

<b>UT Health Science Center: HR0640-H Grievances</b>	
<b>Version 1</b>	<b>Publication Date: 05/25/2022</b>

<b>No./Title:</b> 640 – GRIEVANCES	<b>Resp. Office:</b> HUMAN RESOURCES	<b>Effective Date:</b> 04/01/1977
<b>Category:</b> Employee Relations	<b>Last Review:</b> 02/28/2020	<b>Next Review:</b> 02/28/2023
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<b>Related Policies:</b>		

## WHO IS AFFECTED?

All non-exempt staff who have completed the required probationary period.

## PURPOSE

This procedure provides due process, allowing employees to resolve specific matters of concern that cannot be resolved between them and management. The specific matters of concern are listed under *Procedure*.

## PROCEDURE

The two grievance process options are Informal or Formal Hearing Process. The grievance processes are methods to resolve problems that may arise between the University regular staff non-exempt employees and management. The formal hearing process is governed by the Tennessee Uniform Administrative Procedures Act (TUAPA) T.C.A. 4-5-301-319. Each process is different and will be explained to the employee by the Employee Relations Counselor and/or Human Resource Representative.

### ***Option I: Informal Hearing Process:***

This process allows employees to address concerns which will be heard by an unbiased group of UTHSC employees (five panelists). This panel consists of three non-exempt employees, two exempt employees, and one chairperson (non-voting member). Panel members will examine relevant information from the employee and supervisor.

Any UTHSC staff can seek the advice of an Employee Relations representative; however, the involvement of Employee Relations does not replace or supersede other University grievances, complaint, or appeal procedures.

The following are specific concerns which can be grieved:

1. Demotion or termination of non-probationary employees for inadequate work performance (Category I Grievance).

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2. Demotion or termination for conduct-related offenses (Category II Grievance).
3. Demotion, termination, work assignments, or conditions of work which the employee claims are based on discrimination including racial and sexual harassment (Category II Grievance).
4. Non-compliance with Reduction in Force policy (Category I Grievance).
5. Work assignments or conditions of work which the employee claims violate a statute or University policy other than those prohibiting discrimination. In this instance, the written complaint should specify the statute or University policy violated, how it has been violated, and include a proposed remedy (Category I Grievance).

### ***Matters Not Grievable***

Matters that cannot be grieved under this procedure include, but are not limited to, job classification, compensation, Workers' Compensation matters, performance evaluations, written and verbal warnings, terminations during the probationary period, terminations accomplished in accordance with the Reduction in Force policy and procedure statements, court ordered terminations, health and safety issues, interpersonal conflicts with other employees, and challenges to the content of University policy or procedure. UTHSC employees are encouraged to discuss these or other complaints at any time with the Employee Relations representative in Human Resources.

### ***Complaints of Unlawful Discrimination***

Grievances alleging unlawful discrimination (including claims of racial and sexual harassment) in demotion, suspension without pay, termination, work assignments, or conditions of work must be addressed first through the discrimination process provided in Personnel Policies 220 and 280 and the procedure set forth in the UTHSC Affirmative Action Plan ([http://uthsc.edu/policies/w932\\_document\\_show.php?p=354](http://uthsc.edu/policies/w932_document_show.php?p=354)). This grievance procedure is available only if the resolution through the discrimination complaint procedure is not satisfactory to the employee.

Any grievance alleging discrimination is a Category II Grievance.

### ***Time for Filing***

A grievance must be filed within fifteen (15) workdays after the employee receives notice or becomes aware of the action which is the basis for the grievance.

### ***Testimony, Witnesses and Representation***

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At any step of the grievance process, the employee may testify and present witnesses and materials in support of her/his position. The testimony of an employee given either on her/his behalf or as a witness for another employee will not subject an employee to retaliatory action.

The employee may be accompanied and represented in an advisory capacity by the employee's Employee Relations Committee (ERC) representative or another current employee of the UTHSC.

At the discretion of the panel chair, additional campus employees may be allowed at an informal hearing.

In a Category I Grievance hearing, neither the employee nor the University may be accompanied or represented by legal counsel.

In a Category II Grievance hearing (TUAPA or informal), either party may elect to be represented by legal counsel. In a TUAPA hearing, the University will always be represented by legal counsel.

