

## GRIEVANCE PROCEDURES FOR UNIVERSITY OF IDAHO CLASSIFIED EMPLOYEES

*PREAMBLE: This section outlines the policy and procedures for staff grievances. A previous avatar formed a part of the 1979 Handbook, but the whole of the section was thoroughly revised in July of 2002 and in 2007 A-4 was revised to add a process for addressing retaliation complaints. For further information, contact Human Resources (208-885-363899). [ed. 7-97, 7-02, 9-06, rev. 7-07]*

### CONTENTS:

- A. Policy.
- B. Problem-Solving Procedure.
- C. Due Process Procedure.
- D. Appeals.

### A. POLICY.

**A-1. Purpose.** The purpose of this policy is to provide clear processes through which UI classified employees may present grievances. As used in this policy “UI classified employees” includes UI classified employees and UI exempt classified employees. This policy aims to assist in maintaining a productive work environment and preventing minor complaints or problems from becoming major concerns. Unresolved grievances can result in a strained working environment, low morale, absenteeism, and diminished productivity.

#### A-2. Resolution at Lowest Level Possible.

**a.** Employees, supervisors, upper-level managers and administrators are encouraged to resolve job-related disputes at the lowest management level possible within UI. Before using the processes described below, an employee should make a reasonable attempt to meet with and resolve the matter(s) with his or her immediate supervisor. Advisors, except attorneys, are permitted at the informal meeting with the immediate supervisor. Employees and supervisors are strongly encouraged to engage in this informal meeting in order to identify the precise matter(s) at issue, discuss ways to resolve them and to resolve matters at the lowest level possible.

**b.** If an employee believes that meeting with his or her immediate supervisor would be futile, or if an issue is not adequately resolved, the employee is encouraged to contact the next higher administrator, Human Resources (HR) or the Ombuds Office. [ed. 9-06, rev. 2-07]

**c.** The ombuds’ office [FSH 3820] provides a confidential, informal mechanism to facilitate voluntary communications between individuals in dispute, to help clarify issues involved, and to suggest avenues for dispute resolution. An employee who wishes to use the services of the ombuds should do so before using the procedures discussed below. [ed. 9-06]

**A-3. Financial Exigency.** This policy does not apply under the circumstances described in FSH 3970, except as set forth therein.

**A-4. Sexual Harassment, Illegal Discrimination or Retaliation.** The processes in this policy should not be used when alleging sexual harassment or illegal discrimination. An employee alleging sexual harassment or discrimination based on race, color, sex, national origin, religion, age, sexual orientation, [gender identity/expression](#) or disability may file a complaint with the Human Rights Compliance Officer. That Office investigates such complaints, and handles their resolution with appropriate regard for confidentiality. An employee alleging retaliation is required to follow the process set forth in FSH 3810 before proceeding under this policy. The time period for appeal will begin to run upon completion of the process set forth in 3810. [FSH 3210, FSH 3215, FSH 3220] [ed. 9-06, rev. 7-07]

### B. PROBLEM-SOLVING PROCEDURE.

**B-1. Eligibility to Use the Problem-Solving Procedure.** Any UI classified employee, including those with provisional or entrance probationary status, may file a grievance under the problem-solving procedure. The problem-solving procedure deals with all job-related matters except dismissals for cause, suspensions without pay, demotions, and

## UI FACULTY-STAFF HANDBOOK

### Chapter III: EMPLOYMENT INFORMATION CONCERNING FACULTY AND STAFF Section 3860: Grievance Procedures for University of Idaho Classified Employees 2006 (editorial)

---

involuntary transfers. Further, the problem-solving procedure shall not apply to unsatisfactory performance during entrance probation or to compensation except alleged inequities in compensation within UI or a department. Upon mutual agreement of UI and the employee, time requirements or any intermediate step of the problem-solving procedure may be waived.

