

**BOARD OF TRUSTEES  
UNIVERSITY OF THE DISTRICT OF COLUMBIA  
UDC RESOLUTION NO. 2019 –**

**SUBJECT: NOTICE OF PROPOSED RULEMAKING, MODIFICATIONS TO THE UNIVERSITY RULES REGARDING NON-BARGAINING UNIT GRIEVANCES**

**WHEREAS**, pursuant to D.C. Official Code § 38-1202.01(a), the Board of Trustees (“Board”); has the power to adopt, prescribe, amend, repeal, and enforce bylaws, rules, and regulations it considers necessary for the governance and administration of the University of the District of Columbia (“University”); and

**WHEREAS**, pursuant to D.C. Official Code § 38-1202.06(13), it is the duty of the Board to perform such duties and make such regulations as may be necessary to carry out the purposes of the University and that such regulations are adopted in accordance with the provisions of D.C. Official Code § 2-505(a); and

**WHEREAS**, the Board seeks to revise Chapter 16, entitled “Grievances” as set forth in Title 8B of the District of Columbia Municipal Regulations (DCMR) to streamline the process by eliminating the Impartial Grievance Hearing Panel and Procedures and standardizing timeframes; by excluding bargaining unit employee grievances that can be processed pursuant to a negotiated grievance procedure; and to provide that decisions by the President are final.

**NOW, THEREFORE BE IT RESOLVED**, that the Board hereby takes proposed rulemaking action to adopt the revised Chapter 16 of Title 8B of the DCMR to streamline the grievance procedure, standardize timeframes, exclude matters that can be processed pursuant to a negotiated grievance process, and provide that grievance decisions by the President are final as indicated in the Notice of Proposed Rulemaking attached hereto as **Exhibit A**; and

**BE IT FURTHER RESOLVED** that the Acting General Counsel of the University is hereby directed to publish this Notice of Proposed Rulemaking in the D.C. Register as soon as is practicable for a comment period of not less than thirty (30) days, in accordance with the provisions of D.C. Official Code §2-505 (a).

Submitted by the Operations Committee

August 27, 2019

Approved by the Board of Trustees

September 10, 2019

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Christopher Bell  
Chairperson of the Board

**EXHIBIT A**  
**NOTICE OF PROPOSED RULEMAKING**

## UNIVERSITY OF THE DISTRICT OF COLUMBIA

### NOTICE OF PROPOSED RULEMAKING

The Board of Trustees of the University of the District of Columbia, pursuant to the authority set forth under the District of Columbia Public Postsecondary Education Reorganization Act Amendments (Act) effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code §§ 38-1202.01(a); 38-1202.06(13) (2012 Repl.) hereby gives notice of its intent to amend Chapter 16 (Grievances) of Subtitle B (University of the District of Columbia) of Title 8 (Higher Education) of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The purpose of the proposed rule is to revise the University's grievance procedures for employees not represented by a collective bargaining agreement.

The Board of Trustees will take final action to adopt these amendments to the University Rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

**Chapter 16, GRIEVANCES, of Title 8-B DCMR, UNIVERSITY OF THE DISTRICT OF COLUMBIA, is amended by deleting it and replacing it in its entirety as follows:**

#### **DCMR Chapter 16, GRIEVANCES**

##### **1600 GENERAL PROVISIONS: APPLICABILITY**

- 1600.1 The informal presentation by employees of concerns and grievances is encouraged and shall be reasonably accommodated by management. The provisions of this chapter set forth formal grievance procedures that shall be used by University employees (except those excluded below) to seek resolution of conflict, the prompt and equitable relief of personal concerns and the redress of grievances.
- 1600.2 This chapter shall apply only to non-bargaining unit employees.
- 1600.3 The grievance procedures set forth in this chapter shall not apply to the following employees:
- (a) A bargaining unit employee subject to a negotiated grievance process;
  - (b) A probationary employee seeking to challenge his/her termination during probation;

- (c) A temporary employee or an employee with a time-limited appointment seeking to challenge the termination of that appointment.

1600.4 The grievance procedures set forth in this chapter shall not apply to:

- (a) Applicants for employment; or
- (b) Former employees.

1600.5 A grievance may consist of a complaint of dissatisfaction or dispute concerning the following:

- (a) The interpretation or application of University policies or procedures;
- (b) A claimed violation, misrepresentation, or misapplication of University rules or applicable law; or
- (c) A failure to act pursuant to the policies and practices of the University or other applicable policies and practices.

