

LAMAR UNIVERSITY
MANUAL OF ADMINISTRATIVE POLICIES AND PROCEDURES

SECTION: Human Resources
AREA: Conditions of Employment

EMPLOYEE GRIEVANCES	MAPP 06.05.06
<p>Statutes, References, and Best Practices: TSUS Rules and Regulations (Aug. 2023) 2.14, 4.51 (1-9) TSUS System Administration Personnel Policy Handbook (Sep. 2014) 1.1, 12.5, 12.6, 12.7, 12.8, 12.9, 12.10, 12.11 Texas Education Code §51.942 (SB-18) Texas Education Code §51.960 Texas Government Code §554.002 Texas Government Code §617.005</p>	

I. POLICY

Lamar University's policy is to encourage and promote prompt, fair, and equitable resolution of work-related issues. This policy and process have been established to resolve matters of disagreement regarding wages, hours of work, working conditions, performance evaluations, merit raises, job assignments, reprimands, or the interpretation or application of a rule, regulation, or policy. ^{TSUS SAPP 11.1}

II. PURPOSE

This Lamar University policy aims to promote fair, efficient, and equitable solutions for problems arising out of the employment relationship and to meet the requirements of State and federal law.

III. DEFINITIONS

Grievance: A formal written statement of a complaint arising from the employment relationship, together with a recommendation for resolution of the complaint.

Grievance Intake Officer: The Lamar University President's designee who accepts formal written grievances from employees or related to an employee's actions and refers the formal grievance to the administrator responsible for review and action.

Regular Employees: All part-time and full-time employees of Lamar University, including faculty, staff, and student workers. Building contractors and subcontractors are not considered regular employees.

IV. PROCESS

- A. Grievances: Lamar University establishes this process for grievances concerning an employee's wages, work hours, or work conditions. This grievance process shall not involve formal hearings. Lamar University shall use this grievance process, in compliance with the TSUS grievance process, except for grievances pursuant to *Faculty Grievances of Non-renewal or Termination of Employment or Termination and Due Process Procedures*.^{TSUS R&R 2.14}
1. Process: Every employee of Lamar University, individually or through a representative that does not claim the right to strike, shall be entitled to present grievances concerning such employee's wages, hours of work, or conditions of work to a Grievance Intake Officer designated by the President. Such grievances shall not involve formal hearings.^{TGC §617.005, TSUS R&R 2.141}
 2. Grievances involving allegations of discrimination: The Grievance Intake Officer shall refer such claims to the office specifically charged with hearing discrimination claims.^{TSUS R&R 2.142}
 3. For all matters involving sexual misconduct, the Texas State University System Sexual Misconduct Policy controls.^{TSUS 2.143}
 - a. All reports of sexual misconduct shall be reported to the Title IX office via the online [Title IX-Sexual Misconduct Incident Report](#) found at the LU Title IX webpage.
- B. A concern regarding a possible violation of the following TSUS policies should be handled in accordance with those policies:^{TSUS SAPP 1.1}
- ⌚ *Equal Employment Opportunity (Section 4);*
 - ⌚ *Prohibition on Harassment, Discrimination and Inappropriate Conduct (Section 12);*
 - ⌚ *Workplace Accommodations (Section 13); and*
 - ⌚ *HIV/AIDS in the Workplace (Section 14.4).*
- C. Employees will not be penalized or disciplined for their participation in the grievance process, whether on their behalf or behalf of another employee, if the actions are taken in good faith.^{TSUS SAPP 1.1}
- D. This process is available to all regular employees.^{TSUS SAPP 1.1}
- E. Lamar University may not, by contract, policy, or procedure, restrict a faculty member's right to present a grievance under the Texas Education Code, Title 3 Higher Education, Chapter 51 Provisions Generally Applicable to Higher Education.^{TEC §51.960}

1. Lamar University may adopt a method for presenting, reviewing, and acting on a grievance filed under this State law's section.
- F. Employment is "at-will," and nothing in this Section or the establishment of a grievance policy and process shall be construed as limiting or modifying the "at-will" status of employees or otherwise creating an entitlement to future employment. TSUS SAPPH 1.1
- G. A grievance will not necessarily delay a disciplinary personnel action or other actions which may be related to the subject matter of the grievance. The President or his designee may suspend a grievance until related legal or enforcement agency actions have been resolved. TSUS SAPPH 1.1

