



Policy Title:	Grievance
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POLICY:

Coastal Carolina University (CCU) provides a process for the filing and review of grievances by covered employees regarding adverse employment actions as described in Section 8-17-310 et. seq. of the South Carolina Code of Laws.

The General Assembly finds that harmonious relations between public employers and public employees are a necessary and most important factor in the effective and efficient operation of government, and that a proper forum for the understanding and resolution of employee grievances will contribute to the establishment and maintenance of harmony, good faith and the quality of public service. The General Assembly also recognizes that the most effective and cost-efficient means of resolving grievances occurs at the lowest level, and state agencies are encouraged to use methods of alternative dispute resolution to avoid a grievance hearing and further litigation. It is for the protection and in the interests of both the employee and the agency, via a neutral method

of dispute resolution and fair administrative review, that the State Employee Grievance Procedure Act (the Act) was enacted.

This policy must be approved by the Department of State Human Resources and must be made available to all employees.

PROCEDURE:

I. DEFINITIONS

- A. Agency: Coastal Carolina University (CCU).
- B. Calendar days: The sequential days of a year. The time shall be computed by excluding the first day and including the last day. If the last day falls on a Saturday, Sunday or an official legal holiday, it must be excluded.
- C. Class: A group of positions sufficiently similar in the duties performed, degree of supervision exercised or received, minimum requirements of education, experience or skill, and the other characteristics that the same state class title and the same state salary range are applied to each position in the group by the Division of State Human Resources (DSHR).
- D. Covered employee: A full-time or part-time employee occupying a part or all of an established full-time equivalent (FTE) position who has completed the probationary period and has a “successful” or higher overall rating on the employee’s performance evaluation and who has grievance rights. If an employee does not receive an evaluation before the official review date, the employee must be considered to have performed in a satisfactory manner and be a covered employee. This definition does not include employees in positions such as temporary, temporary grant or time-limited employees who do not have grievance rights. This definition does not include employees exempt from the State Employee Grievance Procedure Act, including but not limited to:
 - 1. teaching or research faculty,
 - 2. professional librarians,
 - 3. academic administrators,
 - 4. other persons holding faculty appointments at a four-year post-secondary educational institution, including its branch campuses, if any, as defined in Section 59-107-10 of the S.C. Code of Laws,

5. athletic coaches and unclassified employees in the athletic departments of four-year post-secondary educational institutions as defined in Section 59-107-10 of the S.C. Code of Laws,
 6. retired members of the S.C. Police Officers Retirement System, and retired members of the S.C. Retirement System who are hired by CCU to fill all or some fraction of a full-time equivalent (FTE) position covered by the State Employee Grievance Procedure Act.
- E. Demotion: The assignment of an employee by the appointing authority from one established position to a different established position having a lower state salary range.
- F. Full-time equivalent (FTE): A value expressing a percentage of time in hours and of funds related to a particular position authorized by appropriations acts enacted by the General Assembly.
- G. Grievance: A complaint filed by a covered employee or the employee's representative regarding an adverse employment action taken by CCU designated in Section 8-17-330 of the S.C. Code of Laws.
- H. Probationary employee: A full-time or part-time employee occupying a part or all of an established FTE position in the initial working test period of employment with the State of 12-months duration for non-instructional personnel or of the academic-year duration for instructional personnel. An employee who receives an unsatisfactory performance appraisal during the probationary period must be terminated before becoming a covered employee.
- I. Promotion: An employee's change from a position in one class to a position in another class having a higher state salary range. Failure to be selected for a promotion is not an adverse employment action that can be considered as a grievance or appeal.
- J. Punitive reclassification: The assignment of a position in one class to a different lower class with the sole purpose to penalize the covered employee.
- K. Reassignment: The movement within CCU of an employee from one position to another position having the same state salary range or the movement of a position within CCU which does not require reclassification.

