



OLD DOMINION UNIVERSITY

University Policy

Policy #6604

VIRGINIA HEALTH SCIENCES GRIEVANCE POLICY (INTERIM POLICY)

Responsible Oversight Executive: Executive Vice President for Health Sciences

Date of Current Revision or Creation: July 1, 2024

A. PURPOSE

This policy provides a formal process for considering and resolving grievances for Virginia Health Sciences Faculty to whom the Grievance Policy for Administrative and Professional Faculty and the Faculty Grievance Policy does not apply.

B. AUTHORITY

[Virginia Code Section 23.1-1301, as amended](#), grants authority to the Board of Visitors to make rules and policies concerning institution. Section 7.01(a)(6) of the [Board of Visitors Bylaws](#) grants authority to the President to implement the policies and procedures of the Board relating to University operations.

C. DEFINITIONS

Administrative and Professional (A/P) Faculty - Employees who perform work directly related to the management of the educational and general activities of the institution, department or subdivision or whose professional positions serve the educational, research, athletic, medical, student affairs, and development functions or activities of the institution.

Administrative and Professional (AP) Medical Restricted Faculty – Employees who have been accepted in the Eastern Virginia Medical School Graduate Medical Education (GME) Program and have the title of Resident, Chief Resident, or Fellow.

Administrative and Professional (AP) Medical Faculty – Employees who have administrative or professional duties directly related to the management or administration of, or patient care services in, a clinical care setting on behalf of EVMS Medical Group.

Department Head – The Chair of a Department in the School of Medicine or the Dean of the School of Health Professions for programs in the School of Health Professions.

Grievance – The formal, written complaint about a grievable matter that details the specifics giving rise to the matter and asks Virginia Health Sciences Human Resources to take a formal course of action.

Grievant –The individual who falls within the scope of this policy and who has submitted a complaint under this Grievance Policy.

Grievant Advisor – Any Virginia Health Sciences employee, other than a Virginia Health Sciences 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. The Grievant Advisor may not speak on behalf of the Grievant and may not be an attorney or law firm representing the Grievant.

Teaching and Research Faculty - Employees whose work assignments primarily involve instruction, research, and scholarly activities, and who hold academic rank/titles of professor, associate professor, assistant professor, senior lecturer, lecturer, instructor, or the equivalent in an academic unit.

Teaching and Research (TR) Medical Faculty—Employees who hold academic rank and whose work assignments primarily involve instruction, research, or scholarly activity for trainees in a clinical setting and/or the management or administration of, or patient care services in, a clinical setting and who have a faculty appointment in a department of the school of medicine.

D. SCOPE

This policy applies to the Teaching and Research Medical Faculty, AP Medical Restricted Faculty, AP Medical Faculty, and AP Faculty and TR Faculty who are appointed to a program with a clinical component within the School of Medicine and School of Health Professions who are subject to the Virginia Health Sciences Disciplinary Action Process. This policy is in lieu of, not in addition to, any other internal complaint procedure that may be available to AP Faculty.

E. POLICY STATEMENT

It is the policy of ODU to resolve work-related complaints in an expeditious and non-adversarial climate when attempts at informal resolution have been unsuccessful or when an employee has a good-faith belief that there has been a violation or unfair application of an ODU or Health Sciences policy that has or will have a negative impact or loss (e.g., financial, reputational, etc.) to the employee.

Remedies available to the Grievant under this policy are limited to those remedies which the university has the authority to provide. No supervisor, senior administrator, or grievance committee, acting under this policy and its procedures, may recommend or provide a remedy which amends, modifies, or changes a university policy or procedure or which is not in accordance with either university policy, or state and federal laws or regulations or federal laws or regulations.

F. GRIEVABILITY

1. Grievable Matters. Grievable matters include such issues as:

- a. Disciplinary actions, including probation, suspension, or termination, as set forth in the Virginia Health Sciences Disciplinary Action Policy;
- b. Policy related interpersonal-conflicts;
- c. The arbitrary application of Virginia Health Sciences personnel policies, evaluations, procedures, rules, and regulations;

