



## APPEAL PROCEDURES POLICY

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### Purpose

The purpose of this policy is to provide a uniform process through which employees may present appeals and to define the procedures for resolving appeals from non-faculty employees. This policy aims to assist in maintaining a productive work environment and preventing minor complaints or problems from becoming major concerns.

### Nondiscrimination Policy

It continues to be the policy of Georgia Southern University to implement affirmative equal opportunity to all employees, students, applicants for employment or admission, and participants in any of the University's programs without regard to race, color, sex, sexual orientation, national origin, religion, age, veteran status, political affiliation, or disability. Additionally, a person's status with Georgia Southern University shall not be adversely affected in any way as a result of using or participating in these procedures as a complainant, respondent, witness, advisor, panel chair, or hearing panelist, nor shall any retaliatory actions taken against such persons using or participating in these procedures be tolerated. Allegations or retaliatory actions should be reported to the Equal Opportunity & Title IX Office.

### Definitions

**Appeal:** An appeal is an inquiry by an employee alleging violation of University policies with regard to suspension, demotion or termination of employment. Reprimands, merit increases or performance evaluations are not eligible for the appeal procedure since they do not involve suspension, demotion or termination of employment.

**Non-faculty employee:** Any person employed by Georgia Southern University in a staff position. Independent contractors and volunteers are not considered employees. Grievances from faculty are not within the purview of this policy, except for grievances unrelated to faculty status by employees who hold faculty rank. Employees occupying an EagleTemps position are temporary in nature and thus cannot avail themselves of this appeal procedure.

**Dismissal:** End of employment, generally involuntary or for cause. All supervisors are encouraged to follow a progressive discipline process prior to termination for cause; however, there are certain matters that warrant immediate termination. An employee may not appeal his/her termination during their provisional, 180 day period of employment.

**Demotion:** A decrease in the duties and responsibilities assigned to an employee and a downward change in his/her classification and salary range. A demotion can also be defined as a reassignment of duties to a lower level of pay or responsibility even if there is not a change in the employee's job title or position. Involuntary demotions may occur if work is eliminated, abolished or reorganized, as a disciplinary action or if an employee is unable to perform the work satisfactorily.

**Suspension:** A period of time during which the employee is not allowed to work and for which the employee will receive no compensation when it has been determined that the employee's performance of duty or personal conduct is unsatisfactory. A suspension may occur as part of a Progressive Disciplinary Process or as part of an investigation.

## Policy

1. Georgia Southern University is committed to providing a good working environment for all of its employees. Conflicts and disagreements between employees and their supervisors are inevitable. It is the policy of Georgia Southern University to resolve these disputes fairly, and at the lowest possible level. When these conflicts or disagreements occur, employees should first attempt to resolve them through discussion with their supervisor except in cases where the supervisor is alleged to be the perpetrator of harassment or retaliation. However, while attempting to resolve conflict, employees must follow their supervisors' orders, even if they disagree with them, unless the orders are clearly illegal or unsafe, in which case the matter should be taken immediately to the next higher authority.
2. **Informal Resolution Process and Alternative Dispute Resolution (ADR).** 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 or second level of authority. Most disputes should be resolved at one of these levels, and Georgia Southern University encourages the use of the informal methods of dispute resolution. If those efforts are unsuccessful or inappropriate, employees have several other options for resolution of the problem. Employees may avail themselves of the Associate Vice President for Human Resources and/or the Director of the Equal Opportunity & Title IX Office, including the use of the Georgia Southern University Mediation Program at any time to resolve the dispute.

If the dispute cannot be resolved through the efforts outlined above, the parties may be referred to the Mediation Coordinator to discuss whether mediation is an appropriate means for resolving the dispute. Mediation is a process that helps people resolve disputes for themselves in a mutually acceptable way in which everyone involved in the dispute meets with one or more trained mediators. In a private setting, the mediator provides an orderly, simple process for the parties to discuss their dispute along with their feelings, perceptions and needs. The goal is to communicate and move towards resolving the dispute in a manner agreeable to all.

If the parties are unable to informally resolve the dispute, they do not wish to pursue mediation or they are unsuccessful in resolving the dispute through mediation, the Dispute Resolution Coordinator in Human Resources will advise the person raising the dispute of what other resources may be available.

3. **Harassment, Discrimination, and Retaliation.** The processes in this policy should not be used when alleging harassment, discrimination, or retaliation based on race, color, sex, national origin, religion, age, sexual orientation, or disability. Such complaints (including all complaints of sexual harassment) should be filed with the Equal Opportunity & Title IX Office. The Equal Opportunity & Title IX Office investigates such complaints and handles their resolution with the appropriate regard for confidentiality.
4. The appeal process will **not** be available to dispute the following:
  - a. Performance evaluations
  - b. Hiring decisions
  - c. Classification appeals
  - d. Challenges to grades or assessments
  - e. Challenges to salary decisions
  - f. Challenges to transfers or reassignments
  - g. Human Resources Policies and Procedures
  - h. Termination or layoff because of lack of work or elimination of position
  - i. Investigations or decisions reached under the institution's Harassment Policy, and
  - j. Normal supervisory counseling
5. **Scholarly or Research Misconduct** – Appeals of findings applicable to scholarly or research misconduct are described by the Policy on Scholarly Misconduct codified by Section 404 of the Faculty Handbook and such appeals are not applicable under this policy.
6. An employee may file an appeal only if:
  - a. The employee has been suspended; or
  - b. The employee has been terminated; or
  - c. The employee has been involuntarily demoted, or their salary has been reduced.
7. An employee may not file an appeal, even in the above circumstances, if:
  - a. The discharge occurred during an employee's 180 day provisional period;
  - b. They have been adversely affected by a reorganization, program modification or financial exigency (such employees may apply to the Board of Regents for review);
  - c. The issue underlying the appeal is a charge of discrimination on the basis of race, color, sex, national origin, age, sexual orientation, disability or religion. Such charges should be directed to the Director of the Equal Opportunity & Title IX Office;
  - d. The issues being appealed have been previously heard by an administrative panel on campus.