1600.6 The following matters are not subject to this grievance procedure:

- (a) Any action implemented to comply with a decision by the Office of Employee Appeals, an arbitrator of competent jurisdiction, the Office of the Inspector General, the Executive Office of the Mayor, the Office of Human Rights, the Commission on Human Rights, a court of competent jurisdiction, or any other agency authorized by law to mandate a particular action;
- (b) Any action terminating an employee's temporary promotion that returns the employee to the position from which the employee was temporarily promoted or to a different position that is not at a lower grade or level than the position from which the employee was temporarily promoted;
- (c) Expiration of an appointment with a specific time limit;
- (d) Forfeiture of position due to failure to maintain bona fide District residency, or to meet the residency or domicile requirements;
- (e) Termination or discipline of an employee serving a probationary period;
- (f) The return or assignment to the position from which promoted or to an equivalent position of an employee who does not successfully complete a supervisory probationary period;
- (g) Termination of a term promotion upon completion or termination of an assigned project, and the return of the employee to the position from which promoted or to a different position of equivalent grade and pay;
- (h) An action reassigning an employee to a different position that is not at a lower grade;
- (i) Termination or discipline prior to the expiration of a temporary appointment;
- (j) An appeal from a disciplinary action or adverse action under the provisions of Chapter 15 of this subtitle;
- (k) Voluntary action initiated by, or at the request of, an employee;

- (l) Reduction of an employee's rate of pay from an erroneous rate;
- (m) An allegation of unlawful discrimination, or any other matter within the jurisdiction of the Office of Human Rights;
- (n) An allegation of an unfair labor practice, or any other matter required to be decided by the Public Employee Relations Board;
- (o) A final University decision which, pursuant to the D.C. Official Code Section 1-606.03(a), may be appealed to the Office of Employee Appeals;
- (p) A grievance that could be submitted through the grievance procedures contained in a collective bargaining agreement
- (q) Non-selection for any competitive or non-competitive appointment or promotion from a group of candidates who were properly qualified, ranked or certified;
- (r) Performance evaluations conducted under the provisions of Chapter 19 of Title 8B of the DCMR;
- (s) The application or coverage of the Fair Labor Standards Act;
- (t) A prior grievance dismissed with prejudice;
- (u) Non-adoption of a suggestion;
- (v) Disapproval of a quality salary increase, performance award or other kind of honorary or discretionary award;
- (w) Any matter which is not subject to the jurisdiction of the Board of Trustees; and/or
- (x) The substantive content of any resolution, policy or procedure of the Board of Trustees.

**1601 GENERAL PROVISIONS**

- 1601.1 An employee shall first attempt to resolve a grievance informally through discussions with his or her supervisor. If the grievance is not resolved satisfactorily through informal discussion, the employee may pursue the grievance formally, beginning with the procedures set forth in §1604.
- 1601.2 An employee shall not knowingly make false or unfounded charges when presenting a grievance.
- 1601.3 An employee filing a grievance under this chapter shall present the grievance within fifteen (15) days after the date that he or she knew or should have known of the act or occurrence that is the subject of the grievance.
- 1601.4 Each grievant and/or witness will be free from restraint, coercion, interference, discrimination, or reprisal for the act of filing or supporting a grievance.
- 1601.5 The timeframes set forth in this chapter may be extended by mutual consent of the parties involved.

## **1602 RIGHTS OF EMPLOYEES**

- 1602.1 An employee shall have the right to be accompanied by a person of his or her choosing at any stage in the consideration of a grievance. If the employee chooses to be represented by an attorney, notice shall be provided to the supervisor or Cabinet member as applicable, 48 hours before the grievance is heard. In such case, the supervisor or Cabinet member may have an attorney present.
- 1602.2 An employee submitting a grievance under the provisions of this chapter may be granted a reasonable amount of official time for the preparation and/or presentation of the grievance. If questions arise, the Vice President for Talent Management will determine what constitutes a reasonable amount of time.

## **1603 RESPONSIBILITIES OF SUPERVISORS**

- 1603.1 An employee's supervisor shall be responsible for making a sincere effort to resolve the grievance presented by the employee.
- 1603.2 During an interview with the employee, the supervisor will note the employee's specific allegations, the facts supporting those assertions, and the relief being sought by the employee and determine whether a legitimate grievance has been presented based upon §§1600 and 1601.
- 1603.3 Each supervisor shall use sound judgment, keep superiors informed of the status of each grievance, and as necessary, request guidance from Talent Management.
- 1603.4 A grievance shall be given full, impartial, and prompt consideration, and (except in unusual circumstances) a decision shall be rendered by the supervisor on a grievance within ten (10) days after receipt of the grievance.
- 1603.5 If a supervisor hearing a grievance has reason to believe that the employee is knowingly making false and damaging statements, the supervisor should advise the employee that if those charges are found to be intentionally false and damaging, the employee may be subject to disciplinary action up to and including termination.

