



Title: Grievance Resolution Policy for Professionals and Professional Faculty	
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I. SCOPE

This policy applies to all Professionals and Professional Faculty ("employees") of the College of William and Mary, including the Virginia Institute of Marine Science (the "College").

II. PURPOSE

This policy establishes processes through which employees may have concerns or complaints related to their employment addressed.

III. POLICY STATEMENT

It is the policy of the College to provide an environment where employees can raise and seek resolution to employment-related concerns and complaints, openly discussing them with supervisors without fear of intimidation or retaliation. The College promotes informal, timely, and efficient resolution of employment concerns and complaints by encouraging professionals and supervisors to discuss these matters and to work to address concerns as they are raised. The College also provides a process for employees to ensure that complaints that rise to the level of a grievance are given thoughtful consideration and fair treatment.

Employees will not be penalized or disciplined for raising employment-related concerns, complaints, or grievances in good faith, or for aiding another employee in the presentation of a complaint. (See Section VIII)

Employees who believe that they have been discriminated against in violation of federal or state law or College policy should contact the College's Office of Equal Opportunity. Allegations of discrimination are not covered by this grievance process.

IV. INFORMAL RESOLUTION

An employee who has an employment-related concern or complaint is encouraged to discuss it with his or her supervisor as soon as is practicable and in the spirit of problem solving. If the employee's immediate supervisor is the subject or cause of the complaint, the employee may request a meeting with the immediate supervisor's manager. The employee should be mindful of the need for timely airing of the complaint as well as deadlines related to the filing of a grievance, should they become relevant. (see Section VI(B) below)

Although informal resolution does not require documentation, employees are encouraged to consider the information requirements set out under Section VI(B)(1)(a) and provide the supervisor with the background and details needed to resolve the matter.

If no resolution is reached through informal channels, the employee may:

- file a request for a mediation session with the Office of the Provost (Attachment A); or
- file a formal grievance using the process described herein.



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Another resource for employees is the University Ombuds. The Ombuds is an independent, confidential resource who assists employees in resolving employment-related issues and conflict. The Ombudsperson is available to all employees to discuss concerns and complaints. The Ombuds website is www.wm.edu/offices/ombuds.

V. MEDIATION

Mediation is an alternative for resolving employment -related issues. Mediation is a voluntary process through which a neutral third party assists people in conflict to explore their differences and develop their own solutions to these issues. A decision to mediate an issue does not prevent an employee from initiating a grievance. Where the parties have entered into an agreement to mediate, the time requirements of the grievance procedure may be extended by mutual agreement. The College will provide the resources needed to enter into mediation.

VI. THE GRIEVANCE PROCESS

A. Definition of Grievance; Exclusions

A grievance is complaint made by an employee about a decision, action, lack of action, or the application of a College policy that directly and adversely affects the work activity or professional well-being of the employee and which can be remedied by the College.

Most disputes may be dealt with under this policy; however, the following issues can be grieved through the process outlined below only to the extent the decision, action, or lack of action is arbitrary or capricious or involves an alleged violation of College policy or law:

- Reorganization;
- Reassignment of duties;
- Non-renewal of a contract;
- Performance evaluation;
- Denial of promotion;
- Compensation matters or benefits;
- The contents of established policies, rules, procedures, regulations, ordinances and statutes;
- Work activity accepted by an employee as a condition of employment or that reasonably may be expected to be a duty of the job; or
- Relief of employees from duties in emergencies.



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B. The Grievance Process

The following process is designed to provide a formal structure for handling a grievable complaint. Employees, supervisors, and administrators are encouraged to seek an amicable resolution at any time during this process.

1. *Level One*: If the employee has a concern or complaint that qualifies as a grievance (see Section VI(A) above), and which was not or could not be resolved to his or her satisfaction through the informal process, the employee may submit a written statement of the grievance on the Professional Employee Grievance Form (Attachment B). The employee will submit the form to the supervisor or, if the supervisor is the subject of the grievance, to the supervisor's manager. If informal resolution was used, the employee must submit the form within ten (10) business days of receiving the supervisor's (or the supervisor's manager's) response. If informal resolution is not used, the form should be filed no later than 30 days after the decision or action being grieved occurred or the employee becomes aware of the decision or action.

