

THE EDUCATION UNIVERSITY OF HONG KONG

Staff Grievance Procedures

Preamble

1. The University endeavours to maintain a harmonious environment for staff which is conducive to promoting understanding, support and mutual respect in the workplace. Recognising that concerns, problems, and differences of opinion at work may arise from time to time, the University encourages frank and constructive dialogue between parties of different views and prompt resolution of conflicts and disputes outside formal grievance procedures and before they escalate into serious grievances.
2. The Staff Grievance Procedures (the “Procedures”) aim at providing staff with a framework for resolving relevant work-related grievances in an impartial, timely and efficient manner. The Procedures emphasize informal and expedient resolution at an early stage. Mediation between the parties concerned should be attempted. It is the University’s hope to resolve any grievance by informal means or mediation to achieve a collegial working relationship rather than resorting to formal grievance procedures. In the event that a grievance cannot be resolved by informal means or mediation, a staff member may make a formal complaint pursuant to paragraph 19 below. Staff may contact the Human Resources Office (“HRO”) for assistance at any stage of the Procedures where necessary.
3. Any staff member who is found to have misconduct upon the investigation pursuant to the Procedures may be subject to disciplinary action. Where appropriate, the University may refer the matter to the law enforcement agencies.
4. All grievance cases should be treated with utmost sensitivity and strictest confidentiality.
5. For the purpose of the Procedures, “Departments” refer to academic departments, and “Offices” include Schools, Centres and Research Centres; and words importing the singular shall include the plural and *vice versa*.

Definition and Scope

6. For the purpose of the Procedures, a grievance is defined as “any unresolved complaint made by one or more staff member(s) against one or more staff member(s)” which is work-related and as a result of the following:
 - (a) a *prima facie* case of unfairness or injustice which is work-related, *e.g.*, acts causing difficulty in carrying out duties, favouritism, discrimination, *etc.*; or
 - (b) not following the guidelines and procedures laid down by the University in the course of performing duties.

(For the avoidance of doubt, activities outside workplace such as business trips are considered as work-related.)

7. Disagreement with a judgment made or an evaluative outcome (e.g. an assessment rating in a performance appraisal) is not a ground for grievance, except where it is alleged that the judgment or evaluative outcome has been caused by procedural error. Dissatisfaction with University policies and regulations which are generally applicable to all staff members also does not constitute a grievance under the Procedures.
8. The Procedures shall not apply to matters for which specific review and appeal procedures have been established by the University. Such matters (*e.g.*, offer of re-appointment and promotion) will be handled separately under the relevant policies and procedures. Complaints related to certain discriminatory or harassment acts are also handled under a separate set of policy and procedures. A list of such matters separately handled is set out in **Appendix A**.
9. The Procedures are applicable to all full-time and part-time staff members of the University. The University will take reasonable effort to expedite actions in handling grievance submitted by a staff member near his/her cessation of employment in accordance with the Procedures. If the handling of the grievance case under the Procedures has not been completed upon the cessation of the complainant's employment, the University will not continue to handle the case under the Procedures after the cessation of employment because the Procedures are not applicable to ex-staff members. However, the University may continue to investigate the case outside the context of the Procedures (*e.g.*, directing the Head of Department/Office ("HoD") to investigate into the case and take appropriate managerial actions) depending on the nature and seriousness of the case. The President is the authority to decide whether the case will continue to be handled by the University outside the context of the Procedures.
10. If the matter has been referred to law enforcement agencies or regulatory authorities, the University may at any time (but is not obliged to) suspend the internal investigation until such time as the University may think fit.
11. Generally, the University will not respond to anonymous complaints. However, the University may take follow up actions when appropriate, depending on the nature and the seriousness of the allegation.

Group Grievance

12. A grievance made by a group of staff members should be specific and common to all members of the group. The group shall appoint a representative among the members as a spokesman to act on behalf of the group for the purpose of the Procedures.

