

**LP 5.30****Effective:**
10/1/2020**Revised:****Policy Owner:**
Board of Trustees**Policy Administrator:**
Human Resources**Affected Parties:**
Employees**Table of Contents:**

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Employee Grievance and Appeal

THE LANGUAGE USED IN THE LANDER POLICY FOR ADMINISTRATION AND STAFF DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND LANDER UNIVERSITY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. LANDER RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT. LANDER UNIVERSITY'S OFFICE OF HUMAN RESOURCES HAS THE AUTHORITY TO INTERPRET THE UNIVERSITY'S HUMAN RESOURCES POLICIES.

1 Summary

This policy sets forth the guidelines for grievances and appeals under the State Employee Grievance Act (the Act) per South Carolina Code of Laws 8-17-310 through 8-17-370. This policy shall comply fully with the Act and, as provided for in the Act, be submitted to the Division of State Human Resources (DSHR) for approval.

2 Statements of Policy

2.1 A covered employee at Lander University is defined as a full-time or part-time employee occupying a part or all of a full-time equivalent (FTE) position who has completed the probationary period and has a "meets" or higher overall rating on the employee's performance evaluation and who has grievance rights. If an employee does not receive an evaluation before the performance review date, the employee must be considered to have performed in a satisfactory manner and be a covered employee. This policy does not apply to non-covered employees (e.g., probationary employees, temporary employees, temporary grant employees, time-limited project employees, research grant employees, and employees exempt from the State Employee Grievance Procedure Act). Teaching or research faculty, professional librarians, academic administrators, or other persons holding faculty appointments at four-year secondary educational institutions, including its branch campuses, as defined in section 59-107-10 of the South Carolina Code of Laws, shall not be covered by these Regulations but shall be governed by the South Carolina Code of Laws 8-17-380.

2.2 No employee shall be disciplined or otherwise prejudiced in employment for exercising rights or testifying under the Act.

3 Internal University Grievance Procedures

- 3.1 Each notice of an employment action by the university that may constitute a grievance under the Act should be in writing. A voluntary acceptance of such an action on the part of a covered employee should also be in writing. The notice must advise the covered employee of the action taken and, except in cases where the action is voluntary as evidenced by a signed statement by the covered employee, should advise of the covered employee's right to initiate a grievance.
- 3.2 Each covered employee will be afforded access to a copy of the university's internal grievance procedures.
- 3.3 The university will maintain documentation pertaining to grievances filed by employees. Such information will be made available upon request by DSHR.
- 3.4 Throughout the grievance and appeal process, each covered employee may be represented and advised by counsel or other representative or be self-represented as provided by the South Carolina Code of Laws 8-17-330. If the covered employee chooses to exercise the right of legal counsel, it shall be at the employee's expense.
- 3.5 Failure by the university to issue a final decision within forty-five (45) calendar days is considered an adverse decision and allows the covered employee to proceed with an appeal to the State Human Resources director after forty-five (45) calendar days, but no later than fifty-five (55) calendar days from the initial date the grievance was filed within the university.
- 3.6 The internal time periods may be waived upon the mutual written agreement of both parties. The 45-calendar day period for action by the university may not be waived except by mutual written agreement of both parties.

4 Grievances

- 4.1 Grievable adverse actions shall include:
 - 4.1.1 Terminations;
 - 4.1.2 Suspensions;
 - 4.1.3 Involuntary reassignments more than thirty (30) miles from the prior work station;
 - 4.1.4 Demotions;
 - 4.1.5 Punitive reclassifications where the university, in the case of a grievance, or the State Human Resources director, in the case of an appeal, determines that

there is a material issue of fact that the action was solely done to penalize the covered employee. However, reclassifications, reassignments, and transfers within the same state salary range are not considered to be grievable or appealable.