#### **B-2. Elements of the Problem-Solving Procedure.**

a. To begin the Problem-Solving Procedure employees are required to file the Problem-Solving Request Form (see the end of this policy) no later than ten (10) working days after becoming aware of any matter which may be handled through this Problem-Solving Procedure or after ending informal processes with the Ombuds Office without resolution, whichever date is later. The time limit for filing shall be extended due to the employee's illness or other approved leave up to five (5) working days after returning to the job. UI may, but is not required to, accept a filing that is or appears to be filed late. Filing is made by hand delivering or mailing by first class mail, postage prepaid, to the ~~assistant vice president executive director~~ for human resources or designee, University of Idaho, Moscow, Idaho 83844-4332. Filing shall be deemed received on the date of hand-delivery or postmark. *[rev. 2-07]*

b. An employee is entitled to be represented by an advisor, who may be an attorney, in the problem-solving process. Two or more employees may join together to use the problem-solving procedure. Retaliation for using the problem-solving procedure or for participating as a witness or representative is expressly prohibited. An employee who believes that he or she is being retaliated against should review the University's retaliation policy, FSH 3810, and notify HR. *[ed. 9-06]*

c. HR will arrange for the employee to meet with representatives of the unit or college who are best able to resolve the problem through a meeting with the employee. Because the goal of this procedure is to resolve problems at the lowest level possible, this meeting may involve the immediate supervisor and any additional people who may be helpful in resolving the issue(s) as determined by HRS. The department head, director, or equivalent may consult with the employee, immediate supervisor, college administration, others who participated in the problem-solving procedure and any other resources or persons in order to determine how best to resolve the issue. *[ed. 9-06]*

d. The employee will receive a written response to the issues raised from the department head, director, or equivalent no later than five (5) working days after the meeting.

e. Optional Mediation Step. At any time during the Problem-Solving Procedure, UI and the employee may mutually agree to engage in mediation. If both UI and the employee agree to engage in mediation, the other steps and time limitations (except for the initial filing deadline) of the Problem-Solving Procedure will be put on hold pending mediation. UI will pay for the costs of mediation. UI and the employee must also agree upon a mediator. The mediator cannot be a current or former employee of UI. The outcome of the mediation may include, at the mediator's discretion, a written document of the resolution.

#### **C. DUE PROCESS PROCEDURE**

**C-1. Subject Matter; Eligibility; Basic Elements.** The due process procedure deals with dismissals for cause, suspensions without pay, demotions, and involuntary transfers. UI Classified employees, except those with provisional or entrance probationary status are entitled to due process before UI makes any decision to dismiss for cause, suspend without pay, demote, or involuntarily transfer. Due process requires that the employee receive notice and an opportunity to be heard before a decision is made.

#### **C-2. Elements of the Due Process Procedure.**

a. Notice. Before taking action to dismiss, suspend without pay, demote, or involuntarily transfer an employee covered by this policy, UI will provide a Notice of Contemplated Action containing the following information:

(1) Notice of the Contemplated Action. UI will provide the employee with written notice of the contemplated action(s). For example, the notice may state that dismissal is the contemplated action. It may also set forth alternative forms of discipline, such as demotion or suspension.

## UI FACULTY-STAFF HANDBOOK

### Chapter III: EMPLOYMENT INFORMATION CONCERNING FACULTY AND STAFF Section 3860: Grievance Procedures for University of Idaho Classified Employees 2006 (editorial)

---

(2) Notice of the Basis for the Contemplated Action. UI will provide the basis or reason for the contemplated action. The “basis” of the contemplated action is the for-cause reason and should include corresponding citation to applicable policy or law that supports disciplinary action against an employee.

(3) Explanation of the Evidence. UI will provide a written explanation of the information or evidence pertinent to the contemplated action. This could include an explanation of statements made by other employees, an explanation of documents, and/or an explanation of events leading to the notice. All supporting documentation relied on by UI in considering the contemplated action will be provided to the employee.

(4) Opportunity to Respond. The notice will inform the employee that he or she has the opportunity to respond and will provide a deadline for that response (see “Opportunity to Respond,” below).

