

Non-Union Faculty and Staff Grievance Procedures

These procedures provide opportunity for eligible faculty or staff member(s) to seek resolution of allegations of unfair treatment in the workplace by other members of the university faculty or staff. These grievance procedures are not applicable to faculty and staff governed by collective-bargaining agreements, or student employees, including graduate assistants. Persons in employment categories covered under collective-bargaining agreements shall be limited to filing grievances in accordance with the provisions of those agreements.

Grounds for Grievances

Grievances under these procedures are limited to any of the following instances:

1. An appeal of a disciplinary action;
2. Arbitrary, capricious or egregious treatment pertaining to the application of benefits, terms and conditions of employment, including appeals of decisions regarding salary;
3. Dismissal for cause related to positions not covered by a collective bargaining agreement.
4. Personnel and performance reviews.
5. Salary appeals.

Exceptions

These grievance procedures apply only to claims that are not expressly covered under other university, Board of Trustees, or state procedures. Alternative procedures exist for the following matters:

1. Claims regarding faculty personnel matters involving promotion, tenure, sabbatical leave, merit salary increases, sanctions, or dismissal for cause shall be administered in accordance with academic procedures in college bylaws and policies and the NIU Constitution and Faculty Senate Bylaws.
2. A separate procedure applicable for allegations of inappropriate treatment in considerations of faculty promotion or tenure is provided in [Faculty Senate Bylaws Article 10](#);
3. A separate procedure for allegation of violation of a faculty member's academic freedom is provided in [Faculty Senate Bylaws, Article 14](#);
4. Disciplinary proceedings involving suspension, demotion, or discharge for Operating Staff employees must follow provisions established by Human Resource Services pursuant to the State Universities Civil Service System Statute and Rules;

5. Grievances involving allegations of research misconduct shall proceed as prescribed in “Research Integrity at Northern Illinois University” (University Policy Library) except that, in addition, these grievance procedures may be followed in the case of an allegation that an instance of research misconduct caused personal harm to the complainant.
6. Salary increase appeals based on an allegation of discrimination or harassment based on a protected category (i.e. race, gender, disability, etc.), or retaliation, shall follow the procedures outlined in the University’s “Nondiscrimination, Harassment and Retaliation Policy and Procedures for Students, Faculty and Staff.”
7. Grievances involving discrimination should be directed to the [Ethics and Compliance Office](#).
8. Grievances involving sexual harassment should be directed to the [Title IX Office](#).

In employing these procedures, the definitions in the Appendix of this document will apply.

Throughout these procedures, all persons involved are required to exercise discretion in receiving and transmitting information pertaining to the grievance.

Informal Procedures

Individuals are strongly encouraged to attempt to resolve issues through informal procedures. Initial attempts may include discussions between the grievant(s) and respondent(s).

A grievant(s) shall attempt to informally resolve the matter at issue with those alleged to have committed the action or conduct prior to filing a formal grievance. The grievant(s) shall attempt to resolve the matter informally within 20 workdays of the incident causing the grievance.

1. If you feel comfortable, address the issue with the person engaging in the grievance related conduct. Human Resource Services may also provide a mediator upon request to aid in the facilitation of the conversation;
2. If you are not comfortable addressing the person engaging in the conduct or if you have done so and the issue has not been resolved, report the behavior to your supervisor; or
3. If your supervisor is the person engaging in the conduct, go to their supervisor to report the behavior.

Informal resolution options may include mediation or alternative resolution, with the assistance of the office of the Senior Administrator Responsible for Human Resource Services (SARHRS). Where confidential mediation or alternative resolution option is agreed to by the parties, such process shall be used as a substitute for this grievance procedure to conclusively resolve grievable issues. The grievant(s) must be notified of the right to end the informal process, at any time prior to a final determination, and initiate a formal grievance.

Resources Available to Assist in the Informal Resolution of Grievance:

1. University Ombudsperson
2. Human Resource Services
 - Respondents needing information regarding salaries should contact the SARHRS.
3. Employee Assistance Program
4. Faculty Personnel Advisor
5. SPS Personnel Advisor
6. Operating Staff Personnel Advisor

If the issue(s) is not resolved through informal attempts a formal grievance may be filed. See the Formal Grievance Procedure for the next steps.