## **1604 FORMAL GRIEVANCE PROCEDURE: STEP 1**

- 1604.1 To begin formal grievance procedures at Step 1, the employee shall present the grievance in writing to his or her immediate supervisor within 15 days of the

act, violation, or occurrence, or within 15 days of the date the employee became aware of the act, violation, or occurrence.

- 1604.2 The formal grievance will be referred to as a "Statement of the Grievance". The Statement of the Grievance shall contain enough detail to clearly identify the basis for the grievance, the facts supporting the grievance, and the specific relief requested.
- 1604.3 Within five (5) days of receipt of the Statement of the Grievance, the supervisor shall do one of the following:
- a. Acknowledge receipt of the grievance and begin processing;
  - b. Deny the grievance as being a matter not subject to review;
  - c. Deny the grievance as being untimely; or
  - d. Request the employee to supply additional information or inform the employee that additional information will be gathered. The parties may agree to extend timeframes to permit the gathering of such additional information.
- 1604.4 The supervisor shall conduct an interview and discussion with the employee and advise the employee in writing of his or her decision within ten (10) days following receipt of the Statement of the Grievance, unless additional information is required and the parties have agreed to extend timeframes.
- 1604.5 If the supervisor does not grant the relief sought by the employee, or lacks authority to grant the relief sought, the supervisor shall advise the employee in writing, stating the basis for the decision and inform the employee of his or her right to appeal the grievance to the Step 2 level within five (5) days from the date of receipt of the notification.
- 1604.6 If the employee does not receive a written answer to the Statement of the Grievance within ten (10) days following receipt of the Statement of the Grievance (and the parties have not agreed upon an extension of time), or the employee disagrees with the supervisor's decision, the employee shall have the right to appeal the grievance to Step 2.

## **1605 FORMAL GRIEVANCE PROCEDURE: STEP 2**

- 1605.1 If a grievance is not resolved under §1604, it shall be presented by the employee to the employee's second level supervisor in the chain of command within five (5) days after receipt of the supervisor's decision or the expiration of the required period for a decision to be made in Step 1.
- 1605.2 The Step 1 grievance appeal shall be in writing, shall contain the materials presented at Step 1 and enough details to clearly identify the basis for the

appeal, and the relief sought by the employee. No new allegations may be added to the Step 2 grievance.

- 1605.3 The second level supervisor shall review the grievance materials and advise the employee in writing of his or her decision within ten (10) days of receipt of the Step 1 grievance appeal or advise the employee of the need for additional information. The parties may agree to extend timeframes to permit the gathering of such additional information.
- 1605.4 If the second level supervisor does not grant the relief sought by the employee, or lacks authority to grant the relief sought, the second level supervisor shall advise the employee in writing, stating the basis for the decision and inform the employee of his or her right to appeal the grievance to the Step 3 level within five (5) days from date of receipt of the Step 2 decision.
- 1605.5 If the employee does not receive a written answer within ten (10) days following the second level supervisor's receipt of the Step 2 appeal (and the parties have not agreed upon an extension of time), or if the employee disagrees with the second level supervisor's decision, the employee shall have the right to appeal the grievance to Step 3.

### **1606 FORMAL GRIEVANCE PROCEDURE: STEP 3**

- 1606.1 Within five (5) days of receipt of the Step 2 decision or the expiration of the required period for a decision to be made, the grievant may appeal the action to the appropriate Cabinet member (the official within the employee's chain of command or a Cabinet member designated by the President).
- 1606.2 The Step 2 grievance appeal shall be in writing, shall contain the materials presented at Step 2 and enough details to clearly identify the basis for the appeal, and the relief sought by the employee. No new allegations may be added to the Step 3 grievance.
- 1606.3 The appropriate Cabinet member shall review the grievance materials and advise the employee in writing of his or her decision within ten (10) days from receipt of the Step 2 appeal or advise the employee of the need for additional information. The parties may agree to extend timeframes to permit the gathering of such additional information.
- 1606.4 If the appropriate Cabinet member does not grant the relief sought by the employee, or lacks authority to grant the relief sought, the appropriate Cabinet member shall advise the employee in writing, stating the basis for the decision and inform the employee of his or her right to appeal the grievance to the Step 4 level within five (5) days from the date of receipt of the Step 3 decision.



1606.5 If the employee does not receive a written answer within ten (10) days following receipt of the Step 3 appeal (and the parties have not agreed upon an extension of time), or if the employee disagrees with the appropriate Cabinet member's decision, the employee shall have the right to appeal the grievance to Step 4.