(5) Mailing or Delivery. The Notice of Contemplated Action shall be hand-delivered to the employee or mailed by first class mail, postage prepaid, to the employee’s last known address on file with HR. A Notice of Contemplated Action is deemed received by the employee on the day it is delivered or three (3) working days after it is mailed. *[ed. 9-06]*

#### **b. Opportunity to Respond.**

(1) An employee who receives a Notice of Contemplated Action is entitled to an opportunity to respond in person or in writing. It shall be the employee’s decision whether to respond in person or in writing. This is the employee’s opportunity to present his or her reason(s) why the contemplated action should not be taken. The employee may accept the opportunity and respond within the time period stated in the Notice of Contemplated Action, may waive the opportunity by failing to respond within that time period, or may waive the opportunity in writing.

(2) The Notice of Contemplated Action will contain a time period within which an employee may respond. This time period shall be no shorter than five (5) and no longer than ten (10) working days after the employee has received notice unless both UI and the employee agree in writing. UI will make the final decision on the contemplated action after the employee has responded, failed to respond, or otherwise waived in writing the opportunity to respond.

(3) An employee may be represented by an attorney, or other person of the employee’s choosing.

**c. UI’s Decision.** UI will notify the employee of its decision no later than three (3) working days after the employee has responded, failed to respond, or otherwise waived in writing the opportunity to respond. This three (3) working day period may be extended by UI. UI’s decision will be mailed or hand-delivered to the employee, HRS, and the Provost, Vice President, Executive Director, or other similar individual in charge of the employee’s unit. A decision to dismiss an employee is final and effective on the date set forth in the notice. A dismissed employee shall be provided two (2) weeks pay in lieu of two (2) weeks notice of dismissal. If a sanction is imposed, the employee may have the right to appeal UI’s decision under section D of this policy.

**d. Optional Mediation Step.** At any time during the Due Process Procedure, UI and the employee may mutually agree to engage in mediation. If both UI and the employee agree to engage in mediation, the other steps and time limitations of the Due Process Procedure will be put on hold pending mediation. UI will pay for the costs of mediation. UI and the employee must also agree upon a mediator. The mediator cannot be a current or former employee of UI. The outcome of the mediation may include, at the mediator’s discretion, a written document of the resolution.

**e. Retaliation for responding or participating as a witness or representative in the Due Process Procedure is expressly prohibited.** An employee who believes that he or she is being retaliated against should review the University’s retaliation policy, FSH 3810, and notify [the Human Rights Compliance Officer \(HRCO\)](#). *[ed. 9-06]*

## **D. APPEALS.**

## UI FACULTY-STAFF HANDBOOK

### Chapter III: EMPLOYMENT INFORMATION CONCERNING FACULTY AND STAFF Section 3860: Grievance Procedures for University of Idaho Classified Employees 2006 (editorial)

---

**D-1.** These procedures apply to appeals from the Problem-Solving Procedure and the Due Process Procedure. After completing the problem-solving procedure, an employee may appeal only the UI's failure to provide a right or benefit to which the employee is entitled by law. The filing of an appeal does not extend the effective date of the decision being appealed.

**a.** Filing of Appeal and Appearances. Appeals from decisions made under the Due Process Procedure are filed with the [assistant vice president executive director](#) for human resources or designee. Every appeal filed shall be written and shall state, at a minimum, the decision being appealed, the grounds for the appeal, the action requested, and the name, address, and telephone number of the employee's attorney if the employee is represented. HR shall provide a copy of the appeal to the administrator whose decision is being appealed, the Provost, Vice President, Executive Director or other similar individual in charge of the employee's unit, and the chair of the Staff Affairs Committee (SAC). *[ed. 9-06]*

**b.** Time Period for Filing An Appeal. An appeal from a decision made under the Due Process Procedure must be received or postmarked within ten (10) working days after receipt of the written notice of final decision being appealed. The notice of final decision is deemed received on the date personally delivered, or three (3) working days after deposited in the United States mail, postage prepaid.