- a. The employee will provide the following information with the grievance form:
 - the issue being grieved including a clear statement of the facts upon which the complaint is based;
 - any documentary or other evidence in the employee's possession, and a list or description of requested records the employee believes pertinent to the grievance (see Section VII below);
 - an explanation of how the employee has been adversely affected;
 - a copy of any pertinent College policies, contractual agreements or other documents upon which the complainant relies; and
 - a statement of the specific relief sought.

This information will constitute the file. Failure to submit this information may result in the complaint being declared non-grievable.

- b. Within ten (10) business days of receiving the grievance (except as provided below), the supervisor (or the supervisor's manager, as appropriate) will provide the employee with a written response indicating either that:
 - i) the supervisor has determined that the grievance has no merit or is not grievable and the relief sought is denied, which response will indicate the reasons for the determination; or
 - ii) the supervisor has determined that the grievance has merit, the relief to be granted (which may differ from the relief requested by the employee) and the reasons for this determination. If the relief is beyond the authority of the supervisor to provide, the supervisor will notify the employee that further administrative approvals are necessary,



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and will consult with the appropriate College officers or other parties. Additional time will be required in these instances. The supervisor, with input from the employee, will establish a reasonable time by which the relief granted is in place.

If the written response of the supervisor (or other administrator) is satisfactory to the employee, the employee will sign the grievance form indicating conclusion of the grievance. If not, or if the relief granted is not provided by the established time, the employee may proceed to the next level.

2. *Level Two:* If the employee is not satisfied with the resolution at Level One, the employee may advance the grievance to the relevant Dean or Vice President or the Provost ("administrator"), as appropriate. Using the original grievance form, the employee will indicate the nature of his or her dissatisfaction with the Level One resolution, provide any new, relevant information the employee wants the administrator to consider and forward it to the administrator along with the file within ten (10) business days of receiving the written response from the supervisor.

The administrator, or his or her designee, will meet with the employee within ten (10) business days following receipt of the grievance form. The administrator may request the employee's supervisor, or the supervisor's manager if appropriate, to be present. The employee, similarly, may bring an observer of his or her choice from among the College's employees.

The administrator may conclude that the issue is not grievable, which decision is final, or may make a determination on the merits. The administrator will communicate his or her action in writing to the employee within ten (10) business days of their meeting, except as provided below. If the administrator makes a determination on the merits, and decides in favor of the employee, the administrator will also indicate the relief to be provided as well as a reasonable for it to be provided. If the relief is beyond the authority of the administrator to provide, the administrator will consult with the appropriate College officers or other parties. Additional time may be required in these instances.

If the administrator's written response is satisfactory to the employee, the employee will sign the grievance form indicating conclusion of the grievance and forward the form to the Office of the Provost. If the employee is not satisfied with the response, he or she may petition for panel review.

3. *Level Three:* Panel Review

a. *Request:* If the employee is not satisfied with the Level Two resolution, the employee may request a panel review by completing the appropriate section on the Grievance Form B. The employee will provide the following information:

- the nature of his or her dissatisfaction with the administrator's response;
- a list of witnesses to be present at the panel hearing;
- the identification of the observer, if any, to be present at the hearing; and



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- any new relevant documentation supporting the complaint.

The employee will forward the completed form and the file to the Office of Human Resources within ten (10) business days of the administrator's Level Two response. The Associate Vice President for Human Resources shall transmit the file and any other relevant documents, which become part of the file, to the Provost within five (5) business days after receipt.

- b. *Panel Composition and Selection:* A three-member panel will be selected by lottery from a pool of twenty professionals and professional faculty selected jointly by the Provost and the President of the Professionals and Professional Faculty Assembly (PPFA). The pool composition will rotate every two years. If a selected member is unable to serve or has a conflict of interest, the member will be excused from serving on the particular panel, but will remain in the pool.

At the time of the selection the employee and the administrator will each have one pre-emptory challenge based on the composition of the panel. When a potential member is challenged, another will be selected by lottery.

The panel will be composed within five (5) business days following the submission of the form to the Provost.

- c. *Panel Review:* The panel will review the file to determine whether a panel hearing is warranted by the merits of the case; matters that, even when viewed in the light most favorable to the employee, are frivolous, trivial, or groundless should not be given a hearing. The panel may request additional information or documentation from the employee or the responding College officials. The panel will communicate its decision to the Provost within ten (10) business days of the panel having been selected. If the panel does not believe a hearing is necessary to make a determination, the panel will forward its recommendation to the Provost. The Provost will then communicate his determination to the parties, which will be the final disposition of the grievance, within ten (10) business days.