**1607 FORMAL GRIEVANCE PROCEDURE: STEP 4 – FINAL APPEAL TO THE PRESIDENT**

1607.1 Within ten (10) days of the Step 3 decision or the expiration of the required period for a decision to be made, the grievant may appeal the action to the President.

1607.2 The appeal must be in writing with all documentation from the previous appeals attached, and enough details to clearly identify the basis for the appeal, and the relief sought by the employee. No new allegations may be added to the Step 4 grievance.

1607.3 The President shall review the grievance materials, and advise the employee in writing of his or her decision within ten (10) days from receipt of the Step 3 appeal, or advise the employee of the need for additional information, in which case, the President shall advise the employee of the date by which a final decision will be issued.

1607.4 The decision of the President shall be final.

**1608 EMPLOYEES REPORTING TO THE PRESIDENT OR A CABINET MEMBER**

1608.1 In all instances where the President is the first or second line supervisor, the employee's appeal rights shall terminate with the President, whose decision shall be final.

**1609 DISMISSAL OF GRIEVANCE**

1609.1 An employee may request a dismissal of the grievance at any time.

1609.2 A supervisor or second level supervisor may dismiss a grievance if the employee fails to carry out his or her responsibilities; fails to participate; separates from the University; or otherwise impedes the grievance process under this chapter.

1609.3 A dismissal requested by an employee or issued pursuant to this section following the issuance of a Step 2 grievance shall be final.

All persons desiring to comment on the subject matter of the proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Comments should be filed with the Office of General Counsel, Building 39- Room 301-Q, University of the District of Columbia, 4200 Connecticut Avenue, N.W., Washington, D.C. 20008.


Comments may also be submitted by email to [OfficeofGC@udc.edu](mailto:OfficeofGC@udc.edu). Individuals wishing to comment by email must include the phrase "Comment to Proposed Rulemaking: Business Enterprises and Sales of Products and Services" in the subject line.

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## MEMORANDUM

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To: Evola C. Bates  
Chief of Staff

From: Patricia Cornwell Johnson   
Vice President

Subject: Revisions to Chapter 16, DCMR - Grievances

Date: October 30, 2019

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Talent Management has modified Chapter 16 of the DCMR regarding internal grievances to clarify that this process is only available to non-bargaining unit employees since bargaining unit grievances will be addressed pursuant to the negotiated grievance processes in the appropriate collective bargaining agreements.<sup>1</sup> We also standardized the time frames set forth in the process (15 days to initiate a grievance, 10 days for management to respond at each Step, and 5 days for a grievant to appeal to the next Step); and we eliminated the Impartial Grievance Hearing Panel and Procedures, but provided for final decisions by the President.

While we eliminated the Impartial Review Panel, we are confident that this process change will not adversely affect employees. The original Chapter 16 grievance process provided that an employee/grievant could initiate the grievance process by submitting a written grievance to their immediate supervisor. If the employee/grievant was not satisfied with the supervisor's response, the matter could be appealed to the second-level supervisor, at Step 2. Again, if the employee/grievant was not satisfied with the second-level supervisor's response, the matter could be appealed to the appropriate Vice President at Step 3, but the employee could request that the Vice President refer the matter to an Impartial Panel for review and recommendation. That Impartial Review Panel was comprised of 3 people appointed by the Vice President (without input from the employee/grievant), and the Panel could not include an employee from the same department or office as the employee/grievant.

The Impartial Review Panel was responsible for conducting an independent inquiry (which could include interviews, group meetings, or an informal hearing); preparing a report of its findings

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<sup>1</sup> This exclusion of bargaining unit grievances is consistent with a change made by the District of Columbia to its administrative grievance process, embodied in Chapter 16 of the District Personnel Manual, in May 2019.

and recommendations; and submitting that report to the Vice President and employee/grievant. The Vice President was only obliged to consider the report and recommendations; the Vice President did not have to accept and/or adopt the findings and recommendation. Instead, the Vice President was only required to render a written decision and transmit it to the employee/grievant. If the Vice President was the employee/grievant's first-level supervisor, the matter could be further appealed to the President, whose decision was final. If, on the other hand, the Vice President was the employee/grievant's second-level supervisor, the Vice President's decision was final.

While we eliminated the Impartial Review Panel from this process, we nonetheless require supervisors at Step 1, within 5 days of receipt of the grievance, to initially review the grievance to determine whether it is timely and subject to review, and/or whether additional information will be necessary. We also require the supervisor to interview the grievant to clarify the issues and remedy sought, and to render a written decision within 10 days of receipt of a grievance. We expect supervisors to use sound judgment, keep their managers informed, and seek Talent Management's advice as necessary. Moreover, we require them to give full and impartial and prompt consideration to all grievances, and we encourage supervisors to make a sincere effort to resolve grievances. Finally, employees can appeal their grievances to the President, whose decisions are final.