- d. Acts of retaliation as a result of using the Virginia Health Sciences Grievance Policy; and
 - e. Any other violation of Virginia Health Sciences policies that does not have an alternative complaint process.
2. Non-grievable Matters. Matters that may not be grieved using this Virginia Health Sciences Grievance Policy include:
- a. Complaints of discrimination based upon race, color, national origin, religion, sex, age, disability, genetic information, or other characteristic protected by law, which must be reported through the [Office of Institutional Equity & Diversity](#);
 - b. Job classification, compensation, and benefits;
 - c. Job duties accepted at the time of employment or reasonably expected to be a part of the position;
 - d. The contents or interpretation of established personnel policies, procedures, rules, and regulations;
 - e. Failure to promote except where the employee can show established promotional policies or procedures were not followed or applied fairly;
 - f. The methods, means, and personnel by which such work activities are to be carried on;
 - g. Discharge, layoff, suspension, or reduction in effort from duties because of lack of work, reduction in the workforce, or job elimination;
 - h. Academic disciplinary action by a residency/fellowship program or the Graduate Medical Education Committee;
 - i. Hiring, promotion, transfer, assignment, and retention of other employees; or
 - j. Alleged misconduct in science, which is subject to #1426 Policy, Procedures and Timeline for Responding to Allegations of Misconduct in Scientific Research and Scholarly Activity.
3. Determination of Grievability. The Associate Vice President of Human Resources for Health Sciences (AVPHRHS) or their designee shall make the determination as to whether matter submitted by a Grievant 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 ODU's right to provide customary administrative review of complaints outside the scope of the grievance procedure.

G. PROCEDURES

1. 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.
2. 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.
 - a. *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. This step must be initiated within five (5) days of the occurrence of the alleged problem or precipitating event. Note: An employee who has been terminated, demoted, suspended, or has suffered a reduction in wages or salary should proceed to Step Three. It is the intention of this policy that most problems be resolved at this step.

However, supervisors must document this step and forward the documentation to the AVPHRHS with the assumption that a formal grievance will follow.

- b. *Step Two:* If the results of the discussion in step one fail to satisfactorily resolve the problem the employee may file a written grievance within five (5) days of the meeting with the supervisor, to be submitted to the Department Head. 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, if necessary, to conduct an investigation, and within ten (10) days following such meeting, will make a written response to the employee.
- c. *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 Virginia Health Sciences Human Resources within five (5) days of the prior decision using forms supplied by Virginia Health Sciences Human Resources. Within fourteen (14) business days of receiving the request, a representative of Virginia Health Sciences 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. Health Sciences 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 Virginia Health Sciences Human Resources representative may not be the Virginia Health Sciences Human Resources representative who was involved in the disciplinary process leading up to the disciplinary action.
- d. *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 Virginia Health Sciences 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 AVPHRHS 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 one of the following grounds for appeal:
 - Procedural irregularity that affected the outcome of the matter;
 - New evidence that could affect the outcome of the matter that was not reasonably available at the time the grievance decision was made; or
 - Evidence that the Health Sciences 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 a decision is final and binding. Note: Virginia Health Sciences Human Resources has the authority to interpret the application of appropriate ODU policies and procedures in any grievance, and disagreement with the application of policy by Virginia Health Sciences Human Resources is not grounds for appeal.

If the grounds for appeal are met, all parties shall be notified. The AVPHRHS, or designee, or if deemed appropriate in the sole judgment of the AVPHRHS, a three-person Grievance Committee, 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 AVPHRHS . The AVPHRHS A 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 ODU. The AVPHRHS 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.

H. RECORDS RETENTION

Disciplinary Action Records must be destroyed five years after the grievance is closed in compliance with the [Commonwealth's Records Retention and Disposition Schedules](#).

I. RESPONSIBLE OFFICER

Associate Vice President of Human Resources for Health Sciences

J. RELATED INFORMATION

University Policy 6601 - Virginia Health Sciences Disciplinary Action Policy

POLICY HISTORY

Policy Formulation Committee (PFC) & Responsible Officer Approval to Proceed:

Responsible Officer	Date

Policy Review Committee (PRC) Approval to Proceed:

Chair, Policy Review Committee (PRC)	Date

Executive Policy Review Committee (EPRC) Approval to Proceed:

Responsible Oversight Executive	Date

University Counsel Approval to Proceed:

/s/ Allen T. Wilson	June 28, 2024
University Counsel	Date

Presidential Approval:

/s/ Brian O. Hemphill, Ph.D.	June 28, 2024
President	Date

Policy Revision Dates: July 1, 2024

Scheduled Review Date: July 1, 2025