

Personnel Grievance Policy and Procedures

Effective May 1, 2021

POLICY STATEMENT

Clark encourages employees and managers to resolve any employment-related disputes on an informal basis. Clark recognizes that not all disputes can be resolved informally and has established the procedures set forth below to deal with some of those issues. No employee will be retaliated against because he/she has sought resolution of a problem through the grievance procedures.

PROCEDURES

It is important that employees are treated fairly and receive prompt responses to problems and concerns. For this reason, the University provides a personnel grievance procedure to promote prompt and responsible resolution of issues raised by faculty, staff and administrators. This procedure may be used freely without fear of retaliation, and the Office of Human Resources is available to assist throughout the procedure. The process outlined below should be used if an individual disagrees with a supervisor's action including any disciplinary action. If the problem involves Harassment and Discrimination, Sexual Harassment and/or Discrimination, reference to those policies should be made to initiate a complaint. When unsure which policy applies, contact should be made with the Director of Human Resources or the Chief Officer of Diversity and Inclusion for assistance.

ISSUES SUBJECT TO GRIEVANCE

Employees *may use* the Grievance Procedures to address the following:

- Alleged violation, misinterpretation, or inequitable application of a personnel policy or procedure affecting an individual.
- Alleged discrimination in violation of Clark's [Harassment and Discrimination Policy](#).
- Disciplinary actions, including warnings placed in an individual's personnel file, and termination for cause.

ISSUES NOT SUBJECT TO GRIEVANCE

Employees *may not use* the Grievance Procedures to address the following:

- Terminations related to reductions in force (unless the terminations are alleged to be discriminatory in intent or effect) or to expiration of temporary or externally funded grants or contracts

- Disagreement with Clark personnel policies and procedures (unless the policies or procedures are alleged to affect an identifiable class of employees in a discriminatory manner)
- Issues appropriately addressed under other Clark policies including, but not limited to, tenure/promotion decisions, Title Complaints, Bias Incident reports, or disputes subject to a Collective Bargaining Agreement will not be reviewed under these grievance procedures.

STEP ONE: Discuss Complaint with Immediate Supervisor

The University encourages informal resolution of complaints. An employee who believes he or she has a grievance may request a review by submitting a written grievance statement to the employee's direct supervisor. This must be done within 30 days following the event on which the grievance is based. The grievance statement must identify the policy or procedure that the employee claims has been violated, the events or circumstances that lead the employee to that conclusion and the remedy or relief requested. Copies of the statement, related correspondence, and documentation should be forwarded by the employee to the Director of Human Resources. If the grievance alleges that the Harassment and Discrimination policy has been violated, the statement, related correspondence and documentation should also be sent to the (Chief Officer of Diversity and Inclusion).

The supervisor is responsible for considering all of the relevant facts and circumstances presented and for providing the employee with a written response within seven (7) working days of receipt of the grievance statement. Copies of the response should be sent by the supervisor to all persons who received copies of the grievance statement.

If the complaint is not resolved as a result of this discussion, or such a discussion is not appropriate under the circumstances, proceed to Step Two.

Note: If the immediate supervisor is considered a member of [Senior Leadership](#), Steps Two and Three should be bypassed and the complaint submitted directly to the Director of Human Resources who will send a copy to the Executive Vice President of the University and schedule a meeting for employee, the Director of Human Resources and the Executive Vice President or his/her designee.

STEP TWO: Prepare and Submit a Formal Written Complaint

If the employee is not satisfied with the supervisor's response, the employee may, within ten (10) working days following receipt of that response, file a written request for review of the grievance with [the division's vice president.] The employee must provide copies of the request for review, the original grievance statement, and the supervisor's response. The vice president reviewing the grievance will provide the employee with a written response, with copies to all concerned parties, within thirty (30) days of receipt of the request for review.

If the complaint is not resolved to the employee's satisfaction, they may proceed to Step Three.

STEP THREE: Submit Written Request for Further Review

If not satisfied with the Step Two decision, within ten (10) working days following receipt of that decision the employee may submit a written request for further review, with copies to all concerned parties, to the Director of Human Resources. The request must include copies of all related correspondence. The Director of Human, or designee, will meet with the employee and the supervisor and / or the appropriate department head.

If the grievance alleges a violation of the Harassment and Discrimination policy, the [Chief Officer of Diversity and inclusion], or designee, will attend the meeting. During this meeting, the employee and the supervisor and/or department head will be allowed to make statements, outlining the issues presented by the grievance and addressing the relief or remedy being sought. Within fifteen (15) working days after completion of the hearing, the Director of Human Resources will provide a written decision to all concerned parties and that decision shall be final.

If the grievance alleges a violation of the Harassment and Discrimination policy, the Director of Human Resources will consult with the Chief Officer of Diversity and Inclusion before finalizing the decision. If the Director of Human Resources and the Chief Officer of Diversity and Inclusion do not agree on the outcome of the grievance, they will present the issue to the President, who will decide how to respond to the grievance.

GENERAL POLICIES CONCERNING GRIEVANCES:

The time limits above are subject to modification. Parties will be notified of any anticipated changes to the time line. The Executive Vice President shall have final authority to resolve any disputes regarding the implementation of this Complaint Procedure, including determination of the appropriate decision makers.

Any decision made as a result of a formal grievance will apply only to the employee who submitted the grievance and will not serve as a precedent for establishing or changing any policy or procedure.

Employees are expected to exhaust the remedies available to them through the University personnel grievance procedures prior to instituting any proceedings regarding the subject matter of the grievance in any state or federal court or agency. If, prior to or subsequent to commencing a complaint under the personnel grievance procedure, a complainant files a related claim with a state or federal court or agency, Clark reserves the right to discontinue the personnel grievance proceedings if, in its judgment, it determines that continuation either will not conclude the case or will be unnecessarily duplicative.

Employees are expected to comply with, and will be bound by, the time limits specified for each level of the grievance proceedings. Failure to comply with applicable time limits may result in a refusal to consider the grievance. Extensions may be granted when justified by the complexity of the case or by the unavailability of individuals involved.

OTHER CONSIDERATIONS:

- **Duty of Honesty:** All Parties and witnesses are obligated to be completely honest during the course of the entire process set forth in the Personnel Grievance Policy. Any person who knowingly makes a false statement – either explicitly or by omission—in connection with any part of the process may be subject to separate University disciplinary action.
- **Duty of Cooperation:** All Parties and witnesses are obligated to cooperate with any person charged with implementing the Personnel Grievance Policy. Any person who knowingly interferes with the actions taken to implement the reporting, investigation, or resolution of matters under the Personnel Grievance Policy may be subject to separate University disciplinary action.
- **Respect for Privacy:** The University values the privacy of individuals involved in the reporting, investigation, and/or resolution of matters. There are situations in which it may be necessary for the University to override a request for privacy or confidentiality. In the event circumstances result in the University overriding a request for privacy or confidentiality, the University will do so with the utmost sensitivity and respect to the circumstances and the individuals involved.
- **Prohibition Against Retaliation:** The University will not tolerate retaliation in any form against any persons for their participation or involvement in the reporting, investigation, and/or resolution of matters subject to the Personnel Grievance Policy. The University will take appropriate steps to prevent and/or address retaliatory conduct immediately. The University includes retaliation in its definition of prohibited conduct under this Policy, as well as the University's general prohibition on retaliation.