Complaint Procedures

13. In most cases, grievances are due to misunderstanding or miscommunication amongst the parties concerned. The sooner a grievance is attended to and dealt

with, the better the chance will it be resolved informally. Face-to-face communication between/amongst the parties concerned is often a constructive and effective means of resolving grievances. Formal grievance procedures should be taken only if the grievance cannot be resolved informally and the President or delegated Vice President is satisfied that the initiation of such formal grievance procedures is warranted by circumstances and the seriousness of the complaint. Legal advice will be sought where appropriate.

Informal Resolution

14. If a staff member (the “Complainant”) intends to raise a grievance, s/he may, within 90 calendar days from the time s/he knew or should have known of the alleged incident(s), approach his/her immediate supervisor, other levels of supervisor or HoD for informal resolution. For cases when the Complainant and the complaine (the “Respondent”) are from different departments, the immediate supervisor, other levels of supervisor or HoD of the Respondent will be handling the complaint. The time limit is set because any delay may hinder the investigation. Prompt redress could also help maintain a respectful and harmonious environment. An application for an extension of the 90-day limit shall be submitted to his/her immediate supervisor, the other levels of supervisor or HoD who will at his/her discretion approve or disapprove it on a case-by-case basis with justifiable reasons provided and under unexpected and exceptional circumstances.
15. If the HoD is the Respondent, the grievance should normally be addressed directly to the line manager of the HoD, which is the Faculty Dean in the case of academic departments or to the relevant Vice President in the case of other Offices. If the Faculty Dean is the Respondent, the grievance should be addressed to the Vice President (Academic). If the Head of Office or a staff member reporting directly to the President is the Respondent, the grievance should be addressed to the Vice President (Administration).
16. If the Vice President is the Complainant/Respondent, the informal/formal complaint should be sent to the President who may consult the Chairman of the Staffing Committee to conduct an informal resolution, mediation or inquiry by the Grievance Committee. If the President is the Complainant/Respondent, the informal/formal complaint should be sent to the Chairman of Council (via Secretary to Council) who may ask the Chairman of the Staffing Committee to conduct an informal resolution, mediation or inquiry by the Grievance Committee.
17. When the Complainant approaches the supervisor or HoD for informal resolution, the supervisor or HoD, where appropriate, shall inform the Complainant of the Procedures, understand the facts and nature of the complaint and offer proper assistance including counselling to the individual concerned. The supervisor or HoD will communicate with the Respondent the allegations made in the complaint and will, where appropriate, take appropriate preventive or remedial measures to address the situation, *e.g.*, pointing out to the relevant individual that his/her behaviour/action/arrangement may be deemed inappropriate and should cease. Such informal action is particularly useful where a party may not realise that his/her certain behaviour/action/arrangement may not be appropriate. The supervisor or HoD will clarify and confirm the case information and try to resolve the disputes

between the Complainant and the Respondent informally, normally within 15 working days after receipt of the grievance.

18. If the grievance can be resolved informally, the supervisor or HoD shall record the resolution in writing and forward a copy to HRO for record. If the grievance cannot be resolved informally, the supervisor or HoD shall inform both parties of the unsuccessful informal resolution. The Complainant may raise the matter formally in accordance with the Procedures outlined below.

Formal Complaint

Stage 1: Filing a Formal Complaint

19. The Complainant having a grievance which has not been resolved informally shall, at his/her discretion, file a formal complaint by completing the Complaint Form. The completed Complaint Form together with all supporting evidence should be sent to the HoD within 30 calendar days from the notification of the unsuccessful informal resolution. The responsibilities of HoD throughout the case handling process will be taken up by the relevant parties as stipulated in paragraphs 15 and 16 for cases when HoD, Faculty Dean, Head of Office or a staff member reporting directly to the President, Vice President or President was the Complainant or Respondent. The Complaint Form is available at Staff Handbook on the Intranet.
20. On receipt of a formal complaint, the HoD shall:
 - (a) determine the nature and substance of the grievance, and whether the grievance falls within the scope of the Procedures;
 - (b) inform the Complainant of the Procedures;
 - (c) ascertain that the Complainant understands and agrees to the declaration s/he made in the Complaint Form;
 - (d) ascertain whether the Complainant wishes to attempt mediation; and
 - (e) inform the Respondent of the complaint normally within 7 working days after confirming the above.
21. If the HoD decides that the grievance does not fall within the scope of the Procedures but the Complainant disagrees, the Complainant may appeal to HRO.

