

UAMS Academic Affairs Policy – 2.2.1



UNIVERSITY OF ARKANSAS
FOR MEDICAL SCIENCES

Policy: University of Arkansas for Medical Sciences, Division of Academic Affairs

Subject: Grievance Procedure for Students Alleging Discrimination

Number: 2.2.1

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BACKGROUND

The University of Arkansas for Medical Sciences is committed to the policy of providing educational opportunities to all qualified students regardless of economic or social status and prohibits discrimination on the basis of race, ethnicity, color, sex, creed, age, marital or parental status, pregnancy, national origin, genetic information, gender identity, gender expression, sexual orientation, religion, ethnic origin, disability or veteran status including disabled veterans and veterans of the Vietnam Era.

From time to time, a student may allege that one or more of the University's policies, procedures or practices are discriminatory. In those cases, it is imperative that clear steps to a common system of inquiry, resolution and appeal be established, and that these steps are communicated and accessible to all parties.

This UAMS Division of Academic Affairs policy provides guidance to students who wish to allege discrimination and describes the procedure of investigating and adjudicating those matters.

PURPOSE AND SCOPE

This policy outlines internal procedures to be followed by any student who wishes to submit a grievance alleging the existence of a discriminatory policy, procedure or practice prohibited by either state or federal law/regulation or by University of Arkansas Board of Trustees or UAMS policies. This policy does not address external routes of redress such as those available in the state or federal courts. Academic challenges may not be pursued under this policy. Report regarding potential claims of sex-based discrimination or harassment are subject to the UAMS Title IX policy, Admin. Guide No. 3.1.48.

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DEFINITIONS

1. **Grievance:** Grievance means a complaint of discrimination by a student alleging an occurrence or the existence of any policy, procedure, or practice prohibited by UAMS policy and/or anti-discrimination laws and regulations.
2. **Grievance Panel:** Those individuals selected by the college Deans and, at the discretion of the Provost, appropriate Vice Chancellors, from which grievance committees will be formed, as needed. At the request of the Provost, each Dean or Vice Chancellor will nominate one individual from his or her area to serve on the panel. Should any panel member not be able to serve a full term, the Provost will request a replacement member be nominated to serve out the remainder of the excused member's term. Panel members may serve no more than two consecutive terms of two years. Nominations, as needed, should occur at the beginning of the academic year.
3. **Grievance Committee:** Three neutral persons selected by blind lots from the grievance panel to hear all evidence in a grievance and make a recommendation to the Dean for resolution. For good cause shown, any other selected committee member may be removed and replaced at the direction of the Dean.
4. **Procedure:** The steps set out in this policy shall constitute UAMS's grievance procedure for non-Title IX-related discrimination complaints brought by students, who allege violations of UAMS policy and/or anti-discrimination laws and regulations.
5. **Grievant:** Grievant means a student who submits a grievance alleging a violation of UAMS policy and/or anti-discrimination laws and regulations.
6. **UAMS:** UAMS means any college, division, department, subunit, or program operated by the University of Arkansas for Medical Sciences. When used in this policy, the term "college" shall be deemed to include the Graduate School.
7. **Respondent:** Respondent means a person alleged to be responsible for the violation alleged in a grievance. The term may be used to designate persons with direct responsibility for a particular action or those persons with supervisory responsibility for procedures and policies in those areas covered in the grievance.
8. **Associate Dean:** Refers to the Associate Dean who is responsible for addressing allegations of discrimination in the college where the grievant is enrolled as a student.
9. **Dean:** Refers to the Dean of the college where the grievant is enrolled as a student.
10. **Working Days:** Monday through Friday, excluding official UAMS holidays.
11. **Evidence:** As used in this policy, the term evidence includes all materials, documents, or testimony which will aid the Grievance Committee in making a fair and impartial determination. Federal and State Rules of Evidence and Rules of Civil or Appellate Procedure do not apply.