V. PROCEDURE

- A. All grievances should be discussed with your supervisor within **ten workdays** from the date of the issue. If your supervisor is the subject of your complaint, you should address it with their supervisor. TSUS SAPPH 1.1
- B. If your supervisor does not satisfactorily resolve the complaint within **ten workdays**, you may present the complaint, this time in writing, within the **next ten workdays** for further consideration and action. File your report via the online [Formal Grievance Form](#) found at the LU Human Resources webpage. TSUS SAPPH 1.1
 1. The written complaint must be identified as a formal grievance and explain your specific concern(s), including;
 - a. Date(s) of action at issue pertaining to the grievance,
 - b. Thorough narrative of the events,
 - c. List any witnesses or parties involved and statement of anticipated testimony,
 - d. List related policies, procedures, or statutes that may apply,
 - e. List and provide documents that may support your claim,
 - f. List all grievances related to the issue,
 - g. Explain how and when you discussed the issue with your supervisor or their supervisor,
 - h. Include what you believe is a satisfactory resolution of the issue.
 2. The Grievance Intake Officer will review the complaint for merit and determine the appropriate administrator for review and action.

3. A written confirmation will be provided to you within **five workdays** of receipt of the complaint via the link provided.
 - a. If the complaint is delivered to the Grievance Intake Officer outside of the online form, a written receipt will be sent within a reasonable time, not to exceed **ten workdays**.
 - b. A written decision will be provided to you within a reasonable time, not to exceed thirty calendar days, upon receipt of the complaint by the appropriate administrator.
 - c. Additional time may be granted by the Grievance Intake Officer if an investigation is warranted or if more time is requested by the administrator or other designee reviewing the grievance.

- C. If you wish to appeal the decision of your filed grievance, you may provide the next level above a written appeal stating why you believe the initial decision is incorrect. ^{TSUS SAPP 1.1}
 1. An appeal must be submitted within **ten workdays** of receipt of the initial written decision.
 2. A written decision will be provided to you by the final decision maker within a reasonable time, not to exceed thirty calendar days, following receipt of the appeal.
 3. The appeal decision is final, whether a formal complaint or an appeal.

- D. The written complaint and all decisions or responses regarding it will be placed in your Human Resources personnel file. ^{TSUS SAPP 1.1}

- E. Unprofessional Conduct: Unprofessional conduct is behavior that a reasonable person in a professional office setting would find inappropriate, rude, or offensive but does not meet the definition of unlawful harassment. It may include; ^{TSUS SAPP 12.5}
 1. Persistent attempts to humiliate someone through insults or name-calling, destructive innuendo and sarcasm, rumors and gossip, or intimidating behavior such as shouting, blocking someone's exit, or banging a desk.
 - a. Constructive criticism and legitimate supervisory actions relating to performance deficiencies or other workplace issues are generally not considered unlawful harassment or discrimination.
 2. Failure to work efficiently or effectively. ^{TEC §51.942 (SB 18) & TSUS RR 4.51(1)}

3. Insubordination. ^{TEC §51.942 (SB 18) & TSUS RR 4.51(2)}
4. Serious professional or personal misconduct; examples include but are not limited to: ^{TEC §51.942 (SB 18) & TSUS RR 4.51(3)}
 - a. Conduct involving moral turpitude that adversely affects the institution or the member's performance of duties or meeting of responsibilities;
 - b. Failure to secure and maintain Federal, State, or local permits required in the discharge of teaching, research, or other professional duties, including failure to maintain appropriate documentation;
 - c. Willful destruction of Lamar University property or violent disruption of the orderly operation of the campus;
 - d. Violation of the System's ethics policy (Chapter VIII of the TSUS Rules and Regulations), including acceptance or solicitation of gifts that might tend to influence the discharge of one's professional responsibilities;
 - e. Stealing and publishing as one's own the intellectual property of another;
 - f. Misuse or misappropriation of State property, resources, funds, including funds held by a faculty member as part of official duties;
 - g. Sexual harassment, as defined by Subparagraph 4.4 of Chapter VII of the TSUS Rules and Regulations, and,
 - h. Racial harassment as defined by Subparagraph 4.3 of Chapter VII of the TSUS Rules and Regulations.
 - i. Violations of any State or federal law or any provision of the TSUS Rules and Regulations substantially related to the performance of one's duties;
 - j. Conviction of a crime affecting the fitness of the employee to engage in teaching, research, service, outreach, or administration; and,
 - k. Falsifying the employee's professional or academic credentials.
5. Professional incompetence and/or neglect of professional duties; ^{TEC §51.942 (SB 18) & TSUS RR 4.51(4)}
6. Mental or physical disablement of a continuing nature adversely affecting to a material and substantial degree of the performance of duties or the meeting of responsibilities to the institution, or to students and associates; ^{TEC §51.942 (SB 18) & TSUS RR 4.51(5)}
7. Illegal use of drugs, narcotics, or controlled substances: An employee who, by a preponderance of the evidence, under TSUS Rules and Regulations, is found to have illegally possessed, used, sold, or distributed any drug, narcotic, or controlled substance, whether the infraction is found to have occurred on or off campus, shall be subject to termination, suspension or other discipline as determined by the President or the President's designee. ^{TEC §51.942 (SB 18) & TSUS RR 4.51(6)}

