

Grievance Policy, Basic

Applies to: All employees not covered by a collective bargaining agreement

Policy Statement:

Situations may occur where an employee believes that the fair and consistent application of a policy affecting him or her has not been followed. In most cases, Dartmouth expects that the employee will be able to satisfactorily address such concerns within his or her work area or group. However, when a recent or continuing problem has not been resolved within a particular work area or group, the College wishes to provide employees an alternative vehicle for doing so. No employee shall be subjected to discrimination or adverse treatment for participating in a grievance procedure.

Definitions or Regulations:

A “basic grievance” is defined as a claim that the College has violated a published policy in the manner in which an employee was treated. Basic grievances do not involve claims of:

Possible discrimination on the basis of race, color, sex (including sexual harassment or sexual orientation), religion, creed, age, handicap, national origin, or status as a veteran. Employees wishing to pursue claims of such discrimination must contact the Office of Institutional Diversity and Equity.

Disputes over salary grades or salary/rate of pay, or disputes over a supervisor’s judgment regarding job performance or professional competence should be brought to the employee’s human resources consultant. Although problems of this nature are not covered by the Basic Grievance Policy, an employee with these concerns is encouraged to discuss them with his/her human resources consultants, department head, division head, or the appropriate contact within the applicable dean or vice president’s office.

The Office of Human Resources will determine whether or not a dispute is within the scope of this policy.

Procedure:

The College’s grievance procedure consists of three steps: (1) Step I–Informal, (2) Step II–Formal, and (3) Step III–Appeal. Each step has its own procedures, as set forth below.

Time Limits

If an employee waits a unreasonable length of time before submitting his or her grievance or proceeding to the next step, the fact-finding process could be difficult and appropriate action inappropriate. As such, employees are strongly encouraged to follow the time

limits set forth below. The chief human resources officer, or his or her designee, may waive the time limits if extenuating circumstances prevent the timely filing of the grievance.

The following time limits apply to this procedure:

Step I – Grievance must be filed within 14 days of the event(s) that lead to the grievance.

Step II –The grievance must be filed at Step II within 14 days of the supervisor’s written response at Step I.

Step III –The grievance must be filed at Step III within 14 days of the written decision of the chief human resources officer, his or her designee, at Step II.

Step I – Informal Step

In many cases, disputes over the application or interpretation of policy can be resolved through communications within a particular department or work area. As such, the first step in the grievance process is a discussion between the employee and the supervisor or the Office of Human Resources. The employee can initiate this step in one of two ways:

- a) Talk with his or her supervisor. The employee should promptly bring the matter to the attention of the immediate supervisor, explaining the nature of the problem and the relief sought. The supervisor should respond within three business days, if possible. If the supervisor provides an oral response to the employee, the supervisor should prepare a written record of the response.

- b) Talk with the Office of Human Resources. If an employee cannot decide whether or not to initiate a grievance or is reluctant to discuss the matter with the supervisor, he/she may seek the advice of the appropriate human resources consultant for the work area who may seek to resolve the issue by discussions with the supervisor. The Office of Human Resources or the supervisor should provide a written response to the employee at the completion of this process.

If the informal procedure fails to resolve the grievance, and the employee wishes to continue the matter, the employee must begin the steps of the formal procedure no later than 14 calendar days after the receipt of the supervisor’s response.

Step II – Formal Step

1. If the matter is not resolved at Step I, the employee may proceed to Step II by submitting a written statement to the chief human resources officer. This statement should outline the relevant facts that form the basis of the employee’s grievance, indicating the College policy that has allegedly been violated, and stating the resolution sought. The statement should also identify the supervisor who was involved at Step I.

2. Upon receipt of the employee's written statement, the chief human resources officer, or his or her designee, will:

a) Advise the employee's department head of the grievance and determine if the Step I procedure was complied with. (If the Step I procedure was not followed, the chief human resources officer or his or her designee will refer the employee back to Step I unless the chief human resources officer determines that such referral is not likely to resolve the matter.)

b) Schedule a meeting with the employee, the department head, and the employee's supervisor. The meeting should be held promptly (if possible within 14 calendar days of receipt of the employee's written statement).

c) Act as chairperson of the meeting, hear both sides of the dispute, render a written decision following the hearing, and provide the parties with copies of the decision.