If the panel determines a hearing is necessary, the hearing will proceed.

- d. *Panel Hearing:* A panel hearing is an opportunity for employees to receive a fair hearing from their peers. A hearing is not a legal proceeding; employees and supervisors are not represented by legal counsel, and the panel is not bound by the formal rules of evidence or procedure.

The panel shall afford full and equal opportunity to all parties and witnesses for presentation of any relevant material or information.

- i) The panel shall set a date, time and place for the hearing. The hearing shall be held as soon as practicable but no later than twenty (20) business days after the panel has been selected, unless the Provost was involved as described under (c) above. The panel will notify the



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employee, the administrator, and witnesses or other involved parties of the hearing date, time and place. The administrator and the employee will be provided with a copy of the complete file and a list of witnesses no later than five (5) business days prior to the hearing.

- ii) Generally, only the panel members, the employee, the employee's observer, the supervisor and the supervisor's observer will be present throughout the hearing. Witnesses will be called as needed. People without direct interest will not be permitted to attend.
 - iii) The panel may, at the beginning of the hearing, ask for statements clarifying the issues involved. The panel will call and question the witnesses.
 - iv) All written documents related to the hearing will be retained in a central file designated by the Provost. The hearing shall be audio-recorded and the original will also be maintained in that file. A copy of the recording will be supplied to the grievant at his or her request
- e. *Panel Decision:* Upon conclusion of the hearing, the panel will deliberate in private. The panel will operate on the basis of a simple majority vote and will render its decision within ten (10) business days.

The panel will provide its findings as to whether the allegations of the grievance have been substantiated and the merits of the case to the Provost (or to the President if the Provost is a participant in the grievance). The findings will include a brief explanation of the panel's reasoning, along with the file and hearing record and may include a recommendation as to possible relief. The panel is not authorized to order relief, including awarding compensation or damages.

- f. *Provost's/President's Decision:* Within ten (10) business days after receipt of the panel's recommendation, a written copy of the Provost's or President's decision, specifying any action to be taken by the College, will be delivered to the employee, the administrator and the panel and placed in the file. If the Provost or President rejects the panel's recommendations, he or she shall state the reasons in the decision.

NOTE: The President reserves the right to review and rule on any grievance, at any time. The President, however, has no obligation to consider any grievance.



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VII. COMPLIANCE

College administrators and grievants are expected to comply with this policy.

A. Noncompliance

Any claim of noncompliance should be raised immediately. If an administrator or a grievant believes the other party is in noncompliance, they will:

1. Notify the Provost in writing of the noncompliance issue;
2. The non-compliant party will be given five (5) business days after receipt of the written notice to correct the noncompliance;
3. If the noncompliance is corrected within five (5) business days, the party is considered in compliance and the grievance proceeds;
4. If the employee is out of compliance and does not correct the noncompliance, the grievance will be deemed concluded; and
5. If the College administrator is out of compliance and does not correct the noncompliance, the employee may continue to the next level of the grievance.

B. Extension of Timeframes:

Any deadline described in this policy may be extended with the consent of both parties. All extension agreements between the parties must be in writing.

C. Request for Documents

Either party may request documents relating to the actions grieved. All such documents will be provided with five (5) business days of the request. The party requesting the documents may request in writing that the grievance process be suspended until the documents are provided.

VIII. PROHIBITION ON RETALIATION

The College will not tolerate any form of retaliation against an employee who has filed a grievance or a witness who has participated in a grievance procedure. Employees will not be penalized or disciplined for raising employment-related concerns, complaints, or grievances in good faith, or for aiding another employee in the presentation of a complaint.



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IX. AUTHORITY, IMPLEMENTATION AND AMENDMENT

This policy was approved by the President in accordance with the authority vested in him by the Board of Visitors. Interpretation of this policy is the responsibility of the Provost. The Provost may amend or revise this policy at any time. Any proposed substantial revision not necessitated by change in state or Federal statute will be preceded by a thirty (30) day comment period for managers and employees. In addition, the Professional and Professional Faculty Assembly will be notified of all changes.

This policy will be posted and maintained on the College's Human Resources website.