- a. That an employee is charged in a criminal case or is found "not guilty" therein, shall not be construed as prohibiting administrative enforcement of these Rules and Regulations.
 - b. If, in the judgment of the President or the Board of Regents, the best interests of the students or Lamar University so dictate, the employee may be immediately removed from contact with students and other employees, pending resolution of disciplinary proceedings.
8. Intentionally or knowingly violating any Board or administrative order, rule, or regulation, including the provisions of Chapter V, Subparagraph 2.134 of the TSUS Rules and Regulations. TEC §51.942 (SB 18) & TSUS RR 4.51(7)
 - a. The employee is presumed to have knowledge of such Board or administrative order, rule, or regulation published in the TSUS Rules and Regulations or is a published policy of Lamar University.
9. Continually or repeatedly failing to perform duties or meet professional responsibilities of the employee's position; TEC §51.942 (SB 18) & TSUS RR 4.51(8)
10. Failing to complete any professional development program or performance improvement plan successfully. TEC §51.942 (SB 18) & TSUS RR 4.51(9)
- F. Prohibition on Retaliation: Lamar University will not retaliate, nor will it tolerate retaliation, against employees who report, assist in making complaints, or cooperate in investigations of harassment, discrimination, or inappropriate conduct under this policy. Retaliation is illegal and a violation of this policy, and any individual who is believed to have violated the prohibition against retaliation will be subject to discipline, up to and including termination. TGC §554.002, TSUS SAPPH 12.6.
- G. False Complaints: False and malicious complaints, as opposed to complaints which, even if unfounded or in error, are made in good faith, will subject the individual making the complaint to appropriate disciplinary action, up to and including termination. TSUS SAPPH 12.7
- H. Reporting: In order to stop illegal and offensive conduct, and to protect the victim, employees or applicants for employment who believe they have been discriminated against, harassed, or subjected to inappropriate conduct must report it as soon as possible. TSUS SAPPH 12.8
 1. Every person who reports a suspected violation will be treated professionally and respectfully. The report may be made to a supervisor, Vice President, Department Chair, Dean, or the Human Resources Department.

- a. *An employee does not need approval to contact a Vice President directly regarding a complaint made under this policy.*
 - b. *Under no circumstances is an individual required to make a report to the person accused of the policy violation.*
 - c. Supervisors or Vice Presidents receiving policy violation reports will notify the President's Designee immediately.
2. Prompt reporting is essential. Early reporting and intervention can be one of the most effective methods of resolving actual or perceived policy violations. If Lamar University receives current information, the investigation process greatly benefits, as witnesses generally have fresher recollections of relevant facts.
- I. Investigations: Allegations of harassment, discrimination, or inappropriate conduct will be thoroughly and promptly investigated. An investigation generally will include interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge. TSUS SAPPH 12.9
 1. All Lamar University employees have a duty to cooperate in any investigation of alleged harassment, discrimination, or inappropriate conduct.
 2. Deliberately providing false information or refusal to cooperate during an investigation is grounds for disciplinary action, including termination.
- J. Confidentiality: If any employee or applicant for employment receives or provides information related to an investigation under this policy, they must keep all information confidential. TSUS SAPPH 12.10
 1. Serious disciplinary action, including termination, may result from violating this confidentiality obligation.
 2. Lamar University shall keep, to the extent possible, complaints made under this policy and the terms of their resolution confidential.
- K. Corrective Action: Lamar University will take immediate and appropriate corrective action when it has determined that harassment, discrimination, or inappropriate conduct has occurred. TSUS SAPPH 12.11

VI. REVIEW AND RESPONSIBILITY

Responsible Party: Deputy Chief of Campus Operations – Grievance Intake Officer

Review Schedule: Every three years, on or before September 1.

VII. APPROVAL

Dr. Jaime Taylor

08/24/2023

Lamar University President

Date

Dr. Robert Wagner

08/24/2023

Chief of Operations

Date

REVISION LOG

Revision Number	Date	Description of Changes
1		
2.		

Primary Author: Dr. Héctor A. Flores, Deputy Chief of Operations

August 22, 2023