If legal counsel is going to be present for the employee, the University must be notified at the time the hearing date is set to make arrangements for University counsel to be present.

***Informal Hearing:***

If the employee would like to request a hearing, the employee must notify Human Resources in a formal face-to-face meeting within fifteen (15) workdays after receiving notice or becoming aware of the action that is the basis for the grievance. HR will schedule the hearing in accordance with the procedures outlined below.

If the subject of the employee's complaint does not meet the definition of a grievance as defined herein, HR will provide counsel regarding the appropriate complaint procedure.

**A. Category I Grievances**

1. HR will arrange for the grievance to be heard by a panel of unbiased University employees.
2. The voting members of the Grievance Panel will include three staff non-exempt representatives and two staff exempt representatives appointed by HR. Employees representing the unit in which the grievance originates may not serve on the panel.
3. The Grievance Panel will hear the grievance within fifteen (15) workdays after the date on which the employee submits the Grievance Form to Human Resources.
4. The recommendation of the Grievance Panel will be forwarded to the Chancellor of UTHSC.

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5. Within fifteen (15) workdays after receiving the Grievance Panel recommendation, the Chancellor (or designee) will notify the grievant of the final decision.

***Grievance Hearing Proceedings:***

**PART A: Presentation of Case**

- Supervisor presents case
- Employee questions supervisor
- Panel questions supervisor
- Grievance Assistant questions the supervisor/manager

**PART B: Supervisor's witnesses are called (individually)**

- Supervisor questions each witness
- Employee questions each witness
- Panel questions each witness
- Grievance Assistant questions each witness
- Witness is dismissed from the room

**PART C: Employee Presents Case**

- Employee makes appeal as he/she presents
- Supervisor questions employee
- Panel questions employee
- Grievance Assistant questions employee

**PART D: Employee's witnesses are called (individually)**

- Employee questions each witness
- Supervisor questions each witness
- Panel questions each witness
- Grievance Assistant questions each witness
- Witness is dismissed from the room

**PART E: Summarizations**

- Supervisor makes closing statement
- Employee makes closing statement
- Grievance Assistant makes closing statement
- Determine if there is any further questions from the panel members
- Participants will exit the hearing room; panel will remain to deliberate.

**B. Category II Grievances**

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1. Demotion or termination for conduct-related offenses:
  - a. Within fifteen (15) workdays after receiving notice or becoming aware of the action which is the basis for the grievance, the employee must elect to have the grievance heard by a panel of unbiased University employees as provided in Section V(A) above or under the provisions of the TUAPA. If the employee elects the informal hearing, a waiver of any right to a hearing under the TUAPA must be executed.
  - b. If the employee elects a TUAPA hearing, the hearing will be conducted in accordance with the University’s rules to contest case hearings. Any requirements or other provisions of this procedure that are inconsistent with those rules shall not apply.
  
2. For demotion, termination, work assignments, or conditions of work which the employee claims are based on unlawful discrimination, including racial and sexual harassment claims, the employee must have pursued her/his complaint through the discrimination complaint procedures provided in the Affirmative Action Plan and Personnel Policy 220 prior to initiating this grievance procedure.
  - a. Within fifteen (15) workdays after receiving an adverse decision of the Affirmative Action Director, the employee may elect to have the grievance heard by a panel of unbiased University employees as provided in Section V(A) above or under the provisions of TUAPA. If the employee elects the informal hearing, a waiver of any right to a hearing under the TUAPA must be executed.
  - b. If the employee elects a TUAPA hearing, the hearing will be conducted in accordance with the University’s rules to contest case hearings. Any requirements or other provisions of this procedure that are inconsistent with those rules shall not apply.
  - c. The decision of the Grievance Panel is subject to review by the Chancellor.

***Compensation for Time Spent in Grievance Proceedings***

Time spent by a current University employee in presenting a grievance, in assisting or representing another employee in a hearing, or in offering testimony at any step in the grievance process is considered “time worked” and will be compensated as such.

***Option II: Formal Hearing Process:***

If the employee chooses a hearing under TUAPA, he/she have the right to be represented by an attorney during the proceedings. The University will be represented by an attorney in a TUAPA hearing regardless of whether the employee exercise his/her right to an attorney.

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To proceed with this process, contact the Office of General Counsel and/or the Chancellor's Office.