- 4.1.6 Promotions, in instances in which the university or, in the case of appeals, the State Human Resources director determines that there is a material issue of fact as to whether the university has considered a qualified covered employee for a position for which the employee formally applied or would have applied if the employee had known of the promotional opportunity. When the university promotes an employee one organizational level above the promoted employee's former level, however, that action is not a grievance or appeal for any other qualified covered employee. Failure to be selected for a promotion is not considered an adverse employment action that can be considered grievable or appealable;
 - 4.1.7 Salary decreases based on performance as the result of an Employee Performance Management System (EPMS) evaluation; and
 - 4.1.8 Reduction in Force (RIF), but only if the agency, or as an appeal, if the State Human Resources director determines that there is a material issue of fact that the agency inconsistently or improperly applied its RIF policy or plan.
- 4.2 Prior to filing a formal grievance, the covered employee may first attempt to resolve the matter informally with the employee's immediate supervisor. The matter may be presented verbally or in writing; this is merely an informal attempt to resolve the matter and cannot be substituted for the requirements of Step One in the following procedure. In addition, any initial determination by the university director of Human Resources (or designee) that an action may be grieved shall only entitle the employee to have the matter considered in accordance with the grievance procedures set forth below and shall in no way be construed to be an adjudication of the merits of the grievance. The following will be the procedure of the university:
- 4.2.1 Step One
 - 4.2.1.1 A covered employee who wishes to file a grievance must initiate the grievance in writing internally with the director of Human Resources (or designee) within fourteen (14) calendar days of the effective date of the employment action.
 - 4.2.1.2 The university's director of Human Resources shall initially review the grievance to determine whether the complaint involves a grievance as defined by the Act. The director of Human Resources may conduct appropriate investigations and fact findings as may be considered necessary to make this determination. If it is determined that the matter is not grievable, the covered employee shall be so advised, in writing, by the university president (or designee), normally within five (5) calendar days of receipt of the grievance.

Such determination shall be a final decision within the university that may be appealed by the State Human Resources director.

- 4.2.1.3 If it is determined that the matter is grievable, the university's director of Human Resources will schedule a conference with the employee promptly, normally within five (5) calendar days. The employee will be advised of the director of Human Resources' decision, in writing, within five (5) calendar days of the conference.

4.2.2 Step Two

- 4.2.2.1 If the covered employee is not satisfied with the decision in Step One, the grievance may be submitted to the area vice president, in writing, within five (5) calendar days after receiving the Step One decision. The vice president will promptly schedule a conference with the employee, normally within five (5) calendar days. At the conference, the employee must submit two copies of the grievance, in writing. The covered employee will have an opportunity at that time to present his or her position regarding the grievance. The vice president shall conduct appropriate investigations and fact findings as may be considered necessary to determine whether to accept, reject, or modify the adverse employment action taken against the covered employee. The employee will be advised of the vice president's decision, in writing, within five (5) calendar days of the conference. A copy of the written decision will be attached to the copies of the written grievance. The original will be returned to the employee, and a copy will be placed on file in the Office of Human Resources.

4.2.3 Step Three

- 4.2.3.1 If the covered employee is not satisfied with the decision in Step Two or if the decision is not promptly implemented, the employee may submit the grievance to the university president, in writing, within five (5) calendar days after receiving the Step Two decision.
- 4.2.3.2 The employee requesting the further continuation of the grievance shall provide a written summary of the specific facts of the complaint, copies of which shall be provided at the same time to the department head and vice president. The president shall conduct appropriate fact-finding conferences as may be considered necessary after receiving the grievance. The president shall, after proper consideration, render a decision to the grievant, in writing, on the unresolved grievance within ten (10) calendar days following the initial written notification of the Step Three grievance. The decision will be final within the university. Failure by the covered employee to comply with the internal time periods in the university grievance procedure constitutes a failure to exhaust administrative remedies.

and waives the covered employee's right to further continue the grievance.

5 APPEALS

- 5.1 Any covered employee may appeal the decision of the president. Such appeal must be in writing and submitted to the State Human Resources director within ten (10) calendar days of receipt of the university's final decision or within fifty-five (55) calendar days from the initial date on which the grievance was filed within the university, whichever occurs later.
- 5.2 The covered employee or the employee's representative shall file the request, in writing, with the State Human Resources director. Failure to file an appeal with the State Human Resources director within ten (10) calendar days of receipt of the university's final decision or fifty-five (55) calendar days from the initial grievance, whichever occurs later, constitutes a waiver of the right to appeal. The time periods for an appeal to the State Human Resources director may not be waived.

6 History

- Drafted and/or Revised by Lander University Office of Human Resources on 9/29/2020.
- Approved by the South Carolina Division of State Human Resources on 10/1/2020.
- Reviewed by policy coordinator on 7/29/2021.
- Final provisional draft approved by Director of Human Resources on 8/11/2021.
- Approved by the Lander University Board of Trustees on 9/14/2021.