



RHODES UNIVERSITY

Grahamstown • 6140 • South Africa

Grievance Procedure

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**RHODES UNIVERSITY
GRIEVANCE PROCEDURE**

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Definitions

“Days” means working days and excludes any public holidays, Saturdays and Sundays and the period from the 15th December to the 15th January (both days inclusive).

“Employee” means any person appointed at the University, whether part-time or full-time, permanent, temporary or fixed term contract, with the exception of Post-Doctoral Fellows.

“Employer” means Rhodes University as recognised by the Higher Education Act No 101 of 1997 as amended.

“Line Manager” means first Line Manager or Supervisor of an incumbent in a post, i.e. the person that the employee reports to directly.

“Legal representative” means a person who is legally trained, whether or not that person practices as a legal practitioner (Attorney or Advocate) in the normal course.

“Mediation” is defined as a process where a neutral person helps parties in dispute to resolve the dispute.

“Post-doctoral research fellow” is neither an employee, nor a student. They are PhD graduates who are establishing their academic careers by primarily conducting research but can also undertake other academic activities such as intermittent lecturing and co-supervision of students, under the supervision of a host at the University.

“Shop Steward” means an employee elected to the position of the shop steward in accordance with the Constitution of a recognised Union.

“Sufficiently Representative” means 25% plus one or more of the eligible employees represented by the Union.

“Trade Union” means an association of employees whose principal purpose is to regulate relations between employees and employers, including any employers' organisations.

“Trade Union Representative” means a member of a trade union elected to represent employees in the work place.

“University” means the employer, Rhodes University.

1. Introduction

A grievance may be defined as any dissatisfaction / or concern on the part of an employee arising out of his/ her/ their working situation, or the **application** of conditions of employment and circumstances in the workplace.

A grievance may not be used to address unfair labour practices such as salary or wage issues, demands for other benefits.

2. Scope and Application

- 2.1 The grievance procedure is a guideline and sets the various stages of the process which the University will attempt to follow and apply as far as is reasonably possible.
- 2.2 The grievance procedure applies equally to all employees, excluding post grades 18 to 25 and Deans. If a grievance is lodged by an academic staff member or staff members on grades 1 to 17 against a staff member on grade 18 and above including the Deans, the person on grades 18 and above and the Deans will be subjected to this grievance procedure. If a grievance is lodged by a Senior Manager, his/her grievance will be handled by the relevant line manager. If a grievance is lodged by a member of the Executive Management, their grievance will be handled by Vice Chancellor or his/her nominee.

3. General Principles

- 3.1. This procedure has been drafted in order to establish the appropriate steps to be followed in pursuing and dealing with a grievance.
- 3.2. All employees are encouraged to speak with their immediate Line

Manager/Supervisor about their grievance in the first instance, seeking a quick and satisfactory resolution before utilising the grievance procedure.

- 3.3. This grievance procedure cannot be used to address any disputes which may arise between the University and any trade union recognised by the University, nor may this procedure be used to negotiate changes in collective terms and conditions of employment. Furthermore, the grievance procedure may not be used to challenge a sanction/s imposed in terms of the Staff Disciplinary Code and Procedure. The grievance procedure does not include dissatisfaction arising from alleged unfair discrimination and harassment and sexual offences. All sexual harassment cases shall be handled in terms of the Code of Good Practice on the Handling of Sexual Harassment Cases as contained in the Labour Relations Act 66 of 1995, as amended.
- 3.4. The grievance procedure acknowledges that there shall be no victimization of any employee who raises a legitimate grievance.
- 3.5. Any steps under this procedure shall be taken promptly unless there is a good reason for delay. Any time limits in this procedure may be extended if it is reasonable to do so.
- 3.6. The employee must take all reasonable steps to attend any grievance meeting.
- 3.7. The employee will be entitled to proceed in the language of the employee's choice and an interpreter will be arranged if requested by the employee.
- 3.8. The employee must communicate to the employer, at least 48 hours prior to the meeting any requirements for an interpreter.
- 3.9. It is the aim of this procedure to resolve matters at the earliest practicable date and at the earliest possible stage.
- 3.10. Any person making an unsubstantiated, frivolous or malicious allegation may face disciplinary action.
- 3.11. At any stage, and if mediation is an appropriate process, parties have the option of mediation. The mediation process is a very specific

process and no employee can be forced into the mediation process, it has to be by agreement as it is a voluntary process. The mediation will take place within the scope of a mediation process. (The mediation process is outlined in Appendix 1)

4. Representation

An employee has a right of representation at the informal stage (stage 1) of the grievance procedure. It is recognised that the assistance of an internally recognised trade union representative or a fellow employee of the university can be helpful in achieving a solution to an employee's grievance. Accordingly, internal representation will be allowed at stage 1.

Should parties agree to mediation, no representation will be allowed during the mediation process.

Legal representation is not permitted at any stage of the Grievance Procedure, including mediation. Legal representative means a person who is legally trained, whether or not that person practices as a legal practitioner (Attorney or Advocate) in the normal course.

