

## **I. POLICY**

It is the policy of Eastern Virginia Medical School to provide a grievance procedure for prompt resolution of employee complaints relating to conditions of employment.

## **II. DEFINITIONS**

*Grievant* - a full-time or part-time employee who has completed the initial 90-day new employee trial period. (Faculty grievances will be processed in accordance with the Faculty Policies and Procedures). Transient employees are not eligible for filing a grievance but are encouraged to resolve any problems informally. An employee who voluntarily resigns is no longer eligible to use the grievance procedure.

*Grievant Advisor* - any employee, other than a Human Resources staff member, chosen by the Grievant to attend and observe grievance proceedings with the Grievant. The selection of a Grievant advisor is at the employee's option and is not a requirement for the grievance procedure. The role of the Grievant advisor is not to be an advocate, but rather to be an advisor to the employee at any of the meetings described below.

## **III. GRIEVABILITY**

### **A. Grievable Complaints.** Grievable complaints include such issues as:

1. Complaints of discrimination based upon race, color, national origin, religion, sex, age, disability, genetic information, or other characteristic protected by law;
2. Harassment, mistreatment, or other inappropriate behaviors that violate EVMS policy;
3. Disciplinary actions, including probation, suspension, or termination;
4. The arbitrary application of personnel policies, evaluations, procedures, rules, and regulations;
5. Acts of retaliation as a result of using grievance procedures; or
6. Any other violation of Human Resources Policy that does not have an alternative complaint process.

### **B. Non-grievable Complaints.** Non-grievable complaints include such issues as:

1. Job classification, compensation, and benefits;
2. Job duties accepted at time of employment or reasonably expected to be a part of job

content,

3. The contents of established personnel policies, procedures, rules, and regulations;
4. Failure to promote except where the employee can show established promotional policies or procedures were not followed or applied fairly;
5. The methods, means, and personnel by which such work activities are to be carried on;
6. Discharge, layoff, suspension, or reduction in effort from duties because of lack of work, reduction in the workforce, or job elimination;
7. Hiring, promotion, transfer, assignment, and retention of employees; or
8. Alleged misconduct in science, which is subject to the EVMS Guide for Scientific Misconduct.
9. Title IX Sexual Harassment, which is subject to the Title IX Policy on Resolution of Allegations of Sexual Harassment.

C. Determination of Grievability. The Executive Director of Human Resources or his designee shall make the determination as to whether a submitted matter is grievable. All such decisions are final and are not further grievable or subject to appeal. The classification of a complaint as non-grievable, however, shall not be construed to restrict any employee's right to seek or EVMS' right to provide customary administrative review of complaints outside the scope of the grievance procedure.

#### **IV. GRIEVANCE PROCEDURE**

A. Time Limits. Time limits specified in this policy refer to business days. Time limits exceeded by the Grievant will be assumed to constitute acceptance of the prior decision.

B. Grievance Procedure Steps. The grievance procedure will progress through the following steps, as applicable, within the specified time limits. All meetings must be held in private and information obtained must be considered confidential. Audio, video, or other recording and/or transmission devices may not be used during any step of the grievance process.

1. *Step One*. Except for an employee who has been terminated, demoted, suspended, or has suffered a reduction in wages or salary, an employee who has a grievance (including a grievable issue with a co-worker) is required to discuss the problem directly with his/her immediate supervisor and the grievance need not be reduced to writing until this step has been completed. Note: An employee who has been terminated, demoted, suspended, or has suffered a reduction in wages or salary should proceed to step 3. However, supervisors must document this

action and forward the documentation to Human Resources with the assumption that a formal grievance will follow. The employee must initiate this action within five (5) days of the occurrence of the alleged problem or precipitating event. It is the intention of this policy that most problems be resolved at this step.

2. *Step Two:* If the results of the discussion fail to satisfactorily resolve the problem within five (5) days, the employee may file a written grievance to be submitted to the Department Head. The employee will use forms supplied by Human Resources. Within fourteen (14) days of receiving the written grievance, the Department Head or designated representative will meet with involved parties to discuss the complaint and conduct an investigation, and within ten (10) days following such meeting, will make a written response to the employee.

3. *Step Three.* If the Grievant feels that further review of the complaint is justified after receiving the written response from the Department Head, or for all grievances of termination, demotion, suspension, or reduction in ages or salary, the Grievant shall submit a written request stating all relevant facts to Human Resources within five (5) days of the prior decision. Within fourteen (14) days of receiving the request, a representative of Human Resources will conduct a thorough review of the complaint and supporting documentation and may meet with the involved parties to discuss the complaint if additional information is needed. Human Resources will render a decision in writing within fourteen (14) days of completion of the investigation. For employees grieving an action taken under the disciplinary action policy, the Human Resources representative may not be the Human Resources representative that was involved in the disciplinary process leading up to the disciplinary action.

4. *Appeal.* Any party may submit a request for an appeal of the grievance decision. The request for appeal must be in writing, accompanied by any evidence to support the request for appeal, and submitted to the Human Resources representative who issued the decision within five (5) days of when the grievance decision was delivered. The request for appeal will be forwarded to the Executive Director of Human Resources for consideration to determine if the request meets the grounds for appeal. This review is not a review of the merits of the appeal, but solely a determination as to whether the appeal was timely filed and whether it meets the following grounds for appeal:

- a. Procedural irregularity that affected the outcome of the matter;
- b. New evidence that could affect the outcome of the matter that was not reasonably available at the time the grievance decision was made; or
- c. Evidence that the Human Resources representative who conducted the investigation or made the decision had a conflict of interest or bias for or against a party that affected the outcome of the matter.

If the request for appeal was not timely filed or does not meet the criteria above, the request will be denied and the moving party notified. Such decision is final and binding. Note: Human Resources has the authority to interpret the application of appropriate EVMS policies and procedures in any grievance, and disagreement with the application of policy by Human Resources is not grounds for appeal.

If the grounds for appeal are met, all parties shall be notified. The Executive Director of Human Resources, or designee, or if deemed appropriate in the sole judgment of the Executive Director of Human Resources, a three-person panel, shall undertake a review of the facts or take such other steps as may be appropriate to determine the facts of the matter. Such designee or panel shall, within twenty (20) days after its appointment, make a recommendation to uphold or overturn the grievance decision to the Executive Director of Human Resources. The Executive Director of Human Resources may choose to implement the recommendation, meet with the parties to discuss other alternatives, or take other action as may be in the best interest of EVMS. The Executive Director of Human Resources shall notify the parties of the appeal decision within thirty (30) days of when the parties were notified that the appeal was accepted. Such appeal decision shall be final and binding and not subject to further appeal or grievance under this policy.