

MIDDLE TENNESSEE STATE UNIVERSITY

POLICIES AND PROCEDURES MANUAL

POLICY NO.: IV:07:11

DATE: August 20, 2003

SUPERSEDES POLICY NO.: IV:07:11

DATED: August 1, 1996

SUBJECT: Employee Grievance/Complaint Procedures

APPROVED: Sidney A. McPhee, President \_\_\_\_\_

I. PURPOSE

The purpose of this procedure is to provide a clear, orderly, and expedient procedure through which all employees of the institution may process bona fide complaints or grievances.

II. POLICY STATEMENT

It is the policy of Middle Tennessee State University to provide an effective procedure for resolution of problems arising from the employment relationship or environment. To this end, a formal grievance/complaint procedure has been established for the use and benefit of all employees. It is the responsibility of supervisors to inform and make available to employees information concerning these procedures. Employees should seek resolution of problems through this procedure without fear of coercion, discrimination, or reprisal. It is the policy of this institution to make every effort to resolve a grievance/complaint at the lowest possible step in the procedure.

III. SCOPE

This procedure is available to all regular employees. Regular employees shall be defined as administrators, faculty (including full-time faculty on term or temporary contracts), professionals, clerical and support personnel. Probationary employees are also included in this definition. Student workers, graduate assistants, adjunct faculty, and temporary workers are not included in the definition of employees for purposes of this policy.

Not all categories of concerns are included in this policy. The following are examples of situations which are not covered:

1. A grievance which is the subject of an action filed with an external body shall not be processed through the institutional grievance or complaint procedure. The term external body includes federal or state administrative bodies such as the Equal Employment Opportunity Commission, Office of Civil Rights, or Tennessee Human Rights Commission, and courts of law.

2. Appeals of negative recommendations for tenure and promotion are covered under Policy II:01:05C.
3. Reappointment of tenure track faculty or the issuance of temporary contracts.
4. Personnel actions such as performance evaluations, rates of pay, position re-classifications, or position terminations due to reduction in force do not fall under the definition of complaint.
5. Claims of discrimination based on protected class status are covered under Policy I:01:10.
6. Appeals for support staff employees who are demoted, suspended without pay, or terminated are covered under TBR Guideline P-111.

#### IV. MATTERS SUBJECT TO OR EXCLUDED FROM THE GRIEVANCE OR COMPLAINT PROCEDURE

- A. GRIEVANCES (Committee review available) - An employee may only grieve those matters defined in 1-3 below. A grievance may result from any action the institution has taken against the employee which:
  1. violates MTSU or TBR policy, or involves an inconsistent application of these same policies,
  2. violates state or federal laws, discrimination statutes in that the Adverse Action is based solely on race, sex, national origin, age, handicap or veteran's status or; (except those covered by Policy I:01:10).
  3. violates any constitutional right. The most likely areas of concern are the First, Fourth or Fourteenth Amendment of the federal constitution when that action hampers free speech, freedom of religion, the right to association, provides for improper search and seizure or denies constitutionally required notice or procedures.
- B. COMPLAINTS (Committee review not available) - A complaint is a concern which an employee wants to discuss with supervisory personnel in an effort to resolve the matter.
- C. ALTERNATIVES - An employee may choose to utilize review by the grievance committee in the following situations instead of the hearing opportunities afforded in paragraphs 1 and 2 below of these policies:
  1. actions relating to the demotion, suspension, or termination for cause in violation of an employment contract which fall under MTSU Policy I:01:19, Procedures for Personnel Cases Subject to the Tennessee Uniform Administrative Procedures Act, or MTSU Policy II:01:05A Policies and Procedures for Tenure, sections on termination of tenured faculty.

2. actions involving harassment hearings requested pursuant to MTSU Policy I:01:22, Harassment - Sexual, Racial, Other.

#### V. GENERAL RULES OF IMPLEMENTATION

1. A grievance or complaint must be presented to the employee's immediate supervisor (Step 1) within fifteen (15) working days after the occurrence of the incident claimed to have given rise to the grievance. Any claim not presented within the time frame provided shall be deemed to have been waived. (For repetitive or ongoing incidents or circumstances, the grievance or complaint must be filed within ten working days of the last occurrence of such incident or circumstance.)
2. The employee is entitled to be accompanied by another employee or an advisor at each step of the grievance or complaint procedure; however, the other employee or advisor may not act as an advocate on behalf of the grievant.
3. Employees shall be given reasonable opportunity to pursue grievances or complaints during their assigned work time.
4. The President may grant reasonable extensions of the applicable time limit at each stage of the procedure upon the timely showing of good cause. The request for an extension must be in writing. The approval or denial of the request shall also be in writing.
5. The grievance or complaint, whether oral or written, should be stated in reasonable and temperate terms.
6. Grievance or complaint forms are available upon request in the Office of Human Resources Services. No grievance or complaint may be denied because the standard form has not been used.
7. A grievance or complaint can be withdrawn in writing at any stage of the process.
8. Grievances which are processed through the grievance committee are appealable to the Chancellor only where they fall within the parameter set out in MTSU Policy I:02:02, Appeals and Appearances Before the Board.