Stage 2: Mediation (Optional)

22. Mediation occurs if both parties agree to mediate. Mediation is a confidential dispute-resolution process whereby an independent and neutral third party acts as a mediator to facilitate communication and interaction between the parties involved, help them work through the issues and achieve mutually-agreed resolution in due compliance with the law and the policies and procedures of the University. Before proceeding to the following formal complaint procedures, the parties involved are encouraged to attempt mediation conducted by an accredited mediator or an internal staff member as agreed by the parties. Staff who have undergone formal mediation training and/or with accreditation are preferred, but not mandatory. The mediator shall not have direct interest in the case. Mediation will not prejudice to the parties' legal rights or remedies.

23. If the Complainant wishes to attempt mediation, the Respondent will be requested to confirm whether to attempt mediation within 7 working days from the date of notice of the complaint. The mediation normally completes within 30 calendar days from the date of first mediation meeting. If the parties can resolve the grievance during the mediation, the parties involved may enter into a legally binding agreement to record the terms of the agreement. If the grievance cannot be resolved by mediation or either party decides to withdraw from the mediation, the complaint will be proceeded to the next stage. Both the Complainant and the Respondent may agree to attempt mediation again at a later stage.
24. Pro-bono mediation service will be engaged as far as possible. However, if no pro-bono mediation service is available, the mediation cost will be equally shared by the Complainant and the Respondent.

Stage 3: Preliminary Inquiry by HoD and HRO

25. The HoD and a representative from HRO shall form a Preliminary Inquiry Panel (the “Panel”) and undertake a preliminary inquiry into the complaint in order to determine whether there is any ground for the complaint and whether there is *prima facie* evidence showing that the Respondent may have engaged in the alleged act. The purpose of the preliminary inquiry is to screen out any unfounded allegation, but the Panel is not expected to engage in a full-scale inquiry or extensive hearing of the witnesses. The preliminary inquiry may include, but not limited to, the following:
 - (a) inviting the Complainant to provide supplementary information in written form;
 - (b) inviting the Respondent to provide written response;
 - (c) inviting witness(es) to provide information if considered necessary; and
 - (d) collecting relevant information to consider if there is *prima facie* evidence to support the allegation(s).
26. The Panel shall submit a written report of the preliminary inquiry to the President, normally within 30 calendar days of receipt of the formal complaint or completion of the mediation which is unsuccessful (whichever is the later), setting out the allegations made, a brief summary of the evidence collected during the preliminary inquiry, and make one or more of the recommendations below:
 - (a) referring the grievance to the Grievance Committee for a full-scale investigation;
 - (b) referring the grievance to a law enforcement agency;
 - (c) dismissing the grievance; or
 - (d) other appropriate actions to resolve the grievance.
27. Upon receipt of the preliminary inquiry report, the President may fully or partially delegate the case to one of the Vice Presidents if s/he shall think fit. The President/delegated Vice President may either endorse the recommendation of the Panel or take other appropriate actions (other than dismissing the grievance).

28. If the recommendation of the Panel as endorsed by the President/delegated Vice President is “dismissing the grievance”, the Complainant will be informed of the decision and reasons in writing. The Complainant may, within 10 working days, submit new evidence and other information and material relevant to the case to the Panel and the President/delegated Vice President, in which case they may (but are not obliged to) revise the recommendation/decision. If the Complainant does not do so, the recommendation/decision of dismissing the grievance will be final.

