



# Virginia Tech Grievance Procedures Overview



Staff & AP Faculty





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A grievance is an opportunity for Virginia Tech employees to bring workplace concerns to upper levels of management. The procedure provides a means to address such issues so that conflict does not go unresolved and further degrade the productivity of the workplace.

**For employees**, a grievance is a benefit and a right. When this right is exercised, it should not be viewed negatively. A grievance could result in relief being granted to an employee for the issues that are raised. Management has great discretion to award relief in response to a grievance, more than a hearing officer or judge.

**For managers**, a grievance is a tool to review employee's concerns. The review allows for another opportunity to assess and evaluate actions taken and to review circumstances that could lead to positive operational changes or policy development. It gives an official airing of concerns and assures that the issue is known beyond the immediate work unit.

## STAFF GRIEVANCE PROCEDURE

The staff grievance procedure shall afford an immediate and fair method for the resolution of employment disputes that may arise between state agencies and those employees who have access to the procedure. Use of the grievance procedure to resolve disputes shall be encouraged.

### Access to the Grievance Procedure

An employee must meet each of the following criteria:

1. Must be a classified or university staff member.
2. Must have been a non-probationary employee at the time the event that formed the basis of the dispute occurred.
3. Must have been employed by Virginia Tech at the time the grievance was initiated (unless termination or involuntary separation is the issue, in which case the employee has 30 calendar days from termination to file).

### Grievance Issues

**Any employment related issue may be grieved** through the management steps as long as the grievance:

is presented to management within **30 calendar days** of the date the employee knew or should have known of the event that forms the basis of the grievance;

1. Arose in the agency in which the employee works and pertains directly and personally to the employee's own employment;
2. Is not being used to harass or otherwise impede the efficient operations of government;
3. Has not already been pursued through another state process; and,
4. Is not challenging the same management action challenged by another grievance.

## Initiating a Grievance

An employee must initiate a grievance on a fully completed, dated, and signed [Grievance Form A](#), following the [Management Resolution Steps](#). The [Grievance Form A](#) must state the issue being grieved, the facts in support of the claim, and the relief requested. Attachments may be included. Once the grievance is initiated, additional claims may not be added to the original grievance.

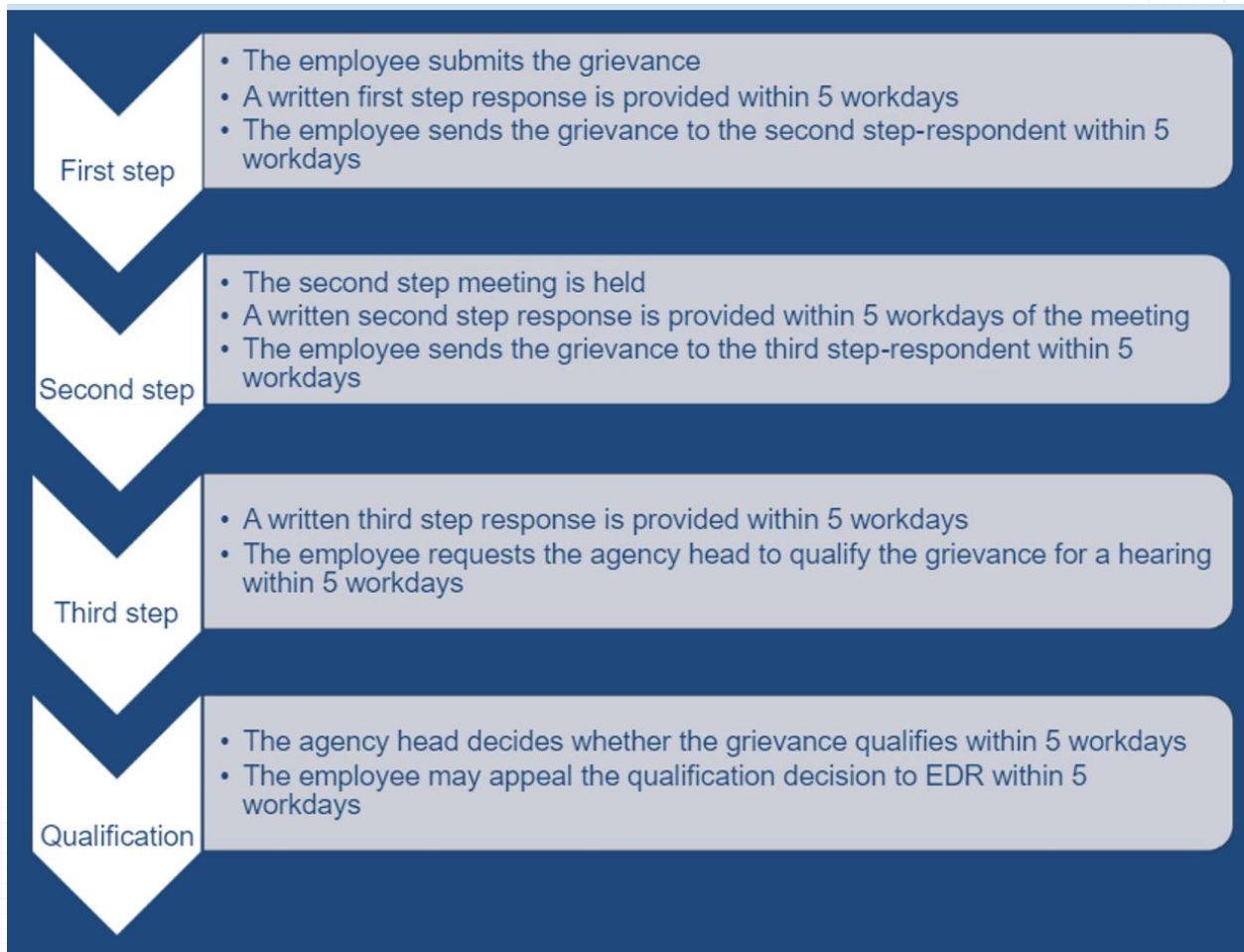
In most cases the employee must initiate the grievance with their immediate supervisor. However, under the following circumstances the grievance may be initiated with someone other than the immediate supervisor:

1. A grievance alleging discrimination or retaliation by the immediate supervisor may be initiated with the next level supervisor;
2. A grievance involving a demotion, suspension without pay, a non-disciplinary-related separation, or any other action that results in a loss of wages may be initiated directly with the third-step respondent (Vice President or Dean) under the expedited single management step by submitting a [Grievance Form A-Expedited Process](#). The single management step process follows the procedures that normally apply to the second resolution step.
3. A grievance involving a termination due to formal discipline or unsatisfactory performance proceed direction to a formal hearing, omitting the management resolution steps and the agency head's qualification determination. This grievance may be initiated directly with the [Virginia Department of Human Resource Management Office of Employment Dispute Resolution](#) (DHRM-EDR) by submitting the [Grievance Form A-Dismissal Grievance](#).
4. A grievance involving formal discipline (Written Notice) issued by someone other than the employee's immediate supervisor, the employee may initiate the grievance with the person who issued the discipline; and

5. A grievance challenging the application of the layoff policy should be initiated directly with the division's Human Resource Division Director.

Employee complaints alleging discrimination or harassment under Title VII or Title IX should be directed to the [Office for Equity and Accessibility](#).

## Management Resolution Steps



**First Resolution Step:** The First Step Respondent is usually the immediate supervisor.

The first-step respondent must accept the grievance, enter the date on "[Grievance Form A](#)", and notify the division's Human Resource Division Director of receipt.

After receiving the grievance, the first-step respondent should identify the issues, gather information, and review the facts. A meeting may be held to discuss the issues in dispute, but such a meeting is not required.

**Within 5 workdays** of receiving the grievance, the first-step respondent must provide a written response on the grievance "Form A" or in an attachment addressing

the issues and the relief requested and informing the employee of his/her procedural options for advancing or concluding the grievance. **Within 5 workdays** of receiving the first-step response, the employee must:

1. Indicate on the grievance form the intention to continue to the second-step and submit the form to the second-step respondent; **or**
2. Indicate on the grievance form the intention to conclude the grievance and submit the form to the division's Human Resource Division Director.

**Second Resolution Step:** The Second Step Respondent is usually the Department Head, Director, or equivalent.

The second-step respondent must accept the grievance, enter the date on "[Grievance Form A](#)", and notify the division's Human Resource Division Director of receipt.

**Within 5 workdays** of the second-step respondent's receipt of the grievance, the second-step respondent must hold a fact-finding meeting with the employee, an individual selected by the employee (optional), and an individual selected by the second-step respondent (optional). Both parties are encouraged to present information relevant to the grievance. The parties may question one another regarding disputed facts and issues, but the meeting should not be adversarial or treated as a hearing. Either party may call witnesses, but the witnesses must not be present except while providing information. The second-step respondent is charged with presiding over the meeting and must do so in an even-handed manner.

**Within 5 workdays** of the second-step meeting, the second-step respondent must provide a written response on the grievance "[Grievance Form A](#)" or in an attachment. The response must address the issues and the relief requested and should notify the employee of his procedural options.

**Within 5 workdays** of receiving the second-step response, the employee must:

1. Indicate on the grievance form his intention to continue to the third-step and submit the form to the third-step respondent; **or**
2. Indicate on the grievance form his intention to conclude the grievance and submit the form to the division's Human Resource Division Director.

In the event that an employee alleges retaliation or discrimination by an individual who would otherwise serve as the agency's second-step respondent, the employee may:

1. Request that the agency designate another second-step respondent; **or**
2. Waive the face-to-face meeting with the original second-step respondent and receive only a written second-step response to the grievance. If the employee elects to waive the face-to-face meeting with the original second-step respondent, the employee must be allowed to meet with the third-step respondent.

