

# Merit Employee Grievances – Guidance and Procedures

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## Introduction

The university encourages and supports a civil workplace, and honest and respectful communication between employees and supervisors to avoid conflict and promptly address disputes when they occur. This document outlines the process for merit employees who have completed their initial probationary appointment to address disputes or disagreements in the workplace through informal and formal routes.

This grievance process has been created in accordance with the Regents Merit System Rules (RMSR) 3.129(1) to support and guide merit employees with potential grievances.

**Permissible Grievances.** As permitted by the RMSR, a merit employee may file a formal grievance under these procedures, alleging:

- Violations of university rules governing the Grievant's terms of employment or working conditions;
- Violations of university policy or procedure;
- Discipline resulting in the loss of compensation (e.g., unpaid suspension; paid suspension, reduction of pay within grade) or loss of employment (involuntary termination); or
- Employees directly impacted by a reduction in force (RIF) (see RMSR, 681—3.104(8A)).

**Excluded Grievances.** Certain types of disputes are not grievable under these procedures, but may be addressed through the RMSR and/or separate, existing policies (see policy links in Resources below). Types of grievances not grievable hereunder, include, but are not limited to:

- Grievances pertaining to base wages;
- Grievances of an employee's voluntary demotion (see RMSR, 681—3.103(8A));
- Grievances of an employee resigning or being terminated on expiration of appointment, retiring (see RMSR, 681-3.104(8A));
- Grievances of an employee who has been deemed to have resigned their position after abandonment of position (see RMSR, 681—3.70(8A));
- Grievances directed against other university employees, students, vendors, or visitors (including grievances outside the employee's chain of command);
- Complaints of unlawful discrimination or harassment based on protected group membership or status (*e.g.*, race, gender, age, etc.) should be made directly to the Office of Equal Opportunity (OEO) (see policy: Discrimination and Harassment);
- Complaints about sexual misconduct (particularly those involving a student) shall be made directly to the Title IX Coordinator (within OEO) (see policy: Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students);
- Concerns about research misconduct should be shared directly with the Office of Responsible Research (ORR) (see policy: Research Misconduct);
- Review of position classification (see RMSR, 681—3.26(8A) and 3.127(8A)); and
- Grievances about the adoption, implementation, or revisions to university policies or rules

Merit employees who are uncertain whether a workplace dispute, disagreement, or concern may be included or excluded from these dispute resolution procedures should promptly contact their supervisor for clarification. Employees are also encouraged to contact the Employee Relations and Labor Relations within University Human Resources (UHR) or the Ombuds Office with questions or to seek additional guidance. However, the deadlines for filing grievances and appeals (described below) will still be enforced.

## Informal Grievance Resolution

Before filing formal grievances, merit employees must pursue an informal resolution. Some exceptions apply, including where the grievance pertains to: discharge, unpaid suspension, or the application of a RIF (in which case, the employee may directly file a formal grievance).<sup>1</sup>

The informal process must be initiated within ten (10) calendar days after such time that the employee has, or could reasonably be expected to have, knowledge of the occurrence upon which the dispute is based. Within the ten (10) calendar days of such knowledge, the merit employee must initiate the informal resolution process with their immediate supervisor. The informal resolution process necessitates that both parties make an earnest attempt to resolve the issue by engaging in good-faith discussions to attempt to resolve the issue.

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<sup>1</sup> Grievances solely challenging the application of a RIF follow an expedited process, per the RMSR, and can be immediately filed as a formal grievance. Grievances challenging discharge and suspensions may also be immediately filed as formal grievances, skipping the informal grievance resolution process.

The supervisor is responsible for also making a good faith effort to resolve the employee grievance at this early, informal stage. The goal is to reach an outcome that is mutually acceptable to all concerned. It is presumed that the majority of disputes, complaints, or misunderstandings will be resolved at this informal stage.

During the informal grievance resolution stage, the employee is responsible for representing and communicating their own interests (i.e., a Co-Worker, described further below, is not permitted to be present during the informal dispute resolution process, only in formal grievances and subsequent appeals).