If the employee wishes, a fellow College employee may accompany him/her to the Step II meeting to provide support. However, this effort at resolution is not to be regarded as an adversarial proceeding and is not subject to the legal procedures of a court of law. The presence of legal counsel at the meeting is not permitted. Note taking is allowed, but tape recording of the meeting is prohibited.

Step III–Appeal

If the employee is unsatisfied with the response from the Office of Human Resources at Step II, the employee can proceed to Step III by submitting a written request to the chief human resources officer, or his or her, designee for a hearing before an appeal committee. A three-member appeal committee shall hear the grievance and provide a written recommendation to the President or the President's designee. Members of the committee shall be chosen as follows:

1. The department head and the employee shall each choose three people (listed in order of preference) from the appeal panel. An "appeals panel" is defined as a standing list of Dartmouth employees, chosen by the President, from which appeals committees are chosen to hear grievances under Step III of this policy. The chief human resources officer shall first identify an appeal committee member from the list submitted by the employee, based on the employee's preference and the availability of the person listed. The second member will be identified in the same manner from the list of persons submitted by the department head.

2. The two committee members selected by the parties in the grievance shall select a third member from the panel to chair the committee. If the two committee members cannot agree on a third member, both shall number in ascending order of preference their respective choices from among all the names on the panel. These numbered lists shall be

given to the chief human resources officer and the person receiving the lowest sum from the two lists shall be appointed to the committee as chairperson.

Members of the appeal committee shall be impartial and are not “representatives” of the party selecting them. If any committee member, in the opinion of that member or the President, has a bias or an interest in the case and is thus impartial, a new person from the panel will replace him or her. This person will be selected in accordance with the above procedures.

3. When the appeal committee has been formed, the chairperson will designate a date and place for a hearing of the grievance. The chief human resources officer will assist the chairperson in the administrative arrangements and will be present at the hearing.

The function of the committee shall be to determine, based upon the facts, whether or not the College followed its policy in the manner in which an employee was treated.

The appeal committee will conduct its hearings under the following guidelines:

- a) Prior to the hearing, the parties to the dispute (the department head and the employee) shall determine with the assistance of the chief human resources officer, or his or her designee:
 - i. Stipulated facts and documents that shall be prepared and transmitted to the committee. (If the parties are unable to stipulate to facts, documents, or issues, both parties can present a list to be transmitted to the committee.)
 - ii. The unresolved issue(s) to be brought before the committee.
- b) The committee shall conduct the hearing in any manner it deems fair and equitable. To ensure a fair hearing, the parties will present all relevant facts directly to the committee and will present witnesses who have direct knowledge of the facts and can offer information about the grievance.
- c) The hearings will be conducted privately. The parties may have any College employee of their choice, who is willing to serve in this capacity, as adviser at the hearing. Such advisers may offer suggestions and comments. However, the appeal hearing is not an adversarial proceeding and is not subject to the procedures of a court of law. The presence of legal counsel at the hearing is not permitted. The committee may request that a tape recording of the proceeding be made. Such recordings may not be used outside the committee.
- d) The committee shall draft a recommendation based on the stipulated facts and the evidence brought forth at the hearing.

4. The written recommendation of the appeal committee will be reported to the President or the President's designee within 15 working days after the conclusion of the hearing.
5. The appeal committee's recommendation will be consistent with College policy and will be advisory to the President, or his or her designee, whose decision will be final and not subject to review under any other grievance procedure in force at the College. Copies of the President's decision will be provided to the employee, the department head, and the chief human resources officer.
6. The College shall not be responsible for expenses associated with the hearing that employee incurs.

Remedies

At each step in the grievance process, the individual representing the College may fashion a remedy that is consistent with his/her authority. If the College determines that as a result of a failure to follow policy the grieving employee had a financial loss, the College may provide compensation to the employee for the loss if he or she signs an appropriate release concluding the matter.

Documentation:

There are no specific documents or forms to be used under this policy. As set forth above, there are a number of places where written communication is required. That communication will typically take the form of a memorandum.