5. Stage 1 - Informal process

All grievances must be dealt with through the Line Manager in the first instance.

- 5.1. The University is committed to ensuring that differences and difficulties can be resolved amicably through open communication. Therefore, it is anticipated that whenever possible before the formal grievance procedure is initiated, reasonable effort will be made by all parties to resolve grievances informally at the earliest opportunity/ stage.

This requires that the Line Manager, who receives an informal grievance, to:

- Meet with the aggrieved employee and understand the nature of their grievance;
- Obtain representations from both parties about the grievance and differentiate between facts and opinions and assess whether the grievance can be substantiated; and
- Explain to the employee the possible impact that the grievance might have on the long-term relationship with the other employee.

- 5.2. After all the steps above have been exhausted, the Line Manager will report back in writing to both parties as soon as reasonably possible.
- 5.3. If the Line Manager is the other party to the grievance, then the aggrieved employee or their representative may raise the grievance informally with the Line Manager's Line Manager.
- 5.4. If the grievance is not resolved after the intervention by the Line Manager, the employee may proceed to the Stage 2 Formal process. However, all parties will be expected to show that they have made every reasonable effort/ attempt to achieve a satisfactory resolution to the grievance.
- 5.5. Before an employee decides to proceed to the next level of the grievance procedure the employee will be provided with an opportunity of at least 48 hours to reconsider whether they would like to proceed to the next stage of the process.

6. Stage 2 - Formal process

- 6.1. If the aggrieved employee is not satisfied with the outcome after Stage 1, he or she should complete the grievance form and submit it to his or her Line Manager within three (3) working days of receipt of the Stage 1 outcome. The grievance form should indicate a description / nature of the grievance, including any relevant facts, dates, names of individuals involved and the desired outcome sought.
- 6.2. The parties shall be invited to attend a formal grievance process, which will normally take place as soon as reasonably possible after receipt of the grievance form by the relevant Line Manager.
- 6.3. At this meeting, those who are party to the proceedings (both complainant and the party against whom the grievance has been lodged), may be accompanied (i.e. not represented) by a fellow employee of the university, or an internally recognised trade union representative. A representative of the Human Resources Division will be in attendance as an observer and advisor as to the process to be followed.
- 6.4. Where an employee has lodged a grievance, the Human Resources

Division will monitor the process to ensure that the resolution of the grievance takes place according to this procedure. The Human Resources Division will play an advisory and oversight role to ensure that the grievance is resolved in line with the grievance procedure.

- 6.5 The procedure to be followed at the grievance meeting shall be at the discretion of the Line Manager. However, it may include: -
- a) an opportunity for the employee parties to make representations, to ask questions and to discuss any documentation relied upon; and
 - b) an opportunity for the Line Manager to ask questions and to discuss any documentation relied upon.
- 6.6 The Human Resources Division may be called on for assistance to advise on the procedure.
- 6.7 After the grievance meeting the Line Manager must provide a written report on the outcome of the meeting and possible recommendations. A copy of this report will be made available to both the aggrieved employee and the person against whom the grievance was lodged.
- 6.8 The report should be available as soon as is reasonably possible after the meeting, but ideally should not take longer than three weeks after the meeting, unless the issue is of a complex nature.

7. Confidentiality

All information associated with grievance proceedings shall be treated in the strictest confidence by all parties involved, to the extent that it does not violate any law. The information will not be used for anything else except for the purpose it was intended for. However, the line manager will be provided with the information in order to facilitate the finalization of the grievance. The privacy of staff members is important and as such the University will use reasonable efforts to ensure that any personal information provided, or which is collected from a staff member or a third party is kept secure and confidential.

8. Processes external to the University

If the grievance remains unresolved the parties may pursue any other lawful course of action.

9. Disciplinary Action

- 9.1 The University will not proceed with disciplinary action simply because the aggrieved employee demands this as part of the settlement of the resolution. The procedure for instituting disciplinary action is provided for in terms of the Staff Disciplinary Code and Procedure.
- 9.2 If through the reporting of a grievance, it appears that Level 2 and/or Level 3 misconduct (as defined by the Staff Disciplinary Code and Procedure) has been committed, the Director: Human Resources will proceed with an investigation, as provided for in terms of the Staff Disciplinary Code and Procedure.
- 9.3 Any person making an unsubstantiated, frivolous or malicious allegation may face disciplinary action. Unsubstantiated, frivolous or malicious allegations are regarded as serious and will not be tolerated.

GRIEVANCE PROCEDURE - 2021

Employee's Details:				
Title		Surname		First names
Staff number		Department/Division		
Job Title:				e-mail
Work telephone no		Cell phone no		
Details of grievance				
Date on which latest incident happened		Grievance against which person/s		
Nature and facts of grievance (describe latest incident).				
Desired settlement.				
Date of form submitted to HoD/line manager or if grievance against HoD/line manager, then to next reporting line		Signature of complainant		
PLEASE NOTE STAGE 1 OF THE GRIEVANCE PROCEDURE IS INFORMAL AND THEREFORE THERE IS NO NEED TO RECORD ON GRIEVANCE FORM, HOWEVER AFTER ALL THE STEPS HAVE BEEN EXHAUSTED IN THE INFORMAL PROCESS THE LINE MANAGER WILL REPORT BACK TO BOTH PARTIES AS SOON AS REASONBLY POSSIBLE.				