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PROCEDURE

A. Step I: Initial Attempt at Resolution

1. The grievant must submit a written statement to the Associate Dean specifying the alleged violation, the reason for the grievant's belief that he or she is being treated unfairly, and the remedy sought. This written statement must be received by the Associate Dean within ten (10) working days following the incident which forms the basis for the grievance. The Associate Dean will make an official judgment on each student grievance to determine whether the grievance is an academic challenge (e.g., contesting a grade), an allegation of discrimination or another type of complaint. Based on the determination, the Associate Dean will refer the student to the appropriate process for redress, and make sure that the student has the necessary policy information to pursue the grievance. The Associate Dean will maintain an official log of grievances adjudicated under this policy and will provide a report annually to the Dean or his or her designee of discrimination grievances made and the disposition of each.
2. If the Associate Dean determines the grievance is a complaint of discrimination under this policy, the Associate Dean will first attempt to resolve the grievance by a discussion with the grievant and the respondent (individually or jointly) within ten (10) working days of receipt of the written statement.
3. If the grievance is satisfactorily resolved by this discussion, the terms of the resolution shall be reduced to writing and shall be signed by the grievant, the Associate Dean, and the respondent (if the respondent has participated in any discussions with the Associate Dean in an effort to resolve the grievance and is affected by the resolution).
4. This initial attempt of resolution should conclude within ten (10) working days of the Associate Dean's initial discussion with the grievant. At the end of this ten-day period, if the grievance cannot be resolved, the grievant may immediately proceed to Step II, presentation of a formal grievance to the Dean.

B. Step II: Formal Grievance to the Dean

1. Filing a grievance:
 - a. The grievant must submit a written statement to the Dean or his or her designee, which shall contain the following information: name of the grievant; nature, date, and description of the alleged violation(s); name(s) of person(s) responsible for the alleged violation(s); requested relief for corrective action; and any background information and supporting documentation the grievant believes to be relevant.
 - b. A grievance must be submitted to the Dean or his or her designee within ten (10) working days of the completion of the initial attempt of resolution, outlined in Step I above. To avoid a conflict of interest or to avoid the appearance of a conflict of interest, a Dean may recuse from the grievance process. In that event, the Provost shall designate another Dean to stand in place of the recusing Dean.

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c. Immediately upon receipt of a formal grievance, the Dean or his or her designee will provide a copy of the same to the Provost. A copy of the grievance will also be provided to the respondent(s), with a written response due to the Dean or his designee within ten (10) working days. The Dean is encouraged to meet with the grievant as soon as possible in an effort to resolve the grievance.

d. Following receipt of the written response, the Dean or his or her designee may elect to review and decide the issue independently or may refer the issue to the Grievance Committee for a hearing. If the Dean or his or her designee decides the issue, the decision shall be final, except in limited circumstances as described in section C(8-9). If the Dean or his or her designee refers the issue to the Grievance Committee, the grievance will be heard pursuant to the procedures listed below. Should a designee be appointed, references to Dean or his or her designee would be replaced with his/her designee.

C. Grievance Hearing Procedures:

1. Pre-Hearing Procedures:

a. Selection of Grievance Committee: Within 5 days of determination that a grievance hearing should take place, the Dean or his or her designee shall draw the names of the three committee members.

b. Schedule of Hearing: The Hearing should be conducted no sooner than 10 working days and no later than 15 working days after the names are drawn, unless the Dean or his or her designee determines there is a valid reason why another time should be selected.

c. Assistance/Support Person: The grievant and the respondent may have one (1) support person to assist in the initiation, filing, processing, or hearing of the formal grievance. This person may be an attorney, but may not address the Grievance Committee, speak on behalf of the grievant or respondent, question witnesses, or otherwise actively participate in the hearing. The Grievance Committee may be assisted and advised by the Office of General Counsel.

d. Evidence (as herein defined): No later than 8:00 am, five (5) working days prior to the hearing, the grievant and respondent shall provide the Dean or his or her designee all documents to be used and relied upon prior to the hearing. The grievant and respondent shall provide all documents to be used and relied upon during the hearing including the name, address, and telephone number of any representative and witnesses, and a summary of the witnesses relevant testimony. Once all documentation has been provided to the Dean or his or her designee, opposing copies will be provided to the grievant and respondent, no later than 5:00 pm five (5) working days prior to the hearing. Failure of grievant or respondent to provide the information in a timely fashion could result in exclusion of that information during the hearing. The Grievance Committee is not bound by any formal rules of procedure or rules of evidence. This is not a formal court proceeding.

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- e. Information to the Grievance Committee and Election of Chairperson: No later than three (3) working days prior to the hearing, the Dean or his or her designee shall meet with the Committee to provide a copy of all documents and information submitted (as specified in paragraph 4 above), confirm the date and location of the hearing and withdraw from the room. The Grievance Committee will then convene briefly for the sole purpose to elect a chairperson. The substance of the grievance shall not be discussed at this initial meeting and only the Committee members and University counsel are permitted to attend.

