



# Grievance Procedure for Non-Senate Academic Appointees

This is the local UCSF campus procedure which implements the University's policy for handling grievances of Non-Senate Academic Appointees<sup>1</sup> (Academic Personnel Manual (APM) 140 - Non-Senate Academic Appointees/Grievances.<sup>2</sup> Any perceived conflict between the provisions of APM 140 and this procedure is unintended, and the provisions of APM 140 are controlling.

## GENERAL PROVISIONS

**Eligibility:** APM 140 and this implementing Grievance Procedure apply to academic appointees who are not members of the Academic Senate<sup>3</sup> except as otherwise specified in APM 140-14.

**Administrative Liaison:** The Office of the Vice Provost, Academic Affairs (VPAA) shall serve as the liaison office for any academic grievance proceedings involving eligible academic appointees, including providing information regarding applicable policies and procedures, and administering the APM 140 grievance process. The grievance liaison is the Academic Labor Relations Manager in the VPAA Office. Academic Labor Relations Specialists may serve as Acting or Associate grievance liaisons at the discretion of the grievance liaison.

**Representation:** The grievant may represent himself or herself or be represented by another person at any stage of the grievance process. If the grievant chooses to be represented by another person, the grievant shall provide the grievance liaison with the name and contact information, including email address and telephone number, of the representative. If the grievant designates a representative, the grievance liaison may communicate directly with the grievant and the representative.

**Extensions to Time Limits:** Extensions to time limits may be granted by the grievance liaison upon written request<sup>4</sup> by either party<sup>5</sup> before the deadline. If the grievant fails to meet a deadline

<sup>1</sup> For non-Senate academic appointees covered by a Memorandum of Understanding (MOU), this policy applies only to the extent provided for in the MOU.

<sup>2</sup> This Procedure has been approved by the Provost and Vice Provost-Academic Affairs.

<sup>3</sup> Faculty who are members of the Academic Senate should contact the Academic Senate Office for information about filing a grievance.

<sup>4</sup> Emails are acceptable writings.

<sup>5</sup> The grievance liaison may request extensions from the Vice Provost. Step II reviewers may request extensions

without an extension granted, the grievance will be considered to have been resolved upon the date of the last University response. If the University misses a deadline without an extension being granted, the grievant may proceed to the next step in the grievance process.

Any deadline that falls on a weekend or a University or state/federal holiday will automatically be extended to the next business day.

## STEP I - INFORMAL GRIEVANCE RESOLUTION (APM 140-31)

Every effort should be made to resolve the appointee's grievance on an informal basis through discussion between the appointee and his/her immediate supervisor or the administrator responsible for the action being grieved. When agreed to by both parties, mediation is encouraged, as it can provide a process for reaching a mutually acceptable resolution to a problem. The [Office of the Ombuds](#) may assist with mediation or other resolution efforts.

Appointees and departmental personnel may consult with the grievance liaison for assistance in possible resolution of the issues. ***Attempts at informal resolution do not extend the time limits for filing a formal grievance unless the grievance liaison has received a written extension request before the filing deadline.***

When a grievance alleges sexual harassment, the grievant may elect to substitute the campus Sexual Harassment Complaint Resolution Procedure as Step I, and should contact the [Office for the Prevention of Harassment and Discrimination](#) (OPHD). If a grievant selects this mechanism and the complaint is not resolved to the grievant's satisfaction, he/she may file a Step II formal grievance in writing with the grievance liaison ***within fifteen (15) calendar days*** from the date the grievant is notified of the result of the pre-grievance complaint resolution process of the sexual harassment procedure ***or within forty-five (45) calendar days*** from the date the grievant filed the sexual harassment complaint, ***whichever is earlier.***

## STEP II - FORMAL GRIEVANCE REVIEW (APM 140-32)

If the appointee's grievance is not resolved informally, the appointee shall have the opportunity to request a formal grievance review according to the following procedures:

### I. Formal Grievance Submission and Initial Review

- A. Filing Deadline: The appointee shall submit the formal written grievance ***within thirty (30) calendar days*** from the date on which the appointee knew, or could reasonably be expected to know, of the event or act which gave rise to the grievance, ***or within thirty (30) calendar days*** after the date of separation, ***whichever is earlier.*** See APM 140-23-a.
- B. Filing Process: The appointee shall submit the formal grievance to the grievance liaison on the [form available on the Academic Affairs website](#).

from the grievance liaison. The Vice Provost may grant an extension to him/herself. If the grievance liaison, Step II reviewer, or Vice Provost request and receive an extension, the grievant will be notified by the grievance liaison.