**Third Resolution Step:** The Third Step Respondent must be the Dean, Vice President, or equivalent of the relevant department.

The third-step respondent must accept the grievance, enter the date on “Form A”, and notify the division’s Human Resource Division Director of receipt.

A meeting may be held to discuss the issues in dispute, but such a meeting is not required. **Within 5 workdays** of receiving the grievance, the third-step respondent must provide a written response on the grievance “Form A” or an attachment. The response must address the issues and the relief requested and should notify the employee of his procedural options.

**Within 5 workdays** of receiving the third-step response, the employee must:

1. Request on the grievance form that his grievance be qualified for a hearing and submit the form to the President’s Office; **or**
2. Indicate on the grievance form his intention to conclude the grievance and submit the form the division’s Human Resource Division Director.

## Qualifications for a Hearing

### Qualifying Actions

Not all grievances proceed to a hearing. Only grievances that challenge certain actions qualify for a hearing.

### Actions Which AUTOMATICALLY Qualify

1. Formal discipline (a Written Notice); and
2. Dismissal for unsatisfactory performance.

### Actions Which MAY Qualify

1. Unfair application or misapplication of state and agency personnel policies, procedures, rules, and regulations;
2. Discrimination on the basis of race, color, religion, political affiliation, age, disability, national origin, or sex;
3. Arbitrary or capricious performance evaluation;
4. Retaliation for participating in the grievance process, complying with any law or reporting a violation of such law to a governmental authority, seeking to change any law before Congress or the General Assembly, reporting an incidence of fraud, abuse, or gross mismanagement, or exercising any right otherwise protected by law; or

5. Informal discipline—for example, terminations, transfers, assignments, demotions, and suspensions—which are not accompanied by formal discipline (a Written Notice) but which are taken primarily for disciplinary reasons.

### **Actions Which DO NOT Qualify**

Claims that relate solely to the following issues do not qualify for a hearing:

1. Establishment or revision of wages, salaries, position classifications, or general benefits;
2. Contents of statutes, ordinances, personnel policies, procedures, rules, and regulations;
3. Means, methods, and personnel by which work activities are undertaken;
4. Hiring, promotion, transfer, assignment, and retention of employees;
5. Termination, layoff, demotion, or suspension from duties because of lack of work, reduction in workforce, or job abolition;
6. Work activity accepted by an employee as a condition of employment or which reasonably may be expected to be a part of the content of the job;
7. Relief of employees from duties in emergencies; or
8. Informal supervisory actions—for example, interim evaluations, counseling memorandum, and oral reprimands.

### **The Hearing**

**Within 5 workdays** of the grievance being qualified for a hearing, the agency must request the appointment of a hearing officer from the [Virginia Department of Human Resource Management Office of Employment Dispute Resolution](#) (DHRM-EDR), using a “[Form B Request for Hearing Officer Appointment](#).” Refer to the [DHRM-EDR Grievance Procedure Manual](#), section 5 for information relating to the hearing, the authority of hearing officers, hearing procedures, and the decisions of a hearing officer.

A hearing officer’s decision must be in writing and contain findings of fact. They may order appropriate remedies, but may not grant relief that is inconsistent with law or policy. In granting relief, the hearing officer should consider the relief requested in the written grievance.

### **Examples of relief which may be granted:**

1. Reinstatement to the employee’s former position or to an objectively similar position;
2. Upholding, reducing, or rescinding disciplinary actions;



3. An award of full or partial back pay;
4. The restoration of full benefits and seniority;
5. An order that the agency comply with applicable law and policy; or
6. Attorneys' fees in discharge grievance hearings where the hearing officer orders reinstatement and the employee is represented by an attorney, unless special circumstances would make an award unjust.

The department is responsible for paying hearing expenses (minimum \$2000).

## Withdrawing a Grievance

At any point in the grievance process an employee may choose to conclude their grievance. However, if an employee withdraws their grievance or the parties agree to a settlement of the grievance after qualification for a hearing but prior to the issuance of a hearing decision, the employee must submit to the hearing officer a dated, signed statement clearly stating that he or she is withdrawing the grievance. This will terminate the grievance process.

## Additional Grievance Procedure Rules

**Computation of Time:** In computing any period of time required by this procedure, the day of the event from which the designated period of time begins to run shall not be included.

**Extension of Time frames:** Upon mutual agreement, parties to a grievance may extend all pre-qualification time limits including, but not limited to, the 30-calendar day grievance initiation requirement. All extension agreements between parties must be in writing. After a hearing officer is assigned, a request for postponement of the hearing must be directed to the hearing officer.