**c.** Upon receiving an appeal, the chair of SAC shall appoint three current or former members of SAC to serve as the Staff Affairs Hearing Board (SAHB). The SAC chair will appoint one (1) member of the SAHB as its chair. Current or former members of the SAC who wish to be eligible to serve on the SAHB are required to participate in periodic training sessions conducted by the Office of University Counsel to ensure their understanding of due process requirements. Only those members of the SAC who attend training sessions are qualified to hear appeals. UI supervisors shall provide members of SAC paid time away from their jobs to attend these periodic training sessions and other meetings associated with handling a grievance under this policy.

**d.** Once a grievance has been filed and an SAHB has been formed, the SAHB may meet as needed to prepare for the hearing and to handle other issues that arise related to the grievance.

**e.** Setting of Hearing. Within ten (10) working days after receiving the appeal from HR, the chair of the SAHB shall consult with the parties and thereafter shall set a mutually agreeable date for the hearing. The chair has discretion to change the date of the hearing. The SAHB shall also set the date by which UI's response to the appeal shall be filed. *[ed. 9-06]*

**f.** Filing of Documents. Once an appeal is referred to the chair of the SAHB, all documents shall be filed directly with the chair of the SAHB during the pendency of the appeal. Copies of all documents submitted shall be provided to the staff member and the administrator who made the decision being appealed.

**g.** Recommendation of the SAHB. The SAHB shall issue a written recommendation to the President or his or her designee within ten (10) working days after the hearing is concluded. If the President has a conflict of interest, the recommendation shall be made to the Provost and if the Provost also has a conflict of interest the recommendation shall be made to the Vice President for Finance and Administration who shall complete the process as described below. The chair of the SAHB shall provide a copy of the recommendation to the employee, the employee's representative if any, the assistant vice president for human resources, and the administrator whose decision is being appealed.

**h.** The President or his or her designee shall issue a written decision to the employee within ten (10) working days after receipt of the recommendation. If the decision is materially different from the recommendation of the SAHB, the reason(s) for the difference(s) shall be set forth in the decision. A copy of the decision shall be provided to the employee, the employee's representative if any, the SAHB, the [assistant vice president executive director](#) for human resources, and the administrator whose decision is being appealed. The decision of the President or his or her designee is final.

#### **D-3. Other Procedures.**

**a.** Hearings, generally, are held in Moscow. Employees who use the appeals process whose work locations are not in Moscow may request the chair of the SAHB to arrange for a video or telephone conference assisted

## UI FACULTY-STAFF HANDBOOK

### Chapter III: EMPLOYMENT INFORMATION CONCERNING FACULTY AND STAFF Section 3860: Grievance Procedures for University of Idaho Classified Employees 2006 (editorial)

---

hearing for the convenience of the employee appealing or, when feasible, to move the hearing to the location where the employee works.

**b.** Scope of SAHB's Authority. The SAHB has no authority to declare a statute or regulation unconstitutional or to interpret a statute or regulation. In all appeals, the SAHB shall determine whether the employee has proven the matter at issue by a preponderance of the evidence.

**c.** Closed Hearing. Every hearing shall be closed and only those participating may attend, unless the parties agree otherwise in writing. A party may be represented by a person of his or her choice. The representative may be an attorney.

**d.** UI shall provide the employee with all records relied on in making the decision being appealed.

**e.** The chair of the SAHB, in consultation with the parties and except as provided in this policy, shall have the authority to set rules to govern the conduct of the appeal process and hearing. The hearing itself shall be conducted in an informal manner. The chair of the SAHB, with or without objection, may exclude evidence that is irrelevant, unduly repetitious, or protected by a privilege recognized in the courts of Idaho. All other evidence may be admitted if it is of a type commonly relied upon by prudent persons in the conduct of their affairs.