#### VI. STEPS FOR FILING THE GRIEVANCE OR COMPLAINT

##### Step 1: Discussion with Immediate Supervisor

A grievance or complaint must be brought to the attention of the employee's immediate supervisor within fifteen (15) working days after the employee becomes aware of the problem. The employee and the supervisor shall discuss the grievance or complaint in an attempt to resolve the matter in a mutually satisfactory manner. The supervisor shall conduct any necessary or appropriate investigation and inform the employee in writing of a decision based upon full and fair consideration of all the facts within ten (10) working days of the initial discussion. The immediate supervisor will assure that the decision is communicated to and receipt acknowledged by, the employee. If the employee is not satisfied, the employee may proceed to Step 2. (If no decision is

communicated to the employee with ten (10) working days of the initial discussion, the employee may proceed directly to Step 2.)

#### Step 2: Discussion with Higher-Level Supervisor

If the employee and the immediate supervisor are not able to reach a mutually satisfactory resolution to the grievance or complaint, the employee may proceed to discuss the matter with the next-higher-level supervisor within five (5) working days of date of receipt of the decision of the immediate supervisor. Failure to comply with Step 2 in a timely manner shall be deemed a waiver by the employee and the grievance or complaint shall be deemed resolved at Step 1 and may not be raised again. The procedures and time limits for the supervisor's response shall be the same as in Step 1.

If the employee is satisfied with the decision reached by the next-higher-level supervisor, no additional action is required. If the employee is not satisfied, the employee may proceed to Step 3. (If no decision is communicated to the employee within ten (10) working days of the initial discussion between the employee and the next-higher-level supervisor, the employee may proceed directly to Step 3.)

#### Step 3: Written Grievance or Complaint Statement

If the employee and the higher-level supervisor are not able to reach a mutually satisfactory resolution to the grievance or complaint, the employee may file a written grievance or complaint with the Director of Human Resource Services on the designated form. The grievance or complaint must be filed within five (5) working days of the date of the decision of the higher-level supervisor. Failure to comply with Step 3 in a timely manner shall be deemed a waiver by the employee, and the grievance/complaint shall be deemed resolved at Step 2 and may not be raised again.

A copy of the grievance or complaint, along with any supporting documentation, shall be given to the immediate supervisor and the next-higher-level supervisor. The Director of Human Resource Services may request either or both supervisors to respond in writing to the grievance/complaint statement. The Director of Human Resource Services will forward grievances to the President and complaints to the appropriate Vice President.

#### Step 4A: Complaint Review and Resolution

Upon receipt of a written complaint, the appropriate Vice President, shall within ten (10) working days of the filing of the request, review all pertinent information presented by the Director of Human Resource Services. The Vice President's decision shall be directed to the employee, and copies shall be provided to all parties involved. The Vice President's decision shall be final and binding as to all parties concerned.

#### Step 4B: Grievance Review and Resolution

Upon receipt of a written grievance, the President shall immediately appoint a grievance committee to study the grievance and advise the President of their findings. The committee shall consist of five (5)

employees at least one of which is a peer of the grievant. If the grievant is a faculty member, at least three of the committee members shall be tenured faculty holding professor or associate professor rank. No committee member will be selected who has an interest in the outcome of the decision. Should it be discovered that a member has a particular interest in the outcome of the decision, that committee member will be replaced to avoid a biased decision. Every effort will be made to include ethnic minorities and women in the composition of the committee to reflect the diversity of the university community.

The committee shall conduct an independent and thorough investigation. In order to do so, it has the power to receive evidence from the grievant, gather evidence from other sources and call witnesses. The procedures shall consist of fact finding by the committee. The committee may allow all witnesses to be present at one time; or, in the alternative, the procedures may allow the committee to hear each witness, including the grievant, separately. In any event, the grievant should be allowed to present any pertinent evidence to the committee and to have the committee call those witnesses who have testimony pertinent to the decision. The committee shall, within fifteen (15) working days of appointment, make a written report of its recommendation to the President. The President may then adopt the committee's recommendation, in whole or in part, or may arrive at a different conclusion.

The grievant should be provided a copy of the Committee's report along with the President's decision within five (5) working days of receipt of the recommendation.

#### VII. MAINTENANCE OF RECORDS

Copies of written grievances and complaints and accompanying responses shall be maintained in the office of Human Resource Services.

Copies of grievances/complaints and accompany responses should be maintained for a least three years.