To initiate the informal grievance resolution process, the aggrieved employee must bring to their immediate supervisor their concerns. This can be done by requesting time for a conversation at a convenient time, by writing a letter, or by sending an email to the immediate supervisor. Whichever form of the communication, the employee invoking the informal resolution process is required to identify, at a minimum: (a) the nature of the dispute, (b) the related policy(s) in question, (c) the key individuals involved (as parties or witnesses to the dispute), and (d) a desired resolution.

After the employee communicates to the supervisor this information, the supervisor should promptly review the information and, as soon as possible, schedule a meeting to discuss the matter with the employee.

Upon request by either the employee or the supervisor, discussions that follow may be facilitated by a third party (e.g., Ombuds Office; UHR - Employee Relations and Labor Relations Consultant; or Department HR Liaison).

After meeting with the employee at least once, the supervisor has ten (10) calendar days in which to make their decision and formulate their rationale therefor. The immediate supervisor can convey their decision directly with the employee (i.e., verbally). However, the supervisor must, at a minimum, provide the employee with a written summary of their decision to be shared with the employee via email. This email will serve as documentation of the supervisor's decision and also that the employee has completed the informal stage, should the employee decide to pursue a formal grievance.

If, after making a good-faith attempt to resolve the matter informally, the employee is still dissatisfied, the employee may pursue the formal resolution process, as described below.

## **Formal Grievance Resolution & Appeals**

### **General Guidance**

Formal resolution of a dispute starts with the aggrieved merit employee (hereafter referred to as the "Grievant") filing a formal written grievance identifying, at a minimum: (a) the nature of the dispute, (b) the related policy/policies in question, (c) the key individuals involved (as parties or witnesses to the dispute), and (d) a desired resolution.

A Grievant must file a formal grievance within ten (10) calendar days of the conclusion of the informal grievance process (or, if applicable, within ten (10) calendar days of knowledge of discharge, unpaid suspension, or the application of a RIF).

To file a formal grievance, the Grievant must start by completing the relevant sections of the “Formal Grievance Resolution” form. Additional appeal steps follow, should the Grievant not be satisfied with the informal dispute resolution process. The formal dispute resolution process is set forth, below, in further detail.<sup>2</sup>

In their grievance, Grievants challenging discipline, actions, or decisions will identify as the “Respondent” the person whose actions or decisions they are contesting (this will often be the Grievant’s immediate supervisor). The Respondent has an opportunity to provide a written response to the formal grievance.

If the Grievant is not granted the relief they requested, the Grievant may pursue various levels of appeal until the decision is considered satisfactory or until the appeal options are exhausted. Respondents who have their decisions reversed or modified during the grievance and appeal processes are not permitted the right to appeal such decisions.

The following list applies to all formal grievances filed:

- **Good Faith Grievances.** All grievances must be filed in good faith. The Grievant may not adjust or change the grievance (i.e., dispute, desired resolution) once the grievance form has been submitted.
- **No Third Party Grievances.** Only the merit employee directly impacted by an event or action leading to a permissible grievance may file a grievance (i.e., a merit employee may not file a grievance *on behalf of* another merit employee).
- **Grievance Consolidation.** Multiple grievances arising out of the same set of circumstances may be consolidated into a single grievance for efficiency. In cases where there are repeated concerns emanating from the same unit, to more quickly address employee concerns and conserve university resources, the Vice President for University Human Resources (VP-UHR) (in consultation with the respective Senior Vice President or the President, or designee) has the authority to alter, pause (stay), or expedite the formal grievance process.
- **Managerial Decisions Remain In Effect during Grievance/Appeal Process.** Unless and until an alleged adverse decision is modified during the grievance and appeal process, the original decision stands, and all parties must abide by it.
- **Grievant Given Reasonable Time to Prepare Grievance/Appeal Materials.** A Grievant is allowed reasonable time off from regular university duties without loss

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<sup>2</sup> Where the grievance and appeal steps described herein do not reflect the reporting structure of the aggrieved employee, the employee shall file their initial grievance with the individual who supervises the employee’s immediate supervisor and follow the chain of command with each subsequent step.

of pay to prepare their grievance and/or appeal materials. The Grievant's supervisor shall make suitable arrangements.

