



# OLD DOMINION UNIVERSITY

## University Policy

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### Policy #6602

### CLASSIFIED EMPLOYEE GRIEVANCE POLICY AND PROCEDURE

**Responsible Oversight Executive:** Vice President for Human Resources

**Date of Current Revision or Creation:** February 14, 2018

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#### A. PURPOSE

The purpose of this policy is to establish the grievance process at Old Dominion University and to ensure compliance with, and implementation of, the Commonwealth's Grievance Procedure for classified employees.

#### B. AUTHORITY

[Code of Virginia Section 23.1-1301, as amended](#), grants authority to the Board of Visitors to make rules and policies concerning the institution. Section 6.01(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.

The [Virginia Personnel Act, Code of Virginia Section 2.2-2900 et. seq., as amended](#), specifies that agency heads shall be the appointing authorities of their respective agencies and shall establish methods of personnel administration within their agencies.

[Commonwealth of Virginia Office of Equal Employment and Dispute Resolution](#)

[Commonwealth's Department of Human Resource Management Policy 1.60, Standards of Conduct](#)

#### C. DEFINITIONS

Adverse Employment Action – Any employment action resulting in an adverse effect on the terms, conditions, or benefits of employment.

Agency Head – The head of the state agency. At Old Dominion University, this is the President.

Arbitrary or Capricious – In disregard of the facts or without a reasoned basis.

Classified Employee - A salaried employee whose terms and conditions of employment are subject to the [Virginia Personnel Act, Code of Virginia Section 2.2-2900 et seq., as amended](#), and who is employed in a classified position.

First-Step Respondent – The immediate supervisor of the employee (the individual responsible for completing the performance evaluation or giving daily work instructions).

Grievance – Written complaint on the Grievance Form stating the nature of the claim, the facts in support of the claim, and the relief requested.

Hearing – A meeting of the parties to a grievance wherein a third party appointed by the Commonwealth’s Office of Equal Employment and Dispute Resolution responds to the grievance.

Hearing Officer – Third party official appointed by the Commonwealth’s Office of Equal Employment and Dispute Resolution who conducts the grievance hearing session and renders a ruling on the grievance matter.

Second-Step Respondent – The Dean or Director.

Third-Step Respondent – The Vice President or comparable senior administrator.

Written Notice – Formal disciplinary documentation that is issued when counseling has failed to correct misconduct or performance problems or when an employee commits a more serious offense. A Written Notice may be accompanied by additional actions including suspension, a demotion or transfer with reduced responsibilities and disciplinary salary action, a transfer to an equivalent position in a different work area, or termination. Written Notices are organized into three groups according to the severity of the misconduct or behavior.

#### **D. SCOPE**

This policy applies to all non-probationary classified employees subject to the provisions of the [Virginia Personnel Act](#).

#### **E. POLICY STATEMENT**

The University and the Commonwealth encourage resolution of employee problems and complaints wherein employees can freely discuss their concerns with immediate supervisors and upper-management levels. It is the policy of Old Dominion University to support employees and management in the fair and prompt resolution of complaints arising in the workplace by properly administering the Classified Employee Grievance Policy and Procedure.

#### **F. PROCEDURES**

When an employee is unable to resolve a complaint informally, he/she can file a formal grievance in accordance with the Commonwealth’s Office of Equal Employment and Dispute Resolution Grievance Procedure Manual.

1. A grievance shall be a complaint or dispute of an employee relating to employment. Not all grievances proceed to a hearing. Only grievances that challenge certain actions qualify for a hearing.
  - a. Actions that ***automatically qualify***
    - i. Formal discipline (a Written Notice)
    - ii. Dismissal for unsatisfactory performance

b. Actions that **may qualify**

The grievance should qualify for a hearing if (i) it claims, and (ii) the facts taken as a whole raise a sufficient question as to whether an adverse employment action has occurred as a result of one or more of the following:

- i. Unfair application or misapplication of state and agency personnel policies, procedures, rules, and regulations.
- ii. Discrimination on the basis of race, color, religion, political affiliation, age, disability, national origin or sex;
- iii. Arbitrary or capricious performance evaluation;
- iv. Retaliation for participating in the grievance process, complying with any law or reporting a violation of such law to a governmental authority, seeking to change any law before Congress or the General Assembly, reporting an incidence of fraud, abuse, or gross mismanagement, or exercising any right otherwise protected by law; or
- v. Informal discipline - for example, terminations, transfers, assignments, demotions, and suspensions that are not accompanied by formal discipline (a Written Notice) but are taken primarily for disciplinary reasons.

c. Actions that **do not qualify**

Claims that relate solely to the following issues do not qualify for a hearing:

- i. Establishment or revision of wages, salaries, position classifications, or general benefits;
- ii. Contents of statutes, ordinances, personnel policies, procedures, rules, and regulations;
- iii. Means, methods, and personnel by which work activities are undertaken;
- iv. Hiring, promotion, transfer, assignment and retention of employees;
- v. Termination, layoff, demotion, or suspension from duties because of lack of work, reduction in workforce, or job abolition;
- vi. Work activity accepted by an employee as a condition of employment or which reasonably may be expected to be a part of the content of the job;
- vii. Relief of employees from duties in emergencies; or
- viii. Informal supervisory actions – for example, interim evaluations, counseling memoranda (including “Formal (Written) Counseling” under the Standards of Conduct), and oral reprimands.

The fact that the claim challenges an action under F.1.c. does not preclude it from qualifying if it would otherwise qualify under F.1.b.

An employee’s grievance must be presented to management within 30 calendar days of the date the employee knew or should have known of the management action or omission being grieved.

2. The grievance procedure consists of four levels:

- a. Management Resolution Steps – Old Dominion University has designated the following management step respondents:

- i. First Resolution Step – Immediate supervisor
    - ii. Second Resolution Step – Dean or Director
    - iii. Third Resolution Step – Vice President or comparable senior administrator
  - b. Qualification for a Hearing – Qualification is determined by the President based upon guidelines provided in the Grievance Procedure Manual.
  - c. Hearing – Conducted locally by a third party appointed by the Commonwealth’s Office of Equal Employment and Dispute Resolution.
  - d. Review of Hearing Decisions – Administrative and judicial reviews are available to the grievant and the agency and are described in the Grievance Procedure Manual.
3. The Commonwealth’s Office of Equal Employment and Dispute Resolution charges a flat-rate fee to an agency for the services of the hearing officer. This fee is paid by the ODU department where the grievant works or worked.
  4. Complete procedures concerning the classified employee grievance process, including definitions of the management steps, prescribed timeframes for action, the hearing and forms are available in the ODU Department of Human Resources or from the Commonwealth’s Office of Equal Employment and Dispute Resolution.

#### **G. RECORDS RETENTION**

Grievance records are retained for five years after the process is closed and then destroyed in compliance with the [Commonwealth’s Records Retention and Disposition Schedule \(General 103, Series 100490\)](#).

#### **H. RESPONSIBLE OFFICERS**

Director of Human Resources for Employee Relations and Strategic Initiatives

#### **I. RELATED INFORMATION**

[Commonwealth’s Office of Equal Employment and Dispute Resolution Grievance Procedure Manual](#)