- C. Notification to Grievant: **Within 10 calendar days** of receipt of the grievance, the grievance liaison shall notify the grievant as to whether: (1) the grievance is accepted, (2) additional information is needed, and/or (3) the grievance is dismissed. Notification may be made by any reasonable means, including email, e-fax, U.S. mail or delivery service (e.g., Federal Express).
1. Criteria for Acceptance: To be accepted, the grievance must be complete, timely, within the jurisdiction of APM 140, and contain sufficient facts to support the allegation(s). See APM 140-32-b for specific information that must be included in a grievance.
  2. Additional Information Required: If the grievance liaison determines that the grievance is incomplete or factually insufficient, the grievant shall have **ten (10) calendar days** from the date of the grievance liaison's notification to provide the additional information necessary to make the grievance complete, including additional facts. If the grievant fails to make the grievance complete or provide sufficient facts, the grievance shall be dismissed.
  3. Multiple Issues: If the grievance raises multiple issues, the grievance liaison shall make a determination with regard to each issue. The grievance liaison may accept some issues and dismiss others.
  4. Dismissal of Issues: If an issue is dismissed, the grievance liaison will provide the grievant with a written explanation as to the basis for the dismissal.
- D. No Additional Issues After Filing: Except by written mutual agreement of the parties, no additional issues shall be introduced after the Step II grievance has been filed.

## II. Step II Review

When a formal grievance is accepted, the time frame for the review of the grievance by a Step II reviewer depends on the nature of the allegations. If a grievance alleges that the [UC Policy on Sexual Violence and Sexual Harassment](#) (SVSH Policy) and/or the [UC Nondiscrimination Policy](#) (APM 035) were violated, the Step II review will be placed in abeyance pending the outcome of other processes (see Section II-B below).

- A. Grievances That Do Not Allege Violation of the SVSH and/or Nondiscrimination Policies: When a formal written grievance is accepted, and the grievance does not involve any allegation that the SVSH and/or Nondiscrimination Policies were violated, the grievance liaison shall, **within 15 calendar days** of the date the letter advising of the acceptance, appoint a Step II reviewer and send the grievance to the Step II reviewer. The grievance liaison will provide a copy of the formal grievance to the appropriate Vice or Associate Dean for Academic Affairs and will notify the grievant of the initiation of the Step II review
1. Step II Reviewer: Generally the Step II reviewer is the Department Chair, ORU Director or comparable authority. However, if the Department Chair, ORU Director or comparable authority took the action being grieved, the grievance liaison may designate another administrator as the Step II Reviewer. In such cases, the grievance liaison shall notify the Department Chair, ORU Director or comparable authority and the grievant.