### **Procedure**

An employee may file an appeal by completing an appeal form or by contacting the Department of Human Resources for a copy of the form.

- A. Unless there is good cause for delay, an appeal must be filed within **ten (10) working days** of receiving notice of demotion, suspension or discharge, or after ending the informal process without resolution, whichever date is later. Filing is made by hand delivering or mailing by first class mail, postage prepaid, to the Associate Vice President

for Human Resources, P.O. Box 8104, Statesboro, GA 30460. Filing shall be deemed received on the date of hand-delivery or postmark.

- B. The appeal must be in writing and shall state, at a minimum, the decision being appealed, the grounds for the appeal, and the action requested.
- C. Upon receiving the appeal, the complaint will be reviewed to determine if it is actionable under the Appeals Procedure. If the complaint is not appealable, it will be returned to the employee. If it is appealable, the Associate Vice President for Human Resources shall provide a copy of the appeal to the administrator whose decision is being appealed. The Associate Vice President for Human Resources will then appoint three current members of the Board of Review randomly selected from the Board of Review Pool and designate one person as the chair.

Current members of the Board of Review are required to participate in periodic training sessions conducted by the Office of Legal Affairs to ensure their understanding of the process of handling appeals. Supervisors shall provide members of the Board of Review paid time away from their jobs to attend these periodic training sessions and other meetings associated with handling an appeal under this policy.

- D. **Filing of Documents:** Once an appeal is referred to the chair of the Board of Review, all documents shall be filed directly with the chair of the Board during the pendency of the grievance. Copies of all documents submitted shall be provided to the staff member and the administrator who made the decision being appealed.
- E. **Setting of Hearing:** Within ten (10) working days after receiving the appeal from HR, the chair of the Board of Review 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.
- F. **Support Person:** An employee may be accompanied by an advisor, who may be an attorney, work colleague, support person, etc. A support person is someone who accompanies the employee to hearings or interviews and/or assists the employee in preparing for meetings, keeping track of documents, etc., but in no way represents the employee. Support persons may not participate in the hearing. A witness or support person who feels they have been retaliated against by serving as such person should contact the Associate Vice President for Human Resources.
- G. **Recommendation of the Board of Review:** Following the hearing process and any additional fact-finding, the Board of Review shall issue a written recommendation to the appropriate Vice President or his or her designee within ten (10) working days after the hearing is concluded.
- H. The Vice President or his or her designee shall issue a final written, institutional decision to the employee within ten (10) working days after receipt of the recommendation. A copy of the decision shall be provided to the employee, the Board of Review, the

Associate Vice President for Human Resources, and the administrator whose decision is being appealed.

- I. **Application to the Board of Regents for Discretionary Review:** Pursuant to Policy 8.6 Applications for Discretionary Review in the Board of Regents Policy Manual, if the employee disagrees with the final institutional decision, he or she may apply to the Board's Office of Legal Affairs for a review of the decision. Review of the decision is not a matter of right, but is within the sound discretion of the Board's Office of Legal Affairs. The employee's application must be made in writing to the Board's Office of Legal within twenty (20) **calendar** days of the final institutional decision. Applications for review should be limited to instances in which an employee is terminated, demoted, or otherwise disciplined in a manner which results in loss of pay. An application may be reviewed if (1) the record suggests that a miscarriage of justice might reasonably occur if the application appeal is not reviewed, or (2) whether the record suggests that the institutional decision, if not reviewed, might reasonably have detrimental and system-wide significance. If the application is granted, a designated Committee consisting of the Vice Chancellor for Legal Affairs or his or her designee, the Vice Chancellor for Academic Affairs or his or her designee, the Vice Chancellor for Human Resources or his or her designee, and any other person or persons deemed appropriate by the Committee will review the decision. The Board of Regents Organization and Law Committee retains the authority to review the decision of the Committee.

**Other Procedures for Initial Employee Appeals:**

- A. Hearings are held on campus.
- B. Scope of Board of Review. The Board has no authority to declare a statute or regulation unconstitutional or to interpret a statute or regulation. In all appeals, the Board of Review 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 and their support persons may attend, unless the parties agree otherwise in writing. The chair of the Board of Review has the option to limit the number of witnesses to avoid redundant testimony.
- D. The Chair of the Board of Review shall have the authority to set rules to govern the conduct of the hearing. The hearing itself shall be conducted in an informal manner. Legal rules of evidence shall not apply. The Chair of the Board of Review, with or without objection, may exclude evidence that is irrelevant, unduly repetitious, or confidential in nature. All other evidence may be admitted if it is of a type commonly relied upon by prudent persons in the conduct of their affairs.

- E. If the employee fails to appear at the hearing, the Chair of the Board of Review shall dismiss the employee's appeal. Such dismissal may be rescinded only for good cause shown as determined by the chair of the Board.
  - F. The Chair has the responsibility of retrieving all documents used in the hearing process from all members of the Board of Review. The Chair shall deliver the documents used in and generated by the hearing process to Human Resources. Human Resources shall maintain a complete set of these documents for seven (7) years from the date of the decision of the Vice President and thereafter shall destroy them.