- **UHR Monitors Grievance Process.** After the filing of the initial grievance with the UHR Manager of Employee Relations/Labor Relations (ER/LR Manager) (Step 1), the ER/LR Manager must receive copies (via email) of all appeals (Steps 2 and 3) filed by the Grievant and all decisions rendered by decision-makers.
- **Diligence and Timeliness of Process.** Everyone involved in the grievance and appeal process is expected to act diligently so that such disputes can be efficiently resolved and addressed in a timely manner. Timelines for the holding of meetings/the hearing and the submission of responses can be adjusted only by mutual agreement of the Grievant and the person responsible for considering the grievance (e.g., when the person responsible for considering the grievance is absent from the office, or when the Grievant is unable to meet within the established period of time).
- **Deadlines Strictly Enforced.** If the Grievant misses a deadline that is noted in these procedures, then the grievance or appeal will be treated as withdrawn and the prior decision will stand. While a filing deadline exception may be granted, those exceptions are primarily reserved for situations where informal efforts to resolve the dispute are taking place. For that reason, a merit employee who seeks to extend the filing date of the grievance must be engaged in one of the informal resolution processes (see Informal Resolution). Moreover, through that informal resolution process, the employee must be attempting to work through the dispute with the supervisor or chain-of-command. The merit employee shall submit a written request for an extension of the deadline (prior to the passing of the original deadline) to the VP-UHR (or designee) who has the authority to grant or deny the request.
- **Documentation Sharing.** Throughout the appeal process, the decision-maker may ask for any written materials to be submitted in advance of meetings or hearing.
- **No Loss of Pay.** Meetings, presentations, reviews, investigations, and hearings held under these grievance and appeal procedures may be conducted during working hours, and employees (Grievants, Co-Workers, witnesses, etc.) who participate in such meetings will not suffer loss of pay as a result thereof.
- **Grievant Co-Workers.**
  - After the completion of the Informal Resolution Process (if required), the Grievant may elect to have one to two (1-2) peers present during grievance and appeal meetings. The peers (referred to in the grievance/appeal process as Co-Workers) may attend grievance/appeal meetings, provided the Co-Worker(s) attendance does not constitute a conflict of interest or unreasonably interfere with the operations of the employing agency. A conflict of interest may

include situations where the Co-Worker is a witness to the underlying grievance.

- The Co-Worker(s) will be allowed a reasonable amount of paid time off from work to attend grievance and appeal hearings (i.e., Co-Workers are not permitted during the informal dispute resolution process, only grievances and subsequent appeals); presuming no hardship will result from their time away from their job duties. The proposed Co-Worker(s)' supervisor determines this hardship consideration. If the Co-Worker(s)' absence from their regularly assigned duties causes a hardship to their employing unit, the Grievant may select alternate Co-Workers, as needed.
- Any request for time off for a Grievant's Co-Worker(s) must be prospectively made in writing to the Co-Worker(s)' supervisor, with an informational copy provided (via email) sent to the UHR Manager of Employee and Labor Relations, and should contain an indication of the reason released time is necessary.
- The Co-Workers are permitted to be present at grievance and appeal meetings and/or hearing, but solely for support and to observe. Co-Workers are not permitted to: speak, participate in the appeal process, or present the case on the Grievant's behalf. Co-Workers who are disruptive in grievance meetings or hearings will be required to leave.

### **Step 1: Grievance filed with Department Head**

If the Grievant is not satisfied with the outcome of the informal resolution process (i.e., the attempt to resolve the issue with their immediate supervisor) or if the informal resolution process is not required (i.e., discharge, unpaid suspension, or the application of a RIF), the Grievant may file a formal grievance.

The first step of the grievance will be with the lowest level of leader possible in the chain of command, but it will not begin at a level below the Department Head (or equivalent level of supervision).<sup>3</sup> The grievance will follow the direct reporting relationship path following the first step. If a disagreement of who should hear the next step, the Grievant or Respondent may contact UHR Employee Relations and Labor Relations for a decision about the process.

A Grievant must file a formal grievance within ten (10) calendar days of the conclusion of the informal grievance process (or, if applicable, within ten (10) calendar days of knowledge of discharge, unpaid suspension, or the application of a RIF).

