

CHAPTER 7

EMPLOYMENT PROBLEMS: INFORMAL RESOLUTION AND GRIEVANCE PROCEDURES

7.01 Informal Resolution

An academic staff member who has an employment problem that may lead to the grievance procedure is first encouraged to attempt to resolve the matter informally. Establishing open lines of communication between the parties in a nonintimidating manner may be sufficient to resolve the problem.

1. An academic staff member is encouraged to seek advice and information from the following university offices if he or she believes he or she is being treated unfairly, but is reluctant to pursue the matter within the employing unit or needs information about the process to resolve employment problems. The academic staff member may seek advice and information without initiating formal or informal action.
 - a. The employee's divisional human resource representative or the UW-Madison Academic Personnel Office can provide information and advice on employee rights and responsibilities and appropriate procedures for resolving a problem, either informally or through the grievance procedure.
 - b. The UW-Madison Equity and Diversity Resource Center can provide information and assistance if the problem might involve discrimination or disability issues.
 - c. The UW-Madison Employee Assistance Office can provide information about resources for addressing employment problems and support to employees who are experiencing them.
 - d. The UW-Madison Ombuds Office can provide an informal, confidential, and independent resource for staff seeking help in resolving problems and conflicts.
 - e. Members of the Academic Staff Assembly Personnel Policies and Procedures Committee or the Academic Staff Executive Committee are also available to assist individuals in determining where to go for help. For committee membership, contact the Secretary of the Academic Staff.
2. Informal resolution of a problem may be pursued through any or all of the following:
 - a. Discussion with the immediate supervisor, principal investigator, department chair or unit head.
 - b. Discussion with the dean, director or designee if:
 - i. discussion with the individual in 7.01.2.a. did not resolve the matter; or
 - ii. the academic staff member prefers not to discuss the problem with the individual in 7.01.2.a.
 - c. A request for assistance from the Academic Personnel Office or, in cases of alleged discrimination, the Office for Equity and Diversity. In response to a specific request for assistance in resolving an employment problem, these offices will initiate discussions with the academic staff member, supervisor, principal investigator, chair, director, dean, or other appropriate persons and recommend corrective action as needed. These discussions concerning the employment problem will be initiated only with the consent

of the employee. Extreme cases may require notification of appropriate university officials without such consent.

3. If informal attempts at resolution are unsuccessful, or if the staff member believes that informal resolution would not be productive, grievance procedures are available in 7.02. These procedures do not apply to nonrenewals, nonretentions, layoffs, and dismissals for cause, which are covered by ASPP 3, 4, 5, and 6, nor do they apply to grievances regarding disability accommodation requests. Information on the disability accommodation policy can be obtained from the Equity and Diversity Resource Center or found on the web at www.wisc.edu./edrc/disability.

7.02 Grievance Procedure

The grievance procedure is available to resolve employment problems that have not been satisfactorily resolved through the informal resolution process or where the staff member believes that informal resolution would not be productive. The grievance procedure is described in Steps 1 through 3 below. The grievant may be accompanied by another person or persons throughout the procedure. All time limits specified in 7.02 may be modified by mutual consent.

1. Steps in the Procedure

- a. Step 1 -- Appeal to Department Chair, Unit Head, or Designee.
 - i. Initiation. To initiate the grievance procedure, a written statement of grievance must be filed with the department chair or unit head with copies to the dean or director and the Secretary of the Academic Staff. The statement shall specify the identity of the grievant, the facts and allegations relevant to the grievance and the relief sought. A grievance must be initiated no later than 20 working days from the time the academic staff member knew or could reasonably be expected to have known of the circumstances giving rise to the grievance. Initiation of the informal procedure described in 7.01 within the 20-working-day period will extend the deadline for initiating the grievance to 40 working days from the time the academic staff member knew or could reasonably be expected to have known of the circumstances giving rise to the grievance.
A grievance filed by an employee who has changed operational areas or has left UW-Madison employment shall be referred, in writing with a copy to the employee, to the Academic Staff Appeals Committee to decide if the grievance shall be processed. The Committee shall submit its findings in writing to the employee, the former employing department and its dean or director, and the Secretary of the Academic Staff.
 - ii. Initial Response. Following receipt of the written statement of grievance, there shall be a period of 20 working days, unless modified by mutual agreement, during which attempts shall be made to resolve the matter. At the request of either party, a conference shall be held during this period. Following these initial resolution efforts, a written response to the grievance must be made by the department chair or unit head, or designee within 20 working days of receipt of written grievance. This response to the academic staff member must also notify the employee of his or her right of appeal under 7.02.1.b.
- b. Step 2 -- Appeal to Dean, Director, or Designee. If the decision is not accepted by the employee, he or she shall have 10 working days to file an appeal with the dean or