**State law prohibits retaliation against employees who participate in the grievance process.**

## Grievance Process Forms

[Virginia Department of Human Resource Management Office of Employment Resolution \(DHRM-EDR\) Grievance Procedure Manual](#); [Grievance Form A](#); [Grievance Form A-Expedited Process](#); [Grievance Form A-Dismissal Grievance](#)

**Note:** This document represents a general overview of the grievance process and should not be considered the final authority. For the most up-to-date and enforceable information relating to the Grievance Process, please review the [DHRM-EDR Grievance Procedure Manual](#), contact the division's Human Resource Division Director, the [Virginia Tech Office of Employee Relations](#), or a [DHRM Office of Employment Dispute](#)

[Resolution AdviceLine Consultant](#), which provides consultation and advice to state government employees, managers, and human resource personnel at 1-888-23ADVISE (1-800-232-3842). Call to the AdviceLine will be returned within one business day.

## Additional Support and Resources

Please review the [Virginia Department of Human Resource Management Office of Employment Dispute Resolution \(DHRM-EDR\) Grievance Procedure Manual](#) for a complete review of the grievance procedure.

### [DHRM-EDR Grievance FAQs](#)

Additional grievance forms and resources are available on the [Employment Dispute Resolution Mediation and Grievance Forms and Resources](#) page.

For additional support, please contact your division's Human Resource Division Director or [Virginia Tech Office of Employee Relations](#) (540-231-5303/4272/2850).



## AP FACULTY GRIEVANCE PROCESS

The AP Faculty grievance process is provided to administrative and professional faculty as the means for resolution of grievances against a supervisor or member(s) of the university administration. For this process, a grievance is defined as a complaint by an A/P faculty member alleging a violation, misinterpretation, or incorrect application of a policy, procedure, or practice of the university that directly affects the grievant.

The steps in the grievance process will, in part, be guided by the reporting relationships

of the employees involved in the grievance. Step one and two administrators involved in responding to a grievance should consult with the vice president for human resources and/or the vice provost for faculty affairs who may involve additional parties as appropriate. The grievant, and those involved in responding to grievances, may consult with the [Administrative and Professional Faculty Senate Vice President](#) for additional information or the [Virginia Tech Faculty Handbook](#).

**Valid issues open to grievance:** Some examples of valid issues for filing a grievance are termination for cause; improperly or unfairly determined personnel decisions that result in an unsatisfactory annual performance evaluation; unreasonable merit adjustment or salary level; excessive teaching load/work assignments; reprisals for activities protected by law or policy; substantive error in the application of policy; matters relating to academic freedom.

**Issues not open to grievance:** While A/P faculty disputes with the university administration may be dealt with using this grievance policy, the following issues may not be made the subject of a grievance: appropriate application of policy by the university administration or the university governance system; contents of university policies and procedures; the routine assignment of university resources (e.g., space, operating funds, parking, etc.); normal actions taken, or recommendations made, by administrators or committee members acting in an official capacity in the grievance process; those items falling within the jurisdiction of other university policies and procedures for example, complaints of unlawful discrimination or harassment, complaints related to unprofessional or unethical conduct, complaints related to non-reappointment, promotion, or abolition of position).

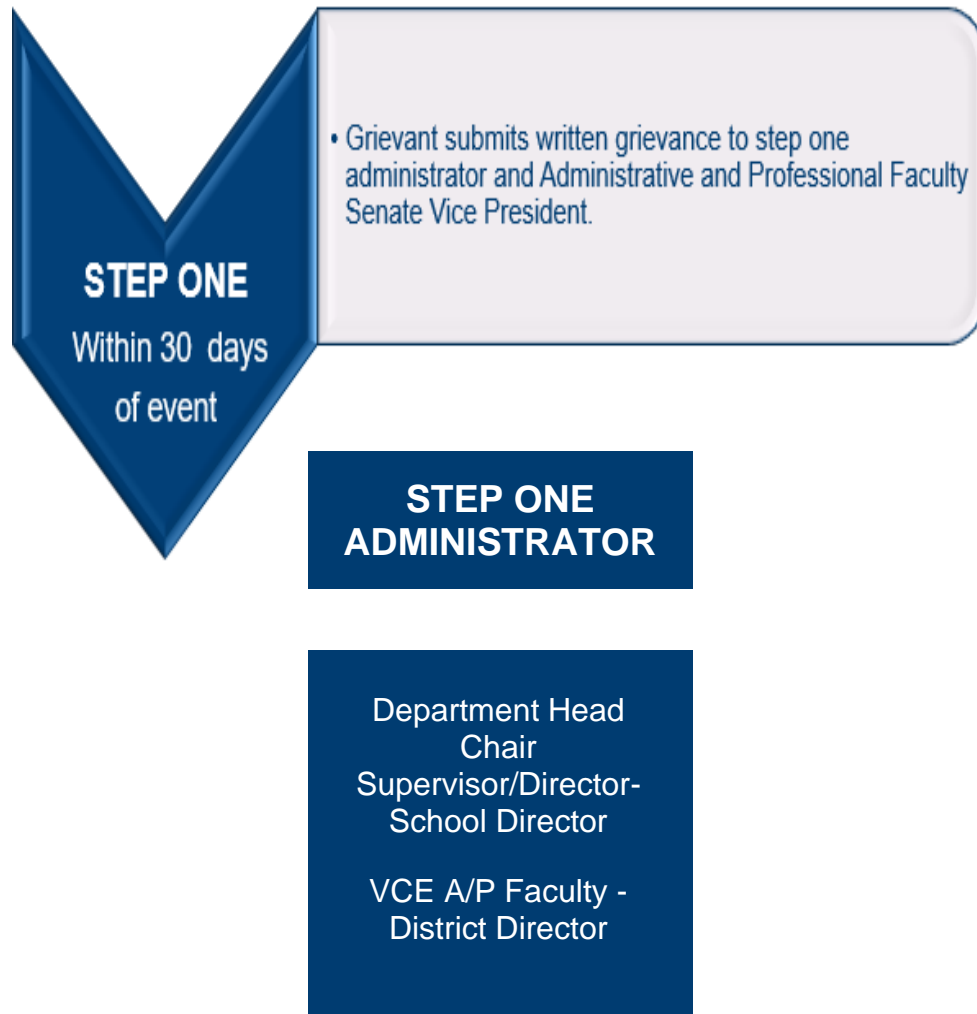
***The validity of a grievance under university policy can be determined by The Commission on Administrative and Professional Faculty Affairs (CAPFA) at any point in the process.***