The completed grievance form must contain a brief description of the complaint or dispute and the pertinent circumstances and date(s) of occurrence. The Grievant must specify

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<sup>3</sup>The sole exception to following the employing department's chain-of-command is when the grievance is solely challenging the application of a RIF. Under such circumstance, the RMSR permit the grievance to be filed directly with the VP-UHR (or designee).

the institutional or RMSR which has allegedly been violated and will state the corrective action desired by the Grievant. The Grievant must also attach any supporting documents relevant to the matter (such as emails, memos, relevant rules or policies, copies of disciplinary actions, timesheets, etc.).

The initial filing of the grievance form, along with any supporting documents, shall be submitted to the UHR Service Center in paper or electronic format to: **3810 Beardshear Hall, ATTENTION: ER/LR Manager; or emailed to: [hrrshelp@iastate.edu](mailto:hrrshelp@iastate.edu)**.

The Grievant is responsible for retaining a complete copy of their grievance for themselves.

Within ten (10) calendar days of receiving the grievance, the Department Head (or equivalent level of supervision) shall schedule a meeting to discuss the grievance with the Grievant and the Grievant's supervisor. The Department Head (or equivalent level of supervision) has the discretion to meet with the Grievant and supervisor individually or together, as deemed appropriate. The Grievant may elect to have one or two (1-2) Co-Workers present for the meeting, if applicable, with the Department Head. The Department Head may elect to have a member of UHR and/or the Department's HR Liaison present at the meeting.

Within ten (10) calendar days of the meeting(s), the Department Head (or equivalent level of supervision) may affirm, reverse, or modify the Respondent's decision and will notify the Grievant and the Respondent of the decision in writing within ten (10) calendar days after receiving the grievance.

If the response of the Department Head (or equivalent level of supervision) does not resolve the dispute, or if no response is received by the deadline, the Grievant may file an appeal of the Respondent's original decision, pursuant to Step 2, as described below.

The Department Head (or designee) shall promptly send a copy of its decision (via email) to the Manager of Employee Relations and Labor Relations (ER/LR Manager).

## **Step 2: Appeal to Administrative Head (Dean/VP/AVP)**

If the Grievant is not satisfied with the outcome of their initial grievance, they may, within ten (10) calendar days of receipt of the Department Head's decision, appeal to the next administrator in the chain of command (i.e., the Administrative Head, likely a Director, Dean, Vice President, or Assistant Vice President). The unit shall promptly send a copy of its decision (via email) to the ER/LR Manager.

The "Step 2" appeal shall include:

- a copy of the formal grievance form that has been completed through "Step 1" and signed by the Grievant, attaching relevant supporting documentation (e.g., such as emails, memos, relevant rules or policies, copies of disciplinary actions, timesheets, etc.); and

- a copy of the Department Head's response to the "Step 1" grievance

Within ten (10) calendar days of receiving the appeal, the Administrative Head shall schedule a meeting to discuss the appeal with the Grievant. The administrative head has the discretion to meet with the Respondent and others, as necessary, either with the Grievant or separately, as deemed appropriate. The Grievant may have one or two Co-workers present for the meeting, if applicable, with the Administrative Head. The Administrative Head may elect to have a member of UHR and/or the respective HR Liaison present for the meeting.

Within ten (10) calendar days of the meeting, the Administrative Head may affirm, reverse, or modify the decision of the Department Head, and will notify the Grievant and the Respondent of their decision. The unit shall send a copy of its decision (via email) to the ER/LR Manager.

If the Administrative Head's written response does not resolve the dispute or if no response is received by the deadline, the Grievant may continue appealing the Respondent's original decision by moving on to Step 3, as described below.

The Administrative Head (or designee) shall promptly send a copy of its decision (via email) to the ER/LR Manager.

### **Step 3: Appeal to SVP/President**

If the employee is not satisfied with the outcome of their initial appeal, they may file a "Step 3" appeal. To continue the appeal to Step 3, the Grievant must file an appeal within ten (10) calendar days of: a) receiving the written response, or b) the deadline for the response, if no response was received. The Grievant shall submit the following documents to the next administrator within their chain of command (i.e., the respective Dean, Vice President, Senior Vice President, or the President (or designee)):

- a copy of the formal grievance form, now completed and signed through "Step 3" (attaching any of the original supporting documentation); and
- a copy of the responses to both the initial grievance (Step 1) and the decision made on their initial appeal (Step 2)

The Senior Vice President or the President will have discretion to allow the grievance to proceed at this step. The exception to this is if the grievance pertains to discharge, unpaid suspension, or the application of a RIF. In those instances, the grievance will proceed to Step 3. If the grievance does not fall into these exceptions and the Senior Vice President or President determines that they will not hold this Step, the final decision at Step 2 stands as the institution's final decision. Further appeal must be through the arbitration process, as set forth in the RMSR and through any additional guidance adopted by the Board of Regents.