director or designee together with any additional information the employee deems appropriate. A copy shall be sent to the Secretary of the Academic Staff. The dean, director, or designee shall render a written decision within 10 working days to the academic staff member. Copies shall be sent to the chair, director, or designee and the Secretary of the Academic Staff. This decision must also include notice to the employee of his or her right of appeal under 7.02.1.c. At the request of either party, a conference shall be held prior to the decision.

- c. Step 3 -- Appeal to the Academic Staff Appeals Committee. If the dean, director, or designee's decision is not accepted by the employee, he or she shall have 20 working days from receipt of the dean's decision to file an appeal with the Secretary of the Academic Staff, which will forward the files to the Academic Staff Appeals Committee, the Academic Personnel Office, and the dean or director within five working days. The dean or director shall provide the employing department and employee's supervisor with a copy of the academic staff member's request for a review or a hearing by the Academic Staff Appeals Committee. The Academic Staff Appeals Committee shall conduct a review or hearing in accordance with ASPP 9.
2. Access to the Evidence. An academic staff member who appeals a grievance to the Academic Staff Appeals Committee shall have the right to review all evidence the employer used to make the decision. All additional information the employer uses or plans to use to support the decision shall also be provided to the appellant in a reasonable time prior to a review or hearing. Likewise, the employer shall have the right to review all materials to be presented by the appellant. The exchange shall take place within a reasonable time prior to a review or hearing.
3. Burden.
 - a. Grievances Other Than Those Involving Discipline Resulting in a Loss of Pay. The employee has the burden to show by a preponderance of the evidence that the action being grieved is arbitrary, capricious, for reasons prohibited by law, or in violation of ASPP.
 - b. Grievances of Disciplinary Actions Resulting in a Loss of Pay. The burden is on the employer to show the existence of just cause (see the seven tests of just cause stated in ASPP 6.03.3.b).
4. Notification and Disposition. The Academic Staff Appeals Committee shall forward its findings of fact with a recommendation to the chancellor or designee and shall send a copy to the Secretary of the Academic Staff, the appropriate dean or director, department chair or unit head, and the grievant. Within 30 working days of receipt of the Committee's recommendation, the chancellor or designee shall implement the recommendation or give the grievant and the Committee written reasons for any decision to modify the recommendation. The employee, department chair or unit head, dean or director, Secretary of the Academic Staff, and the Committee shall be notified of the decision of the chancellor or designee, which is final. If the decision of the chancellor or designee has not been issued within 30 working days, the recommendation of the Academic Staff Appeals Committee becomes final. The use of this grievance procedure shall not prevent the grievant from seeking redress through another administrative or legal process.
5. Time Limits. Steps in the grievance procedure must be initiated and completed within the designated time periods except when modified by mutual consent. If the employee fails to initiate the next step in the grievance procedure within the designated time period, the grievance will be considered resolved by the decision at the last completed step. If there is no response to a grievance within the designated time period at any step, the employee can proceed to the next

step in the grievance process within 10 working days of the expiration of the designated period. In cases of an appeal of dismissal for cause under ASPP 6, grievances filed by the appellant may be held in abeyance pending the resolution of the appeal.

6. Representation. In the interest of fairness, both parties shall be given reasonable advance notice if any additional persons will be present at any grievance conference. If, during the course of the conference, either party wishes to seek professional assistance, he or she may request a postponement without abrogating grievance rights at that stage. Such postponement may be for no longer than five working days, unless extended by mutual agreement.

7.03 Evaluations of Grievances

At the completion of a grievance in which redress is awarded following a review or hearing by the Academic Staff Appeals Committee, the chancellor or designee shall make a reasonable effort to evaluate whether the specific redress awarded should be extended to other individuals in circumstances similar to those of the original grievant. A report of this evaluation and the action taken will be included in the quarterly report specified in ASPP 9.06.1.