## Initiating a Grievance

The grievant may pursue the issue as a formal grievance through the following procedure. Supervisors and administrators will cooperate with the grievant in the mechanics of processing the grievance, but the grievant alone is responsible for preparation of the case. The number of steps in the process is determined by the reporting line of the grievant. Thus, if three steps do not exist between the grievant and the president, then the available number of steps is used.

The grievance must be well described, and the relief requested must be specified on the [Grievance Form](#). The AP Faculty [Grievance Form](#) is available on the provost's [Faculty Forms page](#).

## Management Resolution Steps



**Step One:** The grievant must submit a written statement of the grievance to the step one administrator (the department head, chair, school director, or appropriate supervisor/director; for A/P faculty in Virginia Cooperative Extension, the district director or appropriate step one administrator) and to the Administrative and Professional Faculty Senate Vice President **within 30 calendar days** of the date identified, or the grievant should have known, of the event or action that is the basis for the grievance. If appropriate, the step one administrator will provide a copy of the grievance to the grievant's supervisor.



Within 10  
weekdays

- CAPFA chair acknowledges in writing to grievant that copy of grievance has been received .
- AP Faculty Senate Vice President convenes a grievability panel to determine the admissibility of the issue to the grievance process per chapter seven, "Valid Issues for Grievance." The grievability ruling will be documented and a written report on the deliberation sent to all parties concerned.
- If the issue is not grievable, the grievance process concludes.
- If the issue is grievable, the step one administrator responds to grievance in writing on the grievance form.
- If step one administrator's response is satisfactory to grievant, that ends the matter.
- If step one administrator's response is not satisfactory to the grievant, move to step two within 5 weekdays.

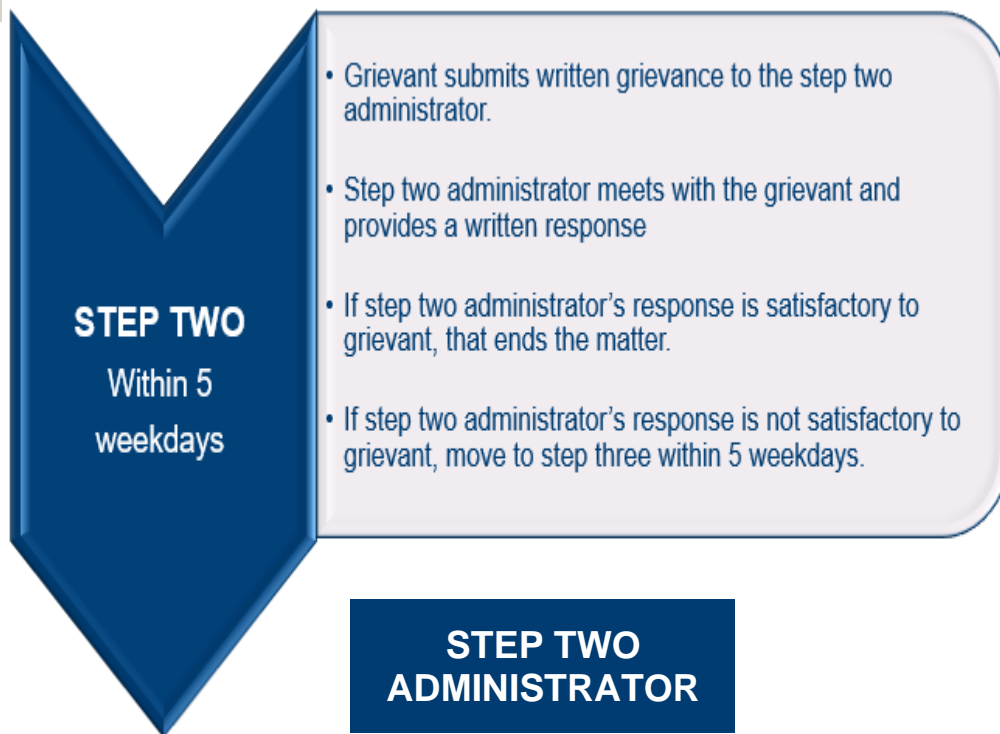
**Grievability Panel:** The Administrative and Professional Faculty Senate Vice President, **within ten weekdays** of receiving a copy of the grievance form, will convene a grievability panel. The panel consists of the Administrative and Professional Faculty Senate Vice President and two A/P faculty senators.