If the Senior Vice President or President determines the grievance may proceed to Step 3 or if the grievance pertains to discharge, unpaid suspension, or the application of a RIF,

the Senior Vice President or the President (or designee) will investigate the grievance and will give the Grievant the option of presenting their appeal orally. If the Grievant elects that option, then the Respondent may also be permitted to present an oral rebuttal. The Grievant may have a support person present for the meeting, if applicable, with Senior Vice President or President. The Senior Vice President or President (or designee) may elect to have a member of UHR and/or the respective HR Liaison present for the meeting.

The Senior Vice President or the President (or designee) may affirm, reverse, or modify the decision rendered at Step 2 and will notify the Grievant and Respondent of their decision in writing within ten (10) calendar days after receiving the appeal or hearing oral arguments, if such arguments occur. The Senior Vice President or the President (or designee) shall send a copy of its decision (via email) to the ER/LR Manager.

The Senior Vice President or the President (or designee) shall promptly send a copy of its decision (via email) to the ER/LR Manager.

The decision at Step 3 stands as the institution's final decision. Further appeal must be through the arbitration process, as set forth in the RMSR and through any additional guidance adopted by the Board of Regents.

## **Arbitration**

### **Request for Arbitration**

A Grievant who is not satisfied with the decision rendered under Step 3 may within ten (10) calendar days after receiving that decision request a hearing before an arbitrator.

Such a request must be made in writing, must include all of the information included in the initial grievance and subsequent appeals, all of the decisions related thereto, and any other pertinent information the Grievant believes is germane to the grievance.

The appeal must be signed and dated by the Grievant and must be directed to the Merit System Director with the Board of Regents (with a complete paper or digital copy to the VP-UHR (or designee)).

Pursuant to the RMSR, the Regents Merit System Director shall have the right to rule whether a case is grievable and arbitrable under the merit system. The Regents Merit System Director shall have the right to refuse to refer to arbitrate any grievance not found to be in full compliance with these rules involving the grievance procedure. The Board of Regents shall retain jurisdiction to review decisions of the Regents Merit System Director as to whether a matter is grievable or arbitrable upon request for arbitration by the Grievant.

The arbitrator establishes procedures for the conduct of the hearing in a fair and informal manner that affords each party reasonable and ample opportunity for case presentation and to rebut the presentation of the other.

The arbitrator will be expected to render a decision to the involved parties and to the parties within the prescribed time. The arbitrator's decision is the final step in the formal grievance process and is subject only to review by the courts.

The parties shall bear their own costs and expenses of preparing testimony and presenting witnesses and evidence in arbitration, including attorneys' fees and costs, if applicable. The arbitrator shall assess his or her costs, fees, and expenses against the party losing the arbitration. In modified and split decisions (i.e., where there is no clear losing party), the arbitrator may assess and apportion the fees and expenses related to such awards as the arbitrator deems appropriate.

## **Non-Retaliation**

Use of either an informal or formal grievance process will not result in retaliation or other adverse action. The university prohibits retaliation against: (a) an employee who uses or participates in the complaint or grievance process, or (b) a person who is serving as a support person for a Grievant. This policy will be applied and administered in a manner consistent with the university's equal opportunity and affirmative action programs and policies.

## **Resources**

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- [UHR - Employee/Labor Relations Office](#)
- [University Human Resources \(UHR\)](#)
- [Office of Equal Opportunity \(OEO\)](#)
- [Ombuds Office](#)
- [Policy: Affirmative Action](#)
- [Policy: Discrimination and Harassment](#)
- [Policy: Non-Retaliation Against Persons Reporting Misconduct](#)
- [Policy: Research Misconduct](#)
- [Policy: Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students](#)
- [Reclassification Guidelines for Hiring Managers and Employees](#)
- [Board of Regents Policy Manual](#)