

32.01.02. W1. Complaint and Appeal Procedure for Non-faculty Employees

Approved February 6, 2003

Revised February 21, 2013

Effective May 17, 2013

Next scheduled review: February 21, 2017

GENERAL STATEMENT

This procedure describes the process for any complaint filed by, or against, a non-faculty employee of West Texas A&M University. However, this rule does not modify the “at-will” status of any non-faculty employee.

PURPOSE

This procedure provides the structure for processing such complaints and for the modification of the complaint process when required by organizational structure or geographic dispersion of employees as authorized by System Regulation 32.01.02 Section 2.6.

DEFINITIONS

Complainant: A non-faculty employee in a regular budgeted position, a non-teaching graduate assistant, an employee with a non-teaching post-doctoral appointment, or a wage employee employed by West Texas A&M University, who initiates a complaint. See Section 2.

- a) Complaints by more than one non-faculty employee may, at the discretion of the respondent’s Vice President, or designee, be combined into a single complaint if the complaints and the material actions or inactions of issues are basically the same for each person.
- b) For purposes of this rule, a complainant may also be a recently dismissed employee, in which case the time frame for initiating a complaint would begin on the date the employee was notified of dismissal.

Complaint: A written allegation made by a complainant and submitted in accordance with this procedure, regarding the employee’s employment conditions. A complaint may also be an appeal of an employment action taken against the complainant.

Extension: An extension of the prescribed time frame for investigating the complaint. See Section 2.5.

Respondent: The individual or individuals the complaint’s allegations are against.

PROCEDURES AND RESPONSIBILITIES

1. **CIVIL RIGHTS COMPLAINTS:** An employee's complaint alleging discrimination, sexual harassment, and/or related retaliation must be filed in accordance with System Regulation 08.01.01 *Civil Rights Compliance*, and West Texas A&M University Procedure 08.01.01.W1 *Civil Rights Compliant Procedure*.

2. **OTHER COMPLAINTS:**
 - 2.1 Most problems can be resolved through informal discussions between the employee and the person who the complaining employee is experiencing problems, the immediate supervisor, or department head. The employee may also informally discuss a complaint with the Director of Human Resources, or designee. The Director of Human Resources, or designee, will work with all parties to the complaint to seek a satisfactory resolution. Although an employee is encouraged to resolve a complaint informally in accordance with this process, he or she may file a complaint without first seeking informal resolution.

 - 2.2 The complainant must submit his or her complaint to Director of Human Resources, or designee, within seven (7) business days of the action causing the complaint. If the employment action causing the complaint is a Reduction in Force (RIF) action, including dismissal or change of employment, the employee must submit his or her complaint to the Director of Human Resources, or designee, within five (5) business days of receiving the written RIF notification.
 - 2.2.1 In the case of a dismissal, the "action" will be defined as the date the employee was notified of the dismissal.

 - 2.2.2 Failure to submit a complaint to the Director of Human Resources, or designee, within five (5) business days following RIF notification or seven (7) business days of the non-RIF action that caused the complaint will deem the complaint untimely filed and the complaint will be dismissed.

 - 2.3 Within five (5) business days of receiving the complaint, Director of Human Resources, or designee, will send a notice that a complaint has been filed to the Vice President and the head of the complainant's department with copies to the complainant and complainant's supervisor, the respondent, the respondent's supervisor, Vice President, department head and to the President.

 - 2.4 The Director of Human Resources, or designee, will investigate the complaint and provide a written report of investigation with recommendations to the Vice President, or designee, of the complainant's department, for a decision. This report should be submitted within ten (10) business days of the receipt of the complaint.

- 2.4.1 If a complaint is filed against a faculty member, the complaint will be referred to the faculty member's department head, dean and provost.
 - 2.4.2 If a complaint is filed against a student or student employee, the complaint will be referred to the Vice President for Student Affairs.
 - 2.5 If additional time is needed to complete the investigation, an extension of up to fifteen (15) business days may be allotted to the Director of Human Resources, or designee, with approval from the claimant's Vice President. Notification of the extension will be sent to the complainant, complainant's supervisor and department head, the respondent, and the respondent's supervisor, Vice President and department head. The extension should not be for more than fifteen (15) business days unless required by unusual circumstances.
 - 2.6 The Vice President, or designee, of the complainant's department will render a decision within five (5) business days following receipt of the investigation report and provide written notification of the decision to the Director of Human Resources and the University President.
 - 2.6.1 The written decision in a complaint claiming a veteran's or former foster child's employment preference must be provided to the complainant within fifteen (15) business days of the receipt of the complaint.
 - 2.7 If the complainant's Vice President accepts the recommendation of the Director of Human Resources, the Vice President shall adopt the recommendation in writing and such adoption will be the final decision on the complaint. In the written acceptance to the Director of Human Resources, the Vice President will charge the appropriate supervisor with overseeing the implementation of any and all recommendations contained in the report.
 - 2.8 If the complainant's Vice President does not accept the recommendation, he/she shall, within the same five (5) working days, inform both the University President and the Director of Human Resources in writing of his/her decision. This decision will be the final decision on the complaint.
 - 2.9 The Director of Human Resources will provide notification of the final decision to the complainant, the complainant's supervisor and department head, the respondent, and the respondent's supervisor, Vice President and department head.
3. The filing of a complaint will not constrain a department/unit from taking appropriate employment action(s).
4. All employees and students are to cooperate fully with those performing an investigation pursuant to this rule. Any retaliatory action taken against an employee for filing a complaint or participating in the procedures described in this rule is strictly prohibited.

Related Policies, Regulations, Rules and Standard Administrative Procedures

Texas Government Code, Chapter 657

Texas Government Code, Chapter 672

System Policy 32.01: *Employee Complaint and Appeal Procedures*

System Policy 32.02: *Discipline and Dismissal of Employees*

System Regulation 08.01.01: *Civil Rights Compliance*

System Regulation 08.01.01: *Civil Rights Compliance* System Regulation 32.01.02: *Complaint and Appeal Process for Non-faculty Employees*

System Regulation 32.02.02: *Discipline and Dismissal of Non-faculty Employees*

System Regulation 33.99.15: *Reduction in Force for Non-faculty Employees*

Contacts

Those requiring more information on this rule and related matters should contact the Director of Human Resources or Assistant Director of Human Resources/EEO Officer, at (806) 651-2114.

OFFICE OF RESPONSIBILITY: Human Resources

Approved:



President/CEO

May 17, 2013

Date