Support Persons, Union Representation, and Attorneys

Any individual found to be disruptive to the proceeding will be removed from the proceeding.

The grievant and respondent may each have one support person present at any meeting. Support persons may act in an advisory capacity only and may not speak on behalf of the party in any proceeding. The involvement of a support person cannot result in an undue delay of the proceeding and the support person must comply with rules contained herein. Failure to comply with the rules or engagement in behavior that disrupts, harasses, intimidates, or abuses any party or witness may result in their removal and being barred from further involvement. Any individual who is participating in this capacity is expected to maintain the same level of privacy that is expressed throughout these procedures.

If the respondent is a member of a union, they have the right to have union representation present during their meeting. Union representation may be considered a support person.

Notice of the presence of a support person, including the presence of a union representative or a licensed attorney, must be made in writing to the SARHRS.

Individuals who may be a grievant, co-respondent, witness, hold a supervisory position over the grievant or respondent, or be in a position that may suggest a conflict of interest may not serve as a support person.

Formal Grievance Procedure

Filing a Grievance

I. Step 1:

- A. A formal grievance shall be filed within 30 workdays of the determination by the grievant of the inability to come to a resolution informally, but in no case later than 60 workdays after the grievant has become aware of the action which is being grieved. If it is shown that a good faith effort has been made to resolve the grievance, but the 60-day window has not provided sufficient time, an exception may be made by the SARHRS. Exceptions will be determined after a review of the documents submitted identifying the good faith effort.
- B. It shall be filed online using the [form](#) maintained by Human Resource Services. The SARHRS (or designee) shall, whenever possible, review the grievance within five workdays. The SARHRS will ensure that it is timely, that the allegations meet the definition of a grievable act, as identified in the Grounds for Grievances section of this document, and that it has been submitted by a faculty or staff member who is eligible to file a grievance.
 - 1. In cases that originate with a grievant or respondent in Human Resource Services or other units supervised by the SARHRS, all duties and roles assigned to the office of the SARHRS shall be assigned to the University General Counsel (or designee) who will coordinate the grievance process.
 - 2. Multiple grievances, submitted by one or more grievants, on the same or similar topics and within 30 work days of the initial grievance, may be consolidated on the recommendation of the SARHRS and approval of the grievant(s), and presented as a package to the respondent(s) at any stage of the grievance process.
- C. If the grievance is determined to be a grievable act, the SARHRS (or designee) shall immediately refer it to the named respondent(s).
- D. The designated respondent(s) may attempt to resolve the matter and/or provide a response to the allegation(s), and will report the result/decisions in writing, within 10 workdays of receiving the form, to the grievant and to the SARHRS, who will immediately provide the grievant with notification of the next action and its time frame.

II. Step 2:

- A. If, after step 1, the grievance is not resolved to the grievant's satisfaction the grievant may submit a notice of appeal to the next person upward in the organizational chain from a named respondent, within 10 workdays of the receipt of the response in step 1. If the respondent is the university president, Step 2 does not apply and the grievant shall institute a formal grievance under Step 3.
- B. The person receiving the appeal shall attempt to resolve the matter by meeting with both parties individually or together to seek a resolution. If a mutually agreed upon resolution is not possible, that person will provide a response and recommendation regarding the allegation(s), will provide a written response to all parties, and to the vice president (or other appropriate chief administrator) of the division of the university in which the grievant is employed, within 10 workdays of receiving the appeal.

III. Step 3:

If the grievance is not resolved to the grievant's satisfaction at Step 2, the grievant may initiate a formal grievance at the university level, by appealing the matter to Step 3.

The Grievance Committee

- A. A Grievance Committee will be empaneled by the SARHRS and review all formal grievances.
- B. The Grievance Committee will be made up of a three people selected from a pool of nine individuals, three designees from each shared governance group; Operating Staff Council, Supportive Professional Staff Council, and Faculty Senate. The Grievance Committee will consist of:
 - One selected by the respondent(s)
 - One selected by the grievant(s)
 - The third member selected by the first two members. In the event the first two members cannot agree on a third member within five days, they shall notify the SARHRS who shall within five days select a third member.
 - Within five workdays of receipt of the panelists names, both parties will have the opportunity to exclude individuals from the pool of nine. Reasons for exclusion from the list shall be given and may include personal or professional conflicts of interest, past interpersonal disputes, and other indicators of possible inability to serve in an objective manner. The SARHRS will determine if removal for cause is appropriate.