The panel meets to deliberate and determine the admissibility of the matter to the grievance process. A written report summarizing the deliberation and documenting the ruling of the grievability panel will be provided to all parties. The decision of the grievability panel is final.

If the issue is deemed grievable by the panel, the step one administrator provides a written response to the grievant **within five weekdays** of receiving the grievability panel's written response. Step one administrator's written response should cite reasons for action taken or not taken.

If the written response of the department head, Virginia Tech Faculty Handbook chair, school director, or appropriate supervisor/director is satisfactory to the grievant, that ends the matter.

If the grievability panel determines the issues presented by the grievant are not grievable, then the process is concluded.



**STEP TWO ADMINISTRATOR**

- Dean
- Vice President
- VCE A/P Faculty–
- Dean of CALS

**Step Two:** If the resolution of the grievance proposed in the written response by the step one administrator is not acceptable, the grievant may advance the grievance to the step two administrator (usually a dean or vice president) by checking the appropriate place on the grievance form and sending it **within five weekdays** of receiving the written response. The step two administrator for Extension A/P faculty (such as Extension agents) is the dean of the College of Agriculture and Life Sciences.

Following receipt of the grievance form, the step two administrator or designated representative meets with the grievant **within five weekdays**.

The grievant may request that a chosen representative from among the university general faculty be present. Unless the grievant is represented by a member of the faculty who is also a lawyer, the step two administrator does not have legal counsel present.

If the grievance involves a programmatic issue for an Extension A/P faculty member where responsibility for that program lies with a different dean, the designated step two administrator consults with the programmatic dean before rendering a decision.

The step two administrator gives the grievant a written decision **within five weekdays** after the meeting, citing reasons for the decision. If the step two administrator's written response to the grievance is satisfactory to the grievant, it ends the matter.

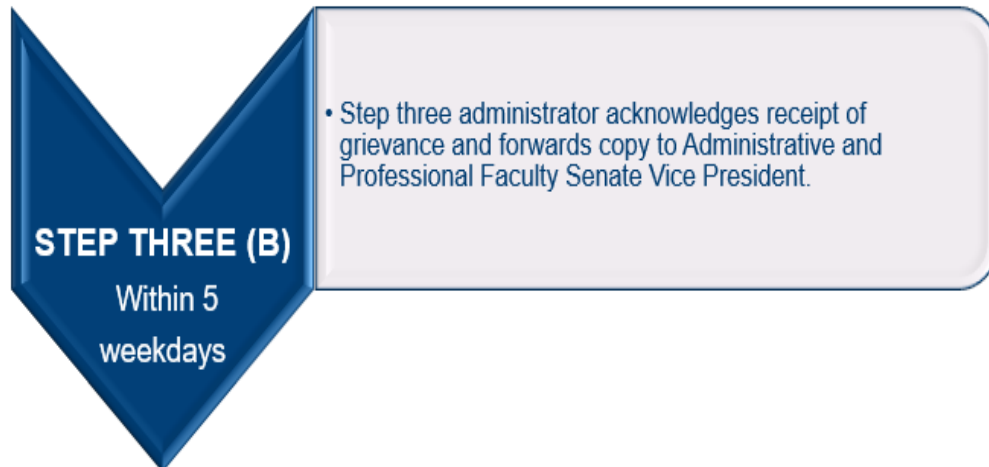


**Step Three:** If the resolution of the grievance proposed in the written response by the step two administrator is not acceptable, the grievant may advance the grievance to the step three administrator. The step three administrator is the vice president for human resources or the vice provost for faculty affairs. The grievant must advance the complaint to the step three administrator **within five weekdays** of receiving the written response from the step two administrator. If the grievant works in a college or academic vice president's division, the step three administrator will provide a copy of the grievance to the provost.