2. Step II Review: The Step II reviewer shall review the grievance and, if appropriate, shall investigate and/or meet with the parties.
  3. Response to the Grievance: The Step II reviewer shall send a written response on the grievance ***within 30 calendar days*** from the date of receipt of the formal grievance to the grievant and the grievance liaison. The response shall include a statement that the grievance is upheld or denied, in whole or in part, and that the grievant has the right to appeal the decision to Step III of the grievance procedure. The grievance liaison shall notify the appropriate Vice or Associate Dean for Academic Affairs of the Step II reviewer's response.
- B. Grievances That Include Alleged Violation(s) of the SVSH and/or Nondiscrimination Policies:  
 When a formal written grievance includes allegations that the SVSH and/or Nondiscrimination policies were violated, the grievance liaison shall forward those allegations to the OPHD, ***whenever possible within 3 calendar days*** of receiving the grievance, with a request that the OPHD review the allegation(s) specified by the grievance liaison. The OPHD shall review the allegation(s) and issue a report of the results of its review, including its findings as to whether the subject of the grievance violated the SVSH and/or Nondiscrimination Policies, to the grievance liaison according to the time line governing OPHD reviews/investigations under the SVSH Policy. If the OPHD has previously reviewed and/or investigated the same allegations by the grievant, the OPHD may send its report of that review or investigation to the grievance liaison to represent its review of the grievance, if appropriate.
1. Step II Review Placed in Abeyance: When any allegation in a grievance is sent to the OPHD for review, the Step II review process for all allegations in the grievance, whether or not they are referred to the OPHD, shall be placed in abeyance until the conclusion of the OPHD review and any resulting investigation. The grievance liaison shall advise the grievant that the Step II review will be placed in abeyance until the completion of the OPHD review, including any resulting investigation.<sup>6</sup>
  2. Initiation of Step II Review: ***Within 15 calendar days*** after the grievance liaison receives the report of the OPHD review, the grievance liaison will review the results, appoint a Step II reviewer, and forward a copy of the grievance to the Step II reviewer. The grievance liaison may, in his/her discretion, send the results of the OPHD review to the Step II reviewer, and the Step II reviewer may take such information into consideration in rendering a Step II decision. The findings of the OPHD review as to whether the SVSH Policy was violated shall be accepted by the Step II reviewer. The grievance liaison shall notify the grievant of the resumption of the Step II review when the grievance is sent to the Step II reviewer.
  3. Step II Review: The Step II reviewer shall review the grievance and, if appropriate, shall investigate and/or meet with the parties.
  4. Response to the Grievance: The Step II reviewer shall send a written response on the

<sup>6</sup> If the OPHD investigates allegations that a faculty member or non-Senate academic appointee violated the SVSH Policy and/or the Nondiscrimination Policy, the OPHD may forward its investigation report to the Vice Provost for further action relating to the accused perpetrator.

grievance **within 30 calendar days** from the date of receipt of the formal grievance to the grievant and the grievance liaison. The response shall include a statement that the grievance is upheld or denied, in whole or in part, and that the grievant has the right to appeal the decision to Step III of the grievance procedure. The grievance liaison shall notify the appropriate Vice or Associate Dean for Academic Affairs of the Step II reviewer's response.

## STEP III – FORMAL GRIEVANCE APPEAL

A grievance not resolved to the grievant's satisfaction through the Step II formal review may be appealed in writing to Step III **within 15 calendar days** from the date of the Step II reviewer's response.

The Step III appeal must specify the unresolved issue(s) and the remedy requested. Except by written mutual agreement of the parties, no issues shall be introduced in the appeal that were not included in the original grievance.

All appeals will be subject to Step III-A administrative consideration unless the grievant submits a written request for Step III-B hearing consideration and the issue(s) appealed are eligible for Step III-B hearing consideration according to APM 140-33(2).

### I. Step III-A Administrative Consideration

- A. Transmission of Appeal for Review: **Within 7 calendar days** from receipt of a formal Step III-A grievance appeal, the grievance liaison shall forward the appeal, the Step II formal grievance and the Step II response to the Chancellor for review and a written decision. In cases where the Chancellor took the action that is the subject of the grievance, the Chancellor shall nevertheless review the Step III-A appeal.
- B. Final Decision: Based on the record, the Chancellor shall determine whether the Step II grievance was properly reviewed and whether the Step II decision will be upheld, rejected, or modified. If the decision of the Step II reviewer is rejected or modified, the written Step III-A response will include the reasons for the decision. The Step III-A response will include a statement that the decision is final.
  1. Timeframe: The final written decision will be provided to the grievant **within 30 calendar days** of the Chancellor's receipt of the formal grievance appeal from the grievance liaison.
  2. The written decision shall include a statement of the reasons if the decision of the Step II reviewer is rejected or modified in whole or in part and a statement that the decision is final.

### II. Step III-B Hearing Consideration

Only those issues specified in APM 140-33(2) Step III-B Hearing Consideration may be appealed for

hearing consideration.