GRIEVANCE PROCEDURE - 2021

Stage 2 Formal resolution			
Name of person handling grievance		Designation	
Date of first meeting			
Discussion details			
Resolution/outcome			
Signature of person handling grievance		Date of completion of this documentation	
I am satisfied with the outcome of this grievance		I am NOT satisfied with the outcome of this grievance	
Reasons for continued dissatisfaction (to be completed by the complainant or as told to the person handling the grievance)			
Signature of complainant			
IF THE GRIEVANCE REMAINS UNRESOLVED THE PARTY MAY PURSUE ANY OTHER LAWFUL COURSE OF ACTION AFTER THIS STAGE.			

Mediation Process**(Appendix 1)****1. Key Principles**

- a) Mediation is defined as a process where a neutral person helps parties in dispute to resolve their grievance.
- b) The Mediator is independent and impartial, with no interest in the substance, merits or outcome of the grievance.
- c) S/he does not have decision-making powers. However, suggestions or recommendations, as appropriate, to resolve grievances can be made by the Mediator. No suggestions or recommendations made by a mediator are binding on the parties and where the parties do not follow the suggestions or recommendations made by the mediator, this shall not be held against the parties in any further process/es whatsoever.
- d) In the resolution of the grievance, the Mediator is totally neutral and has no personal interest, bias or prejudice towards any of the parties. S/he does not act as an advocate for any party.
- e) Contact between staff involved in the grievance process and the Mediator is on a strictly confidential basis.
- f) Discussions with third parties can only be undertaken with the consent of the staff member/s lodging the grievance and/or the staff member/s against whom the grievance was lodged.
- g) The mediation process is non-legalistic. This means that parties shall not be required to:
 - (i) Provide a binding statement of the case to the other party or to the University or to the mediator;
 - (ii) Tender documentary proof of their positions or points of view or any allegations arising from the grievance;
 - (iii) Call witnesses;
 - (iv) Be expected to be subject to the rules of evidence that might be followed in a disciplinary hearing or a Court of law.
- h) Legal practitioners are not allowed in the mediation process in any capacity whatsoever, including as representatives of any of the parties or as observers.

2. Mediation process

- a) During any stage of the grievance procedure and if mediation is the appropriate process parties have the option of mediation. The HR Director or her/his nominee will decide if mediation is an appropriate process and/or that mediation may not be appropriate in matters relating to misconduct or

- gender-based violence etc. The mediation process is a very specific process and no employee can be forced into the mediation process.
- b) In order for the mediation process to proceed, both parties must agree in writing to the process.
 - c) Once agreement is reached the HR Division will provide the names of the potential mediators.
 - d) Both parties must agree with the proposed name, after which the HR Division will attend to the logistical arrangements for the mediation.
 - e) If parties cannot agree to a mediator the HR Director will appoint a suitable mediator for the process. In the case of mediation involving staff from the Human Resources Division, the Vice Chancellor or his/her designate will appoint a suitable mediator.
 - f) The maximum number of sessions allowed will be limited to 3 sessions. In the event that the more sessions are required, the mediator must submit a motivation to the HR Director, motivating the reason(s) for additional sessions and the likelihood of the matter being resolved. In order to ensure the confidentiality of the process, the report should not include the merits of the matter.
 - g) No additional people including but not limited to representatives from the HR Division, or a representatives or officials from any of the Unions recognised by Rhodes University will be permitted in the mediation process.
 - h) The mediation process is a confidential process and will always be treated as such.
 - i) Discussions and negotiations that take place at mediation may not be used after the mediation has been finalised, regardless of whether an agreement is reached or not. For this reason, the mediation process may not be recorded by either party or the mediator.
 - j) At the end of the mediation process, if it appears that the parties are in agreement, the mediator must assist the parties in drawing up a binding agreement, which records the terms of the settlement. This agreement must be enforceable, clear and unambiguous.
 - k) The Mediator is not required to produce a mediation report for the University and as such any confidential matters remain confidential and are not disclosed to the University or its officials.

3. Duties and responsibilities of the mediator

Acting independently and impartially and respecting confidentiality, the mediator will:

- a) listen to staff members and explore options and/or strategies to address problems

- b) listen to grievances relating to the **application** of their working conditions and/or their relations with colleagues;
- c) assist all parties concerned to reach a fair solution through mediation;
- d) hold side meetings if this seems appropriate.
- e) coach staff members in order for them to independently resolve problems and/or conflicts
- f) serve as a sounding board for staff that need to discuss specific situations in a confidential and neutral environment; and
- g) ensure that a settlement agreement is signed which records the terms of the settlement.
- h) submit a comprehensive report outlining the reasons why the matter could not be resolved should the parties fail to resolve the matter.

Flow diagram mediation process

