

**AUSTIN PEAY STATE UNIVERSITY
POLICIES AND PROCEDURES MANUAL**

Policy Number: 5:059	Supersedes Policy Number:
Date: May 2, 2006	Dated: October 31, 2003
Subject: Support Staff Grievance	Mandatory Review Date: May 2, 2011
Initiating Authority: Vice President for Finance and Administration	TBR Policy/Guideline Reference: <u>P-111</u>
Approved: President: signature on file	

The following procedure is to be used for support staff employees who are demoted, suspended without pay, or terminated. Standard grievance forms shall be made available to support staff at each work site, but no grievance may be denied because a standard form has not been used.

A. Definitions:

- (1) "Support staff" means employees who are not faculty, executive, administrative or professional staff.
- (2) "Grievance" means a complaint about one (1) or more of the following matters:
 - (a) Demotion, suspension without pay or termination for cause; or
 - (b) Work assignments or conditions of work which violate statute or policy and result in punitive action being taken against the employee. Any grievance by support staff employees that does not involve punitive action taken against the employee will be processed under APSU Policy 5:027.

B. Procedure:

(1) Time for Filing

A grievance must be initiated within fifteen (15) work days after the employee receives notice or becomes aware of the action which is the basis for the grievance. If the employee is not satisfied with the decision at any step, he/she must carry the grievance forward to the next step within fifteen (15) work days after receiving the written decision. If the employee does not carry the grievance forward within fifteen (15) work days, the grievance procedure shall be terminated and the grievance

disposed of in accordance with the last written decision. For purposes of this procedure, the term "work days" refers to Monday through Friday.

(2) Testimony, Witnesses and Representation

At every step, the employee may testify and present witnesses and materials in support of his/her position. The testimony of an employee, given either on his/her own behalf or as a witness for another employee, will not subject an employee to retaliatory action. At every step, the employee may be accompanied by an employee representative. At the discretion of the panel chair, additional employees from the unit may be allowed to attend the employee panel hearing conducted as the final step.

(3) Steps of Review

Step 1—Immediate/Higher Level Supervisor:

- a. Within fifteen (15) work days after the employee receives notice or becomes aware of the action which is the basis for the grievance, the employee completes a "Grievance Form" (which may be obtained from the Human Resources department or from the Human Resources department's web page), submits it to the Human Resources department, and provides a copy to his/her immediate supervisor. If the action or incident on which the grievance is based was initiated at a higher level than the immediate supervisor, the employee may choose to present the grievance at step one to the higher level supervisor rather than the immediate supervisor.
- b. Within fifteen (15) workdays after receipt of the grievance form, the immediate/higher level supervisor and the employee meet and discuss the grievance in a face-to-face meeting.
- c. The supervisor completes a written decision within fifteen (15) work days after the face-to-face meeting. If the employee does not receive a response or if the decision is not satisfactory, the employee may carry the grievance forward to Step 2.

Step 2--Next Higher Level of Management:

- a. Within fifteen (15) workdays after receiving the written decision at Step 1, if the employee is not satisfied with the result of Step 1, the employee must notify the human resources department that he/she wants further review. Within fifteen (15) workdays after receiving notice that the employee wants further review, the human resources department schedules a face-to-face meeting, for the division head/vice president and the employee to discuss the grievance. If the level of review in Step 1 rests with the division

head/vice president, the procedure will bypass this step and move directly to Step 3.

- b. Within fifteen (15) workdays after the face-to-face meeting, the division head/vice president issues a written decision that includes specific reasons for the decision.

Step 3--Hearing:

- a. Within fifteen (15) workdays after receiving the written decision at Step 2, if the decision is not satisfactory, the employee can elect to have either a grievance hearing before a panel of university employees or a hearing before an administrative law judge under the Tennessee Uniform Administrative Procedures Act ("TUAPA"). The employee must notify the human resources department in writing whether he/she wants a hearing before an employee panel or a hearing before an administrative judge. For an employee panel, the President selects the panel members, convenes the hearing and arranges for the grievance to be heard. For a hearing before an administrative law judge, the procedure in Paragraph C, below, must be followed.
- b. The employee grievance panel may include staff non-exempt employees, staff exempt employees, or a combination of both exempt and non-exempt employees. The President will appoint an exempt employee to chair the panel. The panel members representing the unit where the grievance originates may not serve on the grievance panel.
- c. The grievance panel shall hear the grievance within fifteen (15) work days after the date on which the employee submits his/her written request to the Human Resources department. The decision of the institutional panel or commission is subject to review by the President.

Step 4--Review by the President

The recommendation of the grievance panel will be forwarded to the President. Within fifteen (15) work days, the president or a designee will notify the grievant of the final decision.

C. Tennessee Uniform Administrative Procedures Act Hearings

The following shall apply to contested case hearings conducted under Title 4, Chapter 5:

Hearings conducted under Title 4, Chapter 5 shall be heard by (i) a hearing officer or administrative judge employed by the Administrative Division of the Secretary of State's Office, (ii) a hearing officer or judge designated by the institution from the administrative, professional staff; or (iii) a hearing committee appointed by the president from the administrative, professional staff and/or appropriate employees. The institution has sole discretion to decide whether to exercise option (i), (ii), or (iii). The hearing officer or panel shall be selected as follows:

- (a) In any case where a hearing pursuant to TUAPA procedures is required, the president shall determine, in his or her discretion, whether the hearing shall be held before a hearing officer or a hearing committee.
- (b) Hearing officers shall normally be appointed by the president or from the administrative or professional staff of an institution or school. Upon request from the president, the Chancellor may appoint a hearing officer in any case, either from within or outside the institution. Contested cases may also be conducted by an administrative judge from the Administrative Procedures Division of the Office of the Secretary of State. The institution may submit a request for an administrative judge to the Office of General Counsel.
- (c) A hearing committee may be appointed by the president from the administrative, professional staff and/or appropriate employees or students at the institution or school. The person appointed as chairperson of the committee shall be deemed to be the hearing officer for purposes of presiding at the hearing.

All proceedings shall be conducted according to the parameters set forth at Title 4, Chapter 5, Part 3 of the Tennessee Code and TBR Policy No. 1:06:00:05, Uniform Procedures for Cases Subject to the Tennessee Uniform Administrative Procedures Act. Attorneys' fees and costs shall not be recoverable by the prevailing party. The complainant/employee shall bear the burden of proof.

D. Other Requirements

- (1) The institution shall provide an annual report summarizing grievance activities of the previous year to the Board of Regents.
- (2) The institution shall include information regarding the grievance procedure in employee orientations.