- C. The SARHRS shall provide notification to the first two members of the need to select a third member within the five-day timeframe.
- D. All formal actions of the Grievance Committee require an affirmative vote of at least a majority of the committee members. See Step 3 Guidelines for Grievance Committee Members, Grievants, and Respondents for the complete hearing process (located at the end of this document, following the Appendix).

IV. Administrative provisions relating to the grievance procedure

- A. The Board of Trustees has delegated authority to the president of the university with respect to certain matters regarding university operations. Under this delegation of authority, specific university administrators and offices are assigned responsibilities with respect to the conduct of university operations and personnel procedures. Should a grievance proceed through the process and result in a recommendation by the Grievance Committee, this recommendation shall be forwarded to the president (or their designee), who will make the final determination with respect to implementing or amending the recommendation, or returning it to the Grievance Committee for additional consideration. All final dispositions of formal grievances are subject to applicable laws; university rules, policies, and regulations; and approval of the president.
- B. Grievances citing an employee's action unrelated to supervisory actions shall be referred to the appropriate supervisor of that employee.
- C. Failure of a grievant to comply with the time limits set forth in these grievance procedures shall result in nullification of the grievance. However, the grievant or a respondent may request an extension of the time limits stated in these procedures through the SARHRS. The SARHRS will so inform the grievant and each respondent of any request; will consider that request expeditiously and, if they believe that unusual circumstances warrant the extension, will approve it on behalf of the university and so inform all parties. After consultation with the grievant, the SARHRS may approve an extension request made by the university. A grievance involving the same matter or set of issues may not be resubmitted. All university administrators and supervisors are responsible for making timely responses to grievants. Failure of a respondent at a given step in these grievance procedures to comply with the response time frames shall allow the grievant to advance to the next step of the procedures within five workdays of the time limitation set forth in the previous step, and based upon the responses provided at prior steps.

- D. Grievants alleging violation of university policies shall identify the alleged violator(s) and shall identify or describe one or more grievable acts as defined in the Grounds for Grievances section of these procedures. The grievant may include a requested remedy to resolve the grievance at Step I. If requested by the grievant, supervisors and university representatives giving responses at steps 1 and 2 shall provide additional information as necessary to further clarify or define the issues.
- E. In each case where a faculty or staff member alleges grounds for a grievance, that person shall have the responsibility for proving a case by preponderance of the evidence, in accordance with the stipulated procedures. In the hearing proceedings, the burden of proof that a grievable act was committed shall lie with the grievant, except in cases of dismissal for cause, when the burden of proof shall lie with the university.
- F. Grievance responses provided under these procedures shall be consistent with applicable legal standards and with official university rules and regulations.
- G. At any step in the process, the grievant and/or the respondent may consult with or otherwise enlist the assistance of appropriate individuals as identified in the “Resources Available to Assist in the Informal Resolution of Grievance” section of these procedures in the filing of a grievance or in seeking resolution of the grievance.
- H. During the grievance process, any party to a grievance may request official interpretations of university rules, policies, procedures and regulations from the SARHRS. The SARHRS will refer the request to other university authorities, as appropriate, in order to obtain an expeditious official interpretation.
- I. All participants will be held responsible for maintaining appropriate standards of professional conduct, in accord with university policies and procedures, at all times. Employees are required to participate in conciliation efforts or grievance dispositions during periods outside their appointments. Days on full leave of absence shall be considered as time outside of the period of the appointment for purposes of these grievance procedures.
- J. A grievance may be withdrawn by the grievant at any stage during the process.
- K. Throughout the grievance process, the grievant shall fulfill their assigned professional responsibilities with the university.

Appendix -Definitions

Dismissal for cause. Termination of employment prior to the expiration of an employee's contract period. Documentation sufficient to establish just cause for dismissal is required. Dismissal will not be used to restrain employees in the exercise of their constitutional and legal rights.