Advancement of a grievance to step three includes consideration by an impartial Administrative and Professional Faculty Senate hearing panel unless the grievant petitions the step three administrator to bypass the hearing panel and rule on the grievance.

If the step three administrator accepts the request to rule on the grievance, there is no subsequent opportunity for the grievance to be heard by an Administrative and Professional Faculty Senate hearing panel.

If the step three administrator does not accept the petition, an Administrative and Professional Faculty Senate hearing panel is formed to review the grievance as outlined in these procedures. An Administrative and Professional Faculty Senate hearing panel may also be convened to determine whether a complaint may be grieved under university policy.



**Within five weekdays**, the step three administrator, or appropriate designated representative, acknowledges receipt of the grievance and forwards a copy of the “Hearing Procedures of the Committee on Administrative and Professional Faculty Grievances” to parties in the grievance process. The step three administrator also forwards a copy of the grievance immediately to the chair of Administrative and Professional Faculty Senate.





**Within five weekdays**, the Administrative and Professional Faculty Senate Vice President acknowledges in writing to grievant that copy of the grievance has been received from the step three administrator, or appropriate designated representative.



**Hearing Panel:** A grievance hearing for A/P faculty is conducted by an ad hoc panel selected by the Administrative and Professional Faculty Senate from the current A/P Faculty Senate membership, including Senators and Alternates.

A hearing panel consists of three A/P Faculty Senators or Alternates, an alternate panel member, and the non-voting chair. The chair polls all appointees to ensure that they have no conflict of interest in the case. Either party may challenge one of the appointments, including the alternate. Other replacements are made only for cause. The alternate serves as a replacement panel member if the need arises.

To ensure uniformity in practice, the Administrative and Professional Faculty Senate serves as the non-voting chair of each hearing panel. If the Administrative and Professional Faculty Senate Vice President has a conflict of interest concerning a case, the chair appoints a replacement from among the Administrative and Professional Faculty senators who serve on CAPFA at-large to serve as chair of the hearing panel.

In the unlikely event that all A/P faculty senators and alternates have a conflict of interest concerning a case, the Administrative and Professional Faculty Senate Vice President, in consultation with the A/P Faculty Senate president, and an appropriate senior administrative official (president, provost, vice president for human resources), will appoint a nonvoting chair and panelists from the A/P faculty at large.

**Hearings:** After the members of the hearing panel are appointed, the Administrative and Professional Faculty Senate Vice President requests that each party to the

grievance provide relevant documentation to be shared among the parties and the hearing panel.

The panel holds its initial hearing with both principals present **within 15 weekdays** of receipt of the grievance by the Administrative and Professional Faculty Senate. If the panel feels it needs to investigate the case further, or requires more information, or desires to hear witnesses, the hearing is adjourned until the panel completes the necessary work or scheduling can occur.

The hearing is then reconvened as appropriate (and **within the 45-day** period required by this policy, unless agreed upon by both parties).

Each party to the grievance may have a representative present during the sessions of the hearing at which testimony is presented. The representative may speak if requested. Representatives may be legal counsel, if both parties are so represented, but if the grievant does not wish to have legal counsel at a hearing, neither party to the grievance may have legal counsel present. These impartial panel hearings are administrative functions, not adversarial proceedings. Therefore, if legal counsels are present, they must understand that the proceedings do not follow courtroom or trial procedures and rules. Participation by legal counsel is at the invitation of the parties they represent and is subject to the rulings of the chair of the hearing panel.

