses shall be scheduled as close to the time of call as possible to avoid undue waiting. The principal parties are responsible for contacting and arranging for the attendance of their own witnesses in all cases.
  6. The parties shall develop their positions through witnesses and documents. Witnesses may be cross-examined. Rebuttal evidence is permitted. Additional

OSU INSTITUTE OF TECHNOLOGY  
POLICY & PROCEDURES

witnesses may be called by the Committee if they regard such evidence as relevant to the case.

7. All testimony pertaining to the grievance hearing shall be held in confidence by all parties and should not be discussed with others unless there is a compelling official need.
  8. Only evidence relevant to the grievance may be introduced. The question of relevance shall be decided by the Chair of the Committee.
  9. In cases of employee separation, the university recognizes the seriousness of such action and intends that, if legal counsel is retained by the grievant, the utilization of counsel shall include opportunity for counsel to participate directly in all appropriate portions of the hearing, including the presentation of the grievant's case to the Committee. The respondent may also be represented by legal counsel with the same opportunities for participation.
- E. In order to have a record of the proceedings, a confidential tape recording of the grievance hearing(s) shall be made available and accessible to the parties involved, to members of the Grievance Committee, to the appropriate Vice President, to the President, to the members of the Board of Regents, and to all authorized representatives on a need-to-know basis.
1. Either party to the grievance may request that the Grievance Committee endeavor to provide a written transcript of the testimony. The total cost of the preparation of such transcript shall be paid by the party making the request. The cost of the transcript shall be the prevailing fee charged by court reporters in Okmulgee County for such service.
  2. At the conclusion of all hearing sessions, and after the final report of the Grievance Committee is submitted, the confidential tapes and all other relevant material will be sealed and preserved by the Office of Human Resources. These materials shall be destroyed after five years unless one or both parties submit a written reasonable request to the Director of Human Resources to preserve them for a longer period of time.
- F. At any point in the grievance proceedings prior to the time at which the Grievance Committee has issued its final report in the case, the grievant may withdraw any portion or the entire grievance with the permission of the Grievance Committee. In all cases of withdrawal, the grievant shall not have the privilege of reopening the same grievance at any time in the future.
- G. At the conclusion of the final hearing session the Committee shall establish a date, time and place to go into closed session for the purpose of deliberating the evidence, and committee findings and recommendations in the case. Attendance at the closed sessions shall be limited to Committee members unless a recalled witness is to be present, in which case both parties to the grievance shall be notified and may attend.

OSU INSTITUTE OF TECHNOLOGY  
POLICY & PROCEDURES

1. The Grievance Committee shall issue a written report in which it will state its findings and recommendations for resolving the case.
  2. The report of the Committee will include a summary of the testimony and evidence that was presented, and the evidence upon which the findings of fact were based shall be specifically cited.
  3. The report of the Committee shall contain:
    - (a) A statement of the purpose of the hearing.
    - (b) The issues considered.
    - (c) The findings of fact.
    - (d) Recommendation(s) for disposition of the grievance.
- 2.10 When the Committee has made a decision, it will submit a written recommendation to the Director of Human Resources of OSUIT. A copy will also be sent to the grievant and the grievant's immediate supervisor. The Director of Human Resources, after reviewing the recommendation of the committee together with evidence presented, will make a decision within 30 calendar days and provide a copy to all parties involved.
- 2.11 The Director of Human Resources' decision may be appealed in writing to the President of OSUIT.
- 2.12 Committee hearings are to be conducted in a manner that renders the most equitable and just decision and therefore the committee members shall not discuss the case with anyone and shall consider only evidence and statements that have been presented at the hearing or have been made available as in paragraph 2.06 earlier.

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