- L. Reclassification: The assignment of a position in one class to another class which is the result of a natural or an organizational change in duties or responsibilities of the position.
- M. Reduction in force: A determination by the CCU President to eliminate a portion of one or more filled positions in one or more organizational units within CCU due to budgetary limitations, shortage of work, organizational changes, or outsourcing and privatization.
- N. Salary decrease based on performance: The reduction of a covered employee's compensation based on the results of an Employee Performance Management System (EPMS) evaluation
- O. State Human Resources Director: The head of the Division of State Human Resources of the Department of Administration who is responsible for statewide coordination of human resources programs.
- P. Suspension: An enforced leave of absence without pay pending investigation of charges against an employee or for disciplinary purposes.
- Q. Temporary employee: A full-time or part-time employee who does not occupy an FTE position, whose employment is not to exceed one year and who is not a covered employee.
- R. Termination: An action taken by CCU against an employee to separate the employee involuntarily from employment.
- S. Transfer: The movement to a different agency of an employee from one position to another position having the same state salary range or the movement of a position from one agency to another agency which does not require reclassification.

II. ACTIONS THAT MAY BE GRIEVED OR APPEALED

- A. Throughout this policy, the words 'grievance' and 'complaint' are used interchangeably and carry the same meaning. A covered employee may file a grievance or an appeal concerning only the following employment actions:
 - 1. terminations,
 - 2. suspensions,
 - 3. involuntary reassignments in excess of thirty (30) miles from the prior work station,

4. demotions, and/or
 5. punitive reclassifications, but only when CCU, in case of a grievance, or the state human resources director in the case of an appeal, determines that there is a material issue of fact that the action was solely done to penalize the covered employee.
- B. Reclassifications, reassignments, and transfers within the same state salary range are not adverse employment actions which may be considered to be grievable or appealable.
- C. When CCU promotes an employee one organizational level above the promoted employee's former level, that action is not a grievance or appeal for any other qualified covered employee. Failure to be selected for a promotion is not considered an adverse employment action which can be considered grievable or appealable. However, promotions in instances where CCU, or in the case of appeals, the State Human Resources Director, determines that there is a material issue of fact as to whether CCU has considered a qualified covered employee for a position for which the employee formally applied, or would have applied if the employee had known of the promotional opportunity, are considered adverse employment actions and are grievable and appealable.
- D. A salary decrease based on performance as the result of an Employee Performance Management System (EPMS) evaluation is considered grievable and appealable.
- E. A reduction in force is considered as a grievance only if CCU, or as an appeal, if the State Human Resources Director, determines that there is a material issue of fact that CCU inconsistently or improperly applied its reduction-in-force policy or plan.

III. ACTIONS THAT DO NOT CONSTITUTE A GRIEVANCE OR APPEAL

- A. As provided for in the State Human Resources Regulations, the following actions do not constitute a basis for a grievance or an appeal:
1. A covered employee who voluntarily resigns or voluntarily accepts a demotion, reclassification, transfer, reassignment or salary decrease shall waive any and all rights to file a grievance or an appeal concerning such actions, and the covered employee can rescind such voluntary actions only if the CCU President or designee agrees.

2. A covered employee who is promoted, reclassified to a higher salary range or moved to an unclassified position with a higher rate of pay, and is subsequently demoted prior to completing the trial period in the class with the higher salary range or higher rate of pay, shall not have the right to file a grievance or an appeal concerning the demotion, unless such demotion is to a class with a lower salary range or lower rate of pay than the position in which the employee was serving prior to promotion, reclassification or movement to an unclassified position with a higher rate of pay.
3. A covered employee who is promoted or moved to an unclassified position with a higher rate of pay, and subsequently receives a reduction in pay prior to completing the trial period in the position with the higher salary range or higher rate of pay, shall not have the right to file a grievance or an appeal concerning the reduction in pay unless the action results in a lower rate of pay than that which the employee was receiving prior to the promotion or movement to an unclassified position with a higher rate of pay.
4. A covered employee who receives additional job duties or responsibilities and a salary increase, and subsequently has the additional job duties or responsibilities which justified the salary increase taken away prior to completing six (6) months of service with the additional job duties or responsibilities, shall not have the right to file a grievance or an appeal concerning a salary reduction equivalent to the amount of the additional job duties or responsibilities increase.

IV. NON-REPRISAL

- A. No employee shall be disciplined or otherwise prejudiced in employment for exercising rights, testifying or providing information in accordance with the grievance and appeals policy.