Grievance. A formal, written allegation, not resolved by the informal efforts, that there has been an adverse situation as described in the Grounds for Grievances section of this procedure.

Grievant. A university employee presenting a grievance.

Party. The grievant(s) or the respondent(s) are defined as parties to this process.

Preponderance of the Evidence. A determination as to whether it is “more likely than not” that a violation did or did not occur. The conduct alleged shall be evaluated from the perspective of a similarly situated reasonable person when considering the totality of the circumstances involved in the matter.

Respondent. A person whose action or inaction is identified as primarily contributing to the adverse situation described in the grievance.

Workdays. All days during which the university is normally scheduled for operations, excluding weekends, official holidays, and closure periods.

Workplace. A location in which employment duties are performed for Northern Illinois University and are subject to the direction, terms, and conditions of employment of the university.

Step 3 Guidelines for Grievance Committee Members, Grievants, and Respondents

A. Pre-Hearing process

1. Whenever possible, within five workdays of receipt of an appeal to Step 3 of the Grievance Procedure, the senior administrator responsible for Human Resource Services (SARHRS) (or designee) will forward a copy of the grievance form and accompanying materials to the respondent(s).
2. Whenever possible, the Grievance Committee shall convene within 14 workdays of the receipt of the responses or 24 days after the appeal to Step 3 (whichever is later).
3. The Grievance Committee will review all submitted materials and return with one or more, as may be appropriate, of the following options within 10 workdays after first convening.
 - a. Conduct a hearing if it determines there are sufficient grounds and if the grievance issues have not been adequately resolved.
 - b. Request additional information from anyone it deems necessary.
 - c. Remand the matter to another individual or individuals for further consideration, including supervisory personnel who may have been bypassed in the initiation of the university-level grievance.
 - d. Determine that there are not sufficient grounds to conduct a hearing and the grievance issues have been adequately resolved at the Step 2 level. A denial of the request for a hearing concludes the grievance process.
4. The Grievance Committee chair will notify the grievant and the respondent(s) in writing of the committee's decision within three workdays of the committee's decision. No further information shall be provided to the grievant in this case.

B. Hearing

1. If the committee decides, by a majority vote, that a hearing is warranted, it shall be scheduled to convene within 15 workdays.
2. Once scheduled, the SARHRS (or designee) shall immediately notify, in writing, the committee, the grievant, and the respondent(s) of the date, time, and location of the hearing, and shall send to the grievant and respondent(s):
 - a. A copy of the pertinent policies and procedures from relevant sections of university and Board of Trustees policies, along with the university

Constitution and Bylaws, and such other documents as concern the rights of the grievant.

- b. In cases involving dismissal for cause of SPS personnel, a copy of the specific charges against the grievant constituting just cause for dismissal.
 - c. A summary of the principal evidence presented in support of the charge, and a preliminary list of the witnesses the university administration plans to call.
 - d. The names of the members comprising the Grievance Committee.
 - e. A formal invitation to attend the hearing, and notice of the right to be accompanied at the hearing by an advisor of the grievant's and/or respondent's choice and legal counsel.
 - f. The date by which each party shall submit to the other a list of potential witnesses and copies of the documents, which each party anticipates will be used or presented at the hearing. Sufficient time shall be provided to review these documents and prepare for the hearing.
3. In the hearing proceedings, the burden of proof that a grievable act was committed shall lie with the grievant, except in cases of dismissal for cause, when the burden of proof shall lie with the university.
 4. Prior to the hearing, the grievant and the respondent(s) shall each deliver to the Grievance Committee all relevant written information and other material evidence supporting their respective positions, including a description of the original grievable act. All such information shall be made available to the grievant and respondent(s), and this information shall include the name of each person requested to be heard as a witness.
 5. The committee will make an initial determination as to what evidence will be considered and which witnesses will be summoned. The committee may solicit additional materials and information, and may summon additional witnesses at any time in the proceedings.
 6. A tape recording will be made of the hearing proceedings and will be maintained for no less than five years, along with associated documentation, in a secure location controlled by the office of the SARHRS
 7. The grievant and respondent(s) are entitled to be present during any presentation by another party.