Stage 4: Inquiry by the Grievance Committee

29. The Grievance Committee (the “Committee”) shall be formed in accordance with the provisions as set out in **Appendix B**. Other than to the extent set out in the Procedures, the Committee shall have the power to determine and regulate:
 - (a) the procedures to be followed in connection with its investigation;
 - (b) the procedures to be followed in conducting any meeting or inquiry of the Committee; and
 - (c) the conduct of all persons at any meeting or inquiry of the Committee.
30. The Chairperson of the Committee shall review the preliminary inquiry report and carry out the investigation as soon as practicable. The Secretary of the Committee (“the Secretary”) shall inform the Complainant and the Respondent of the inquiry to be conducted by the Grievance Committee (“the Inquiry”) and, if deemed necessary by the Chairperson, provide both parties with the relevant part(s) of the preliminary inquiry report (excluding information already available to the parties and protected by law, such as the personal information of third parties including names). Also, the Respondent shall be informed of the alleged act(s) together with a copy of the Complainant’s written complaint (if it has not been provided to the Respondent yet).
31. Both the Complainant and the Respondent shall be informed of the proposed membership of the Committee in writing. Each party may object to one of the members (but not to the Chairperson) of the Committee, stating his/her reason to the Chairperson of the Committee in writing within 3 working days upon notification by the Secretary. The Chairperson of the Committee has the discretion to decide whether to alter the membership of the Committee; and if so, report to the President/delegated Vice President who will appoint a replacement member.
32. Both parties shall be informed by the Secretary of the confirmed membership of the Committee, the date, time and venue of the Inquiry in writing at least 7 working days before the Inquiry.
33. The Respondent may, if s/he wishes, submit a written statement to the Committee via the Secretary in response to the allegation(s) being investigated within 10 working days after being informed of the Inquiry (please see paragraph 30). A copy of the statement by the Respondent shall be provided to the Complainant by the Secretary as soon as possible upon receipt. The Committee may proceed with the Inquiry even if the Respondent does not submit the written statement to the Committee.

34. The Complainant and the Respondent shall each have the right to (but shall not be required to):
- (a) appear before the Committee;
 - (b) present evidence to the Committee;
 - (c) call witness(es); and
 - (d) bring a colleague, who does not have the right to speak on his/her behalf, when appearing before the Committee.

As the Inquiry is not intended to be a legal proceeding, no legal representation on behalf of either party is permissible.

35. The Committee shall interview the Complainant, the Respondent, and where appropriate, witness(es) proposed by either of them. In addition, the Committee may call such other witness(es) and examine such other evidence as it may be deemed appropriate. The Complainant and the Respondent should provide all relevant evidence to the Committee.
36. If any of the parties concerned does not appear at the Inquiry, the Committee may proceed with the Inquiry and make such findings and recommendations as it thinks fit.
37. If the Committee considers appropriate, both parties may be permitted to ask questions of each other and of witness(es), and be given the opportunity to clarify, respond to, and/or confirm any evidence presented to the Committee by the other party, or by any third party, during the course of the investigation.
38. Depending on case complexity, the Committee should normally complete the investigation within 90 calendar days from the date of its first meeting with the Complainant and the Respondent. Upon conclusion of the investigation, the Committee shall determine if the complaint is established and the recommended course(s) of action, and prepare an interim investigation report.
39. All recommendations and decision of the Committee on whether the grievance is established shall be made by a simple majority of votes by secret ballot. Each member including the Chairperson is entitled to 1 vote. In the event of a tie of votes, the Chairperson shall have additionally a casting vote. The voting result shall be recorded.
40. The Secretary shall, within 10 working days after signing of interim investigation report by the Committee members, inform both the Complainant and the Respondent in writing of the investigation result and recommended course(s) of action under consideration. A copy of the interim investigation report of the Committee (excluding information already available to the parties and information protected by law, such as the names/personal information of third parties), will also be sent to both the Complainant and the Respondent.