V. INFORMAL RESOLUTION EFFORTS

- A. Workplace complaints should be resolved whenever possible in an informal manner. Employees are encouraged to discuss complaints with an appropriate supervisor prior to filing a grievance. Informal complaints may be presented verbally or in writing. Note that, at this stage, discussion is considered an informal attempt to resolve the matter and cannot be substituted for the formal process outlined in step one of the formal grievance procedure. The employee and/or the supervisor may seek the assistance of the University's Staff Ombuds office.

Informal resolution is not mandatory in order to proceed with a formal grievance and does not affect the time requirements for initiating a formal grievance.

VI. FORMAL COMPLAINT PROCESS

An employee has the right to legal counsel at their own expense.

A. Step One

1. A covered employee who wishes to file a grievance must initiate the grievance with HREO. The grievance must be in writing, utilizing the Employee Grievance Procedure Form (found on CCU's Forms webpage), and must be received (or, if mailed, postmarked) within 14 calendar days of the effective date of the action or 14 calendar days from when the employee is notified of the action, whichever is later.
2. The Vice President of HR (VPHR) or designee determines if the submitted matter is grievable, normally within 5 calendar days, and takes one of the following actions:
 - i. If the VPHR or designee decides the matter is *not* grievable, HREO sends a letter to the grievant explaining the decision. Such determination shall be the final decision within the University and may be appealed to the State Human Resources Director.
 - ii. If the matter *is* deemed grievable, the VPHR or designee forwards a copy of the grievance to the Vice President (VP)/Division Head in charge of the grievant's area for review.
3. Upon receipt of the grievance, the VP/Division Head conducts any investigation and review of the grievance and the underlying facts deemed necessary or appropriate. This may include consulting individuals for advice. The responsible VP/Division Head performs the following tasks, normally within 15 calendar days of receipt of the grievance:
 - i. Render a decision to uphold, modify or reverse the adverse employment action;
 - ii. In consultation with the VPHR or designee, render a decision to grant, deny or adjust requested relief; and

- iii. Send a written decision to the grievant, the grievant's immediate supervisor, the VPHR and other interested parties.

B. Step Two

1. If the grievant is not satisfied with the VP/Division Head's decision, the grievant can request review of the decision by the President of the University or designee. The Step Two grievance request must be in writing, utilizing the Statement of Employee Grievance Form (found on CCU's forms webpage) and must be received by the Office of the President (or, if mailed, postmarked) within 5 calendar days of the receipt of the VP/Division Head's decision.
2. Upon receipt of an appeal, the President or designee conducts any investigation and review of the grievance and the underlying facts deemed necessary or appropriate. [This may include consulting individuals for advice]. The responsible VP/Division Head performs the following tasks, normally within 15 calendar days of receipt of the grievance:
 - i. Render a decision to uphold, modify or reverse the adverse employment action;
 - ii. In consultation with the VPHR or designee, render a decision to grant, deny or adjust requested relief; and
 - iii. Send a written decision to the grievant, the grievant's immediate supervisor, the VPHR and other interested parties.
3. The President or designee renders the final decision of the University, normally within 45 days of the date the initial grievance was filed.
4. Agency time frames may be waived by mutual consent in writing.

VII. APPEALS TO THE STATE HUMAN RESOURCES DIRECTOR

- A. If a grievant is not satisfied with the University's response to a grievance and after all administrative remedies to secure relief within the University have been exhausted, the grievant has the right to appeal the University's final decision to the State Human Resources Director.
- B. A covered employee who wishes to appeal the final decision of the University to the State Human Resources Director must file a written appeal within 10 calendar days of receipt of that final decision from the university or within 55 calendar days of the filing of the grievance with the University, whichever occurs later. A covered

employee has not exhausted administrative remedies to secure relief within the University until the University's internal grievance process is completed or the 45 calendar days provided for the University to issue a decision has elapsed, whichever occurs sooner. Failure by the University to issue a final decision within 45 calendar days is considered an adverse decision and allows the covered employee to proceed with an appeal to the State Human Resource Director after 45 calendar days, but no later than 55 calendar days from the initial date the grievance was filed with the University.

- C. Failure to file an appeal within 10 calendar days of receipt of the University's final decision or within 55 calendar days of the initiation of the grievance, whichever is later, constitutes a waiver of the right to appeal.
- D. The time periods related to filing an appeal with the State Human Resources Director may not be waived.