8. The Grievance Committee may admit any evidence it feels may be important in addressing the issues under consideration, including written or oral testimony from any persons who might provide evidence or information relevant to the grievance.
 - a. Every effort shall be made by the university administration to secure any such evidence identified by the committee.
 - b. All such evidence shall be available to the grievant and to the respondent(s).
9. Where, for appropriate reasons, any witness is unable to appear personally at a hearing, a signed written statement may be accepted by the Grievance Committee. The committee shall make such statements available to the grievant and to the respondent(s) and shall allow the grievant and respondent(s) to submit written or oral responses to such a statement.
10. The SARHRS shall ensure the participation of all respondents and witnesses summoned by the Grievance Committee, including the guarantee of work-release time as necessary for participation. Any employee, other than a party in a confidential and/or privileged communication, who does not fully respond to a reasonable request from the committee, may be considered insubordinate. Upon establishment of a confidential and/or privileged communication, testimony will be limited to what is not confidential or privileged.
11. The grievant, the respondent(s), and each member of the Grievance Committee shall have the opportunity to question each witness. Grievants and respondents may not question each other without express permission of the chair of the committee.
12. Following conclusion of the presentation of all evidence and the testimony of all witnesses, the Grievance Committee shall convene in private session for closed deliberation and judgment.
13. During the development of its decision and recommendations, the Grievance Committee may, at its discretion, consult with any person not participating in the hearing, including university administrators and legal counsel. It may not, however, accept additional evidence or witness testimony without formally reconvening and providing the grievant and respondent(s) the opportunity to attend and to hear and respond to such evidence or testimony.
14. The Grievance Committee shall determine its findings and shall attempt to develop one or more recommendations. The committee is charged, not with determining guilt or innocence; but rather, with proposing what, if any, action should be taken. The committee should decide, by consensus if possible, whether and what institutional action(s) might be taken to rectify the grievance. The

committee may also consider findings and make recommendations designed to prevent future concerns similar to those of the grievance from arising.

15. Except as may be necessary to arrive at its decision and to prepare the formal reports required by this procedure, Grievance Committee members will not disclose to any person any information that was acquired through their participation in any stage of the grievance process, unless so compelled by a court of law. The same restriction shall apply to all individuals who may be consulted by the committee at any stage of the hearing process. It shall be the responsibility of the chair of the committee to inform all involved of these requirements.

C. Post-Hearing

1. Whenever possible, within five workdays of the Grievance Committee's decision, the chair of the committee shall forward a written report of its findings and recommendations to the president of the university, the SARHRS, the grievant and the respondent(s). This report need not contain negative judgment of the actions of any party and it may include recommendations for systemic change, such as modification of procedures or working conditions.
2. After receiving the report, the president shall respond in writing, as expeditiously as is practical, in one of the following ways:
 - a. Remand the matter to the Grievance Committee for further action or consideration, indicating the issues warranting further attention, and meeting with the committee to discuss those issues if the president or the committee so desires.
 - b. Issue an administrative directive designed to resolve the situation. Any administrative directive will be addressed to those persons or policy-making bodies whose actions may be necessary for the directive's implementation. Those persons or bodies will also be provided with those aspects of the grievance findings necessary to understand the nature and purpose of the actions to be implemented.
3. Except in cases involving dismissal for cause of SPS personnel, the response of the president is the final step in the university's grievance process. In cases involving dismissal for cause of SPS personnel, if dismissal or other penalty is recommended, the grievant shall have five workdays from receipt of the president's decision in which to request that the president transmit the record of the case to the Board of Trustees. If the grievant fails to respond within the five workdays provided, the president may forward the case to the board on their own motion, or the president may refuse to forward the case and the matter shall be considered closed at that point. The board is not obligated to consider the case even if forwarded to it for a decision.

If the Board of Trustees agrees to consider the case, the following procedure is recommended. The board's review should be based on the record of the proceedings conducted by the Grievance Committee. At its discretion, the board may provide opportunity for argument (written, oral, or both) by the principals at the hearing, or by their representatives. Either the decision of the committee shall be sustained, or the matter will be returned to the committee with specific objections. The committee should then reconsider the matter, taking into account the trustees' stated objections, and receiving new evidence if necessary. It is recommended that the board make a final disposition of the case only after studying the committee's reconsideration.