41. Within 10 working days from the date of the receipt of the interim investigation report, the Complainant and the Respondent may submit new evidence and other information and material relevant to the case to the Committee via the Secretary for its consideration. The Committee may conduct further Inquiry or take other actions as appropriate before concluding the investigation.
42. The Secretary shall inform both the Complainant and the Respondent of the decision in writing by providing a copy of the final report (the “Final Report”) (excluding information already available to the parties and protected by law, such as the personal information of third parties including names). The President or the delegated Vice President involved in Stage 3 will be provided with a copy of the Final Report for information.
43. If it is determined that the conduct of any member of the University warrants disciplinary action, the Committee shall refer the case to the relevant disciplinary authority. A copy of the Final Report will be provided to the relevant disciplinary committee.

Appeal

44. The Complainant or the Respondent may lodge an appeal in writing against the decision of the Committee solely on the ground of procedural irregularity, within 20 working days upon receipt of the Final Report, to the Chairman of the Staff Appeal Sub-committee of the Staffing Committee. If the Complainant or the Respondent is the President or Vice President, the appeal shall be lodged with the Chairman of Council (via Secretary to Council). An appeal will be allowed only where the appellant can demonstrate to the satisfaction of the relevant appeal authority that there is procedural irregularity in the process. If the appeal is allowed, the relevant appeal authority shall decide the appropriate course of action as soon as practicable and normally within 30 calendar days after receipt of the appeal. The decision of the appeal authority will be final. The parties concerned will be informed of the decision in writing as soon as practicable.

Procedures

45. A flowchart summarising the Procedures is at **Appendix C**. Matter to be dealt with or having been dealt with under the Procedures will not form ground of complaint under other redress mechanisms, such as the Equal Opportunities Policy.

Time Limits

46. While each party referred to in the Procedures is expected to take all reasonable steps to comply with the time limits specified in the Procedures, a failure to comply with one or more time limits (unless a material and culpable failure) will not in itself render the Procedures and any decisions made under the Procedures void or voidable. The University may exercise its discretion to extend the time limits under exceptional circumstances.

Documentation and Record

47. If the grievance is substantiated, the relevant documents including the Final Report of the Committee and/or written decision of the appeal authority, if any, will be kept in the HRO under the confidential file of the Respondent. For a non-substantiated case, the documents will be filed separately in a subject file.
48. All relevant documents relating to the investigation of the complaint should be classified as “Confidential” documents and data access request shall be allowed by the staff member concerned, in his/her personal capacity, only after completion of the entire process including the appeal procedures.

Confidentiality

49. All parties involved shall observe a strict code of confidentiality and comply with the Personal Data (Privacy) Ordinance, and are required to sign confidentiality agreements. Subject to conditions of the Procedures, the records will not be revealed to any person unless on a need-to-know basis or otherwise permitted under the Personal Data (Privacy) Ordinance or as required by law. Unauthorised disclosure of any information or documents pertaining to the complaint and/or handling of the complaint shall be liable to disciplinary action and/or legal action.

Non-reprisal for Raising Grievances

50. No member of the University, or any other person who has dealings with the University shall be treated less favourably than another person or be subjected to reprisal for lodging a grievance in good faith or appearing as a witness under the Procedures. However, staff members lodging grievances which are false and not made in good faith; or parties who intentionally provide false information in the complaint investigation process are subject to disciplinary action.

Liability

51. None of the University’s personnel involved in the Procedures as a decision-making party shall be personally liable for any action/decision made if s/he has conducted the inquiry or investigation in accordance with the Procedures. Under no circumstances may a staff member have the right to take any action whatsoever against any of the Grievance Committee Members, Staff Appeal Sub-committee Members or Council Members personally in connection with the conduct of the Procedures.

Review

52. The University will review the Procedures periodically and may introduce revisions as appropriate.