2. Hearing Procedures

- a. Record of the Hearing: The hearing will be recorded by recording devices supplied by UAMS. The purpose of the recording is only to assure that the committee members' notes on testimony or evidence are accurate for deliberations. The recording is not considered part of the record and will be destroyed upon completion of the Grievance Committee's deliberations.
 - b. Beginning the hearing: At the beginning of the hearing, the Dean or his or her designee will announce the date, time, place, and purpose of the hearing, and will ask the members of the Grievance Committee to identify themselves by name and department. The grievant and the respondent will then identify themselves by name and department. Finally, any representative accompanying the grievant or the respondent shall identify himself or herself by name and title. The Dean or his or her designee will then give the Grievance Committee its charge.
 - c. Private Hearing: The hearing shall be conducted in private. Witnesses shall not be present during the testimony of any party or other witness. Witnesses shall be admitted for testimony only and then asked to leave. The grievant and the respondent may hear and question all witnesses testifying before the Grievance Committee. The representatives of the grievant and respondent may attend, but shall not question witnesses or address the Committee.
 - e. Presentation of Case: This is a non-adversarial process, the witnesses are not sworn, the grievant and respondent shall be afforded reasonable opportunity for oral opening statements, their own testimony and presentation of witnesses and pertinent documentary evidence, including written statements, and closing statements. Witnesses are not compelled or subpoenaed to appear and are to appear on their own accord, employees of UAMS are permitted to participate in the grievance process without suffering loss of compensation or leave time for the time spent during the process.
5. Grievance Committee Rights: The Grievance Committee shall have the right to question any and all witnesses, to examine documentary evidence presented, and to request the appearance of other witnesses or review other documentation as the Grievance Committee deems necessary. The Grievance Committee has the right to limit testimony and presentation of other evidence to that which is relevant to the violation(s) alleged and to further limit testimony and other evidence that is cumulative and unnecessary.

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6. **Grievance Committee Deliberation:** After the hearing is concluded, the Grievance Committee shall convene to deliberate in closed session and arrive at a majority recommendation. The Grievance Committee shall make its determination of whether a rule, procedure or policy was not followed or was applied in an inequitable manner based upon the evidence presented at the hearing, which is relevant to the issue(s) before the Grievance Committee. The Grievance Committee may make recommendations for resolution of the dispute. No one else is to be present during the Grievance committee's deliberations, except when clarification from University counsel about policy, procedures or rules is requested by the Grievance Committee.
7. **Transmittal of the Recommendation:** Within seven (7) working days after the hearing is concluded, the Grievance Committee shall transmit its recommendation in writing to the Dean or his or her designee.
8. Within five (5) working days, the Dean or his or her designee shall determine whether to accept the recommendation, amend it, reverse it, or to refer the grievance back to the Grievance Committee for further deliberations and reconsideration. The reason for the determination shall be stated in writing. The determination shall be final except in the limited circumstances described below.
9. Within five (5) working days, either party may appeal the determination to the Provost for reconsideration, but only on grounds of a clear mistake of material fact or consideration of new evidence not available at the time of the hearing. If such an appeal is lodged, the Dean or his designee shall transmit the determination writing and record materials to the Provost, who shall decide the matter within ten (10) working days.

Other

3. **Maintenance of Written Grievance Records:** Records shall be kept of each grievance process. These records shall be confidential to the extent allowed by law, and shall include, as applicable: the written grievance complaint filed by the grievant, the written response filed by the respondent, Associate Dean's written resolution, any photos, recordings, or documents from the hearing, the written recommendation of the Grievance Committee, the decision of the Dean or his or her designee, and, if applicable, the appeal to and decision of the Provost. A file of these records shall be maintained in the Office of the Dean of the college in which the grievant is enrolled.

For purposes of the dissemination of grievance precedents, separate records may be created and kept which indicate only the subject matter of each grievance, the resolution of each grievance, and the date of the resolution. These records shall not refer to any specific individuals and they may be open to the public in accordance with the Arkansas Freedom of Information Act or pertinent Federal laws.

4. **Non-Retaliation:** No person shall be subjected to retaliation for having used or assisting others to use the grievance process.

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REFERENCES

UAMS Title IX policy, Admin. Guide No. 3.1.48