- A. Determination of Eligible Issues: **Within 7 calendar days** of receipt of a written request for hearing consideration, the grievance liaison shall determine whether the grievant has identified an issue eligible for hearing consideration. See APM 140-33-b-2.
1. If the grievance liaison determines that an appeal does not identify an issue eligible to be appealed for hearing consideration, the grievance liaison shall notify the grievant and submit the appeal for determination under Step III-A administrative consideration.
  2. If the grievance liaison determines that an appeal is eligible for hearing consideration, the grievance liaison shall coordinate the convening of a hearing to be conducted according to the policies set forth in APM 140-80.
- B. Notification to Grievant: The grievance liaison will notify the grievant if it is determined that an issue is not eligible for hearing consideration and will submit the appeal for Step III-A administrative consideration.
- C. Grievant's Threshold Election as to Hearing Officer: **Within 7 calendar days** of the grievant's receipt of the grievance liaison's determination that the appeal is eligible for Step III-B hearing consideration, the grievant shall notify the grievance liaison in writing of his/her election of whether a University or a non-University hearing officer will hear the grievance. This election shall be final.
1. If the grievant elects a University hearing officer, **within 10 calendar days** of the grievance liaison's receipt of the grievant's election, the grievance liaison shall provide to the grievant in writing the names of three University appointees (internal to UCSF and/or from another UC campus) who: (1) are willing to serve as the University hearing officer; (2) are not from the same academic department as the grievant; and (3) have experience as an academic administrative officer with a practical understanding of academic employer-employee relationships and academic personnel policies.
    - a. **Within 10 calendar days** from the grievant's receipt of the proposed hearing officers' names, the grievant shall respond in writing to the grievance liaison identifying one or more acceptable hearing officers on the list.
    - b. If the grievant objects to any proposed hearing officer, the objection must be supported by facts showing why the proposed hearing officer is unacceptable to the grievant. The grievance liaison shall consider any objections, but may, in his/her discretion, select a hearing officer to which an objection was raised, as deemed appropriate.
    - c. If the grievant objects to all proposed hearing officers, the grievance liaison may select a hearing officer to which an objection was raised, or propose an additional hearing officer, as deemed appropriate.
    - d. If the grievant elects a University hearing officer, there shall be no cost to the grievant.
  2. If the grievant elects a non-University hearing officer, the University shall select the provider. The procedures of the chosen provider shall be used to select the hearing officer.

- a. If, **within 7 calendar days**, the grievant objects to any proposed provider, the objection must be supported by facts showing why the proposed provider is unacceptable to the grievant. The grievance liaison shall consider any objections, but may, in his/her discretion, select a provider to which an objection was raised, as deemed appropriate.
  - b. If the grievant objects to all proposed providers, the grievance liaison may select a provider to which an objection was raised, or propose an additional non-University provider, as deemed appropriate.
  - c. If the grievant elects a non-University hearing officer, the grievant must pay half of the provider's fee if the Chancellor accepts the hearing officer's recommendation. The University must pay the entire fee if the Chancellor rejects or modifies the recommendation(s) of the non-University hearing officer.
- D. Appointment/Selection of Hearing Officer: Whenever possible, within forty-five (45) calendar days from the date of the grievant's written hearing officer election, a hearing officer shall be appointed or selected, and within sixty (60) calendar days thereafter a hearing date shall be scheduled.
- 1. The hearing officer shall coordinate the hearing process through the Grievance Liaison, who will also provide guidance on how to conduct an orderly hearing, including: swearing in witnesses, receipt of testimonial and documentary evidence, ruling on objections, and other such matters.
- E. Conduct of the Hearing: The hearing shall be conducted in accord with APM 140-80.
- F. Hearing Officer's Authority: The hearing officer shall have all authority granted under APM 140-80.
- G. Pre-Hearing Stipulations: In advance of the hearing, the parties shall attempt to stipulate in writing issues to be submitted for review at the hearing. If the parties cannot agree on the issues, the hearing officer shall define them.
- H. The Chancellor shall review the hearing officer's findings and issue a final written decision **within 30 calendar days** of receipt of the hearing officer's recommendation. If the hearing officer's recommendation is rejected or modified, the Chancellor shall state the reasons in the written decision. The written decision shall be provided to the grievant.
- I. Pay Status: The grievant shall be granted leave with pay to attend hearings and meetings convened by the University to consider the grievance. Time the grievant spends in investigation and preparation of the grievance shall not be on pay status.

For additional information on the Step III process, please refer to APM 140.

## REMEDY

The remedy shall not exceed restoration of any pay, benefits, and/or rights lost as a result of the grieved violation of policy or administrative action, less any income earned from any other employment.