**f.** Settlement negotiations are confidential and shall not be disclosed, unless all participants in the negotiation agree to the contrary in writing. Facts disclosed, offers made, and all other aspects of settlement negotiations (including agreements reached) are not part of the file maintained by HR following a hearing. *[ed. 9-06]*

**g.** If the employee fails to appear at the hearing, the chair of the SAHB shall dismiss the employee's appeal. Such dismissal may be rescinded only for good cause shown as determined by the chair of the SAHB.

**h.** The SAHB chair has responsibility for retrieving all documents used in the hearing process from all members of the SAHB and the UI. The chair shall deliver the documents used in and generated by the hearing process to HR. HR shall maintain a complete set of these documents for seven (7) years from the date of the decision of the President and thereafter shall destroy them. *[ed. 9-06]*

**D-4.** This policy shall be liberally construed to secure just, speedy and economical determination of all issues presented. The Idaho Rules of Civil Procedure and the Idaho Rules of Evidence do not apply to these proceedings.

(Forms on next two pages.)

**UI FACULTY-STAFF HANDBOOK**

Chapter III: EMPLOYMENT INFORMATION CONCERNING FACULTY AND STAFF  
Section 3860: Grievance Procedures for University of Idaho Classified Employees  
2006 (editorial)

---

**Problem Solving Request Form**

**This form should be filed within 10 working days after the events that the employee would like resolved.**

Date \_\_\_\_\_ Department \_\_\_\_\_

Employee Seeking Problem Solving \_\_\_\_\_

Employee's Job Title \_\_\_\_\_

1. I seek resolution of the following job-related matter(s): (Attach additional sheets if necessary)

2. My suggested solution(s) is/are: (Attach additional sheets if necessary)

3. I wish the following people to attend problem-solving meetings: (Please include name and telephone number)

**Employee's signature and date**

\_\_\_\_\_  
Signature

| Please file this form with the ~~assistant vice president~~ **executive director** for human resources by hand delivery or first class mail to HR, University of Idaho, Moscow, ID 83844-4332. [ed. 9-06]

**UI FACULTY-STAFF HANDBOOK**

Chapter III: EMPLOYMENT INFORMATION CONCERNING FACULTY AND STAFF  
Section 3860: Grievance Procedures for University of Idaho Classified Employees  
2006 (editorial)

---

**Employee Grievance and Appeal**

*This form may be used for appeals being filed pursuant FSH 3860 (classified employees) or FSH 3890 (non-faculty exempt employees).*

Date \_\_\_\_\_ Department \_\_\_\_\_

Employee's Name and Title \_\_\_\_\_

Please indicate whether you are a Classified or a Non-Faculty Exempt employee: \_\_\_\_\_

Name and Title of Person (s) Grievance is being filed against \_\_\_\_\_

Brief Description of Employee's duties (or attach HR position description): *[ed. 9-06]*

State the decision being appealed:

State grounds for appeal (use additional sheet if required):

When completing this section of the Staff Employee Grievance and Appeal of Due Process Final Decision form, please attach a copy of the applicable policy or regulation (Faculty-Staff Handbook). Also include any relevant documentation or references that support your grievance.

Requested Action:

Will you be represented in this proceeding Yes \_\_\_\_\_ No \_\_\_\_\_

If you will be represented provide person's name and telephone number.

Unless the employee requests otherwise, the Staff Affairs Committee/ Staff Affairs Hearing Board will send all correspondence and notices regarding this matter to an employee's representative. If you wish to have all correspondences and notices sent to you, the employee, rather than your representative please state so.

Employee's Signature and date:

\_\_\_\_\_

Staff Affairs Hearing Board Chair's signature and date:

\_\_\_\_\_

Completed Staff Employee Grievance and Appeal of Due Process Final Decision forms must be submitted to Human Resources either in person or by mail. The HR mailing address is: PO Box 444332 Moscow, ID 83844-4332. An appeal from a decision made under the Due Process Procedure (FSH 3860) must be received or postmarked within 10 working days after receipt of the written notice of Final decision being appealed. The notice of final decision is deemed received on the date personally delivered or three working days after deposited in the United States mail, postage prepaid. *[ed. 9-06]*