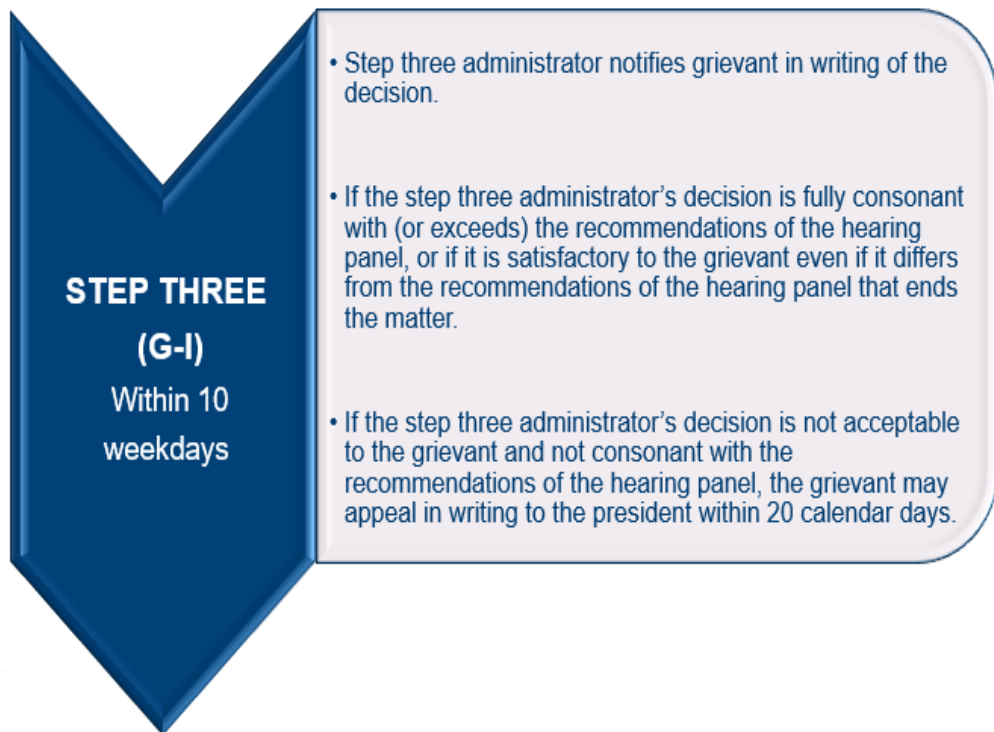


**Findings and Recommendations:** The hearing panel concludes its work and makes its recommendations **within 45 weekdays** of receipt of the grievance by the Administrative and Professional Faculty Senate Vice President. The time limit for consideration may be extended by agreement of both parties.

The hearing panel formulates written findings and recommendations regarding disposition of the grievance and forwards copies to the step three administrator and parties to the grievance.

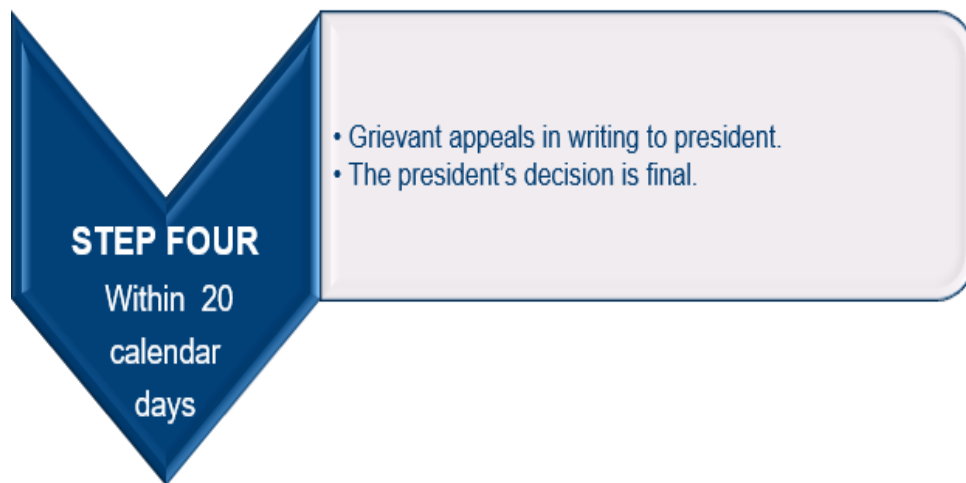


**Action of the Step Three Administrator:** The step three administrator meets with the grievant **within 10 weekdays** after receiving the findings and recommendations of the hearing panel to discuss the case and advise the grievant about the prospects for disposition of the case.



**Within 10 weekdays** of that meeting the step three administrator sends to the grievant the decision in the Virginia Tech Faculty Handbook writing concerning the disposition of the grievance.

If the step three administrator's decision is fully consonant with (or exceeds) the recommendations of the hearing panel, or if it is satisfactory to the grievant even if it differs from the recommendations of the hearing panel, that ends the matter.



**Step Four:** If the step three administrator's decision is not acceptable to the grievant and not consonant with the recommendations of the hearing panel, the grievant may appeal in writing to the university president **within 20 calendar days**. The president's decision is final.

**Extension:** Time limits are subject to extension by written agreement of both parties. The grievant and the administrator involved at that particular step of the discussion make such an agreement. (An agreement [form](#) to extend the grievance response time is available on the provost's [Faculty Forms website](#).)

## AP Faculty Grievance Process Forms

[AP Faculty Grievance Form](#); [AP Faculty Grievance-Agreement to Extend the Deadline for Grievance Response Form](#)

**Note:** This document represents a general guidance through the AP Faculty grievance process and deadlines. For specific details and options available in each step, refer to the [Virginia Tech Faculty Handbook](#), chapter seven (7.8.6) - [Chapter Seven \(7.8.6\) Grievance Policy and Procedures for Administrative and Professional Faculty](#), contact your department's Human Resource Division Director, the [Virginia Tech Office of Employee Relations](#).

## Additional Support and Resources

Please review the [Virginia Tech Faculty Handbook](#) for a complete review of the AP Faculty grievance procedure.

For additional support, please consult with the [Administrative and Professional Faculty Senate Vice President](#), contact your division's Human Resource Division Director or [the Virginia Tech Office of Employee Relations](#) (540-231-5303/4272/2850).



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