## DCMR Chapter 16, GRIEVANCES

### 1600 GENERAL PROVISIONS: APPLICABILITY

1600.1 The informal presentation by employees of concerns and grievances is encouraged and shall be reasonably accommodated by management. The provisions of this chapter set forth formal grievance procedures that shall be utilized by University employees ~~for the~~ (except those excluded below) to seek resolution of conflict, the prompt and equitable relief of personal concerns, and the redress of grievances.

~~1600.2~~ 1600.2 This chapter shall apply only to non-bargaining unit employees.

1600.3 The grievance procedures set forth in this chapter shall not apply to ~~any of the following employees:~~

- ~~(a) — A complaint of discrimination which is covered under EEOC or D.C. Office of Human Rights regulations;~~
- ~~(b) — University policy on labor management relations;~~
- ~~(c) — An action terminating a temporary promotion within a maximum period of two (2) years which returns the bargaining unit employee to the position from which he or she was temporarily promoted;~~
- ~~(d) — An action reassigning or demoting an employee to a different position that is not at a lower grade or level than the position from which he or she was temporarily promoted;~~
- ~~(e) — Non adoption of a suggestion;~~
- ~~(f) — Disapproval of a quality salary increase, performance award, or other kind of honorary or discretionary award;~~
- ~~(g) — An appeal from a disciplinary action or adverse action under the provisions of chapter 15 of this subtitle;~~
- ~~(h) — Any matter for which a separate appeal procedure is provided;~~
- ~~(i) — Any matter which is not subject to the jurisdiction of the Board of Trustees;~~
- ~~(j) — The substantive content of any resolution, policy, or procedure of the Board of Trustees;~~
- ~~(k) — The application or interpretation of a negotiated grievance procedure between the University and a labor organization process;~~
- (a) A probationary employee seeking to challenge his/her termination during probation;

- (c) A temporary employee or an employee with a time-limited appointment from a group of duly-certified-qualified-candidates seeking to challenge the termination of that appointment.

1600.4 The grievance procedures set forth in this chapter shall not apply to:

- (a) Applicants for employment; or
- (m) Non-reappointment of a faculty member, except in cases where the grievant claims the action was based on inadequate consideration, inaccurate information, discrimination, or violation of academic freedom.
- (b) Former employees.

1600.35 A grievance may consist of a complaint of dissatisfaction or dispute concerning the following:

- (a) The interpretation or application of University policies or procedures;
- (b) A claimed violation, misrepresentation, or misapplication of University rules or applicable law; or
- (c) A failure to act pursuant to the policies and practices of the University or other applicable policies and practices.

1600.4 An employee shall not knowingly make false or unfounded charges in presenting a subject to this grievance procedure:

- (a) Any action implemented to comply with a decision by the Office of Employee Appeals, an arbitrator of competent jurisdiction, the Office of the Inspector General, the Executive Office of the Mayor, the Office of Human Rights, the Commission on Human Rights, a court of competent jurisdiction, or any other agency authorized by law to mandate a particular action;
- (b) Any action terminating an employee's temporary promotion that returns the employee to the position from which the employee was temporarily promoted or to a different position that is not at a lower grade or level than the position from which the employee was temporarily promoted;
- (c) Expiration of an appointment with a specific time limit;
- (d) Forfeiture of position due to failure to maintain bona fide District residency, or to meet the residency or domicile requirements;
- (e) Termination or discipline of an employee serving a probationary period;
- (f) The return or assignment to the position from which promoted or to an equivalent position of an employee who does not successfully complete a supervisory probationary period;
- (g) Termination of a term promotion upon completion or termination of an assigned project, and the return of the employee to the position from which promoted or to a different position of equivalent grade and pay;

- (h) An action reassigning an employee to a different position that is not at a lower grade;
- (i) Termination or discipline prior to the expiration of a temporary appointment;
- (j) An appeal from a disciplinary action or adverse action under the provisions of Chapter 15 of this subtitle;
- (k) Voluntary action initiated by, or at the request of, an employee;
- (l) Reduction of an employee's rate of pay from an erroneous rate;
- (m) An allegation of unlawful discrimination, or any other matter within the jurisdiction of the Office of Human Rights;
- (n) An allegation of an unfair labor practice, or any other matter required to be decided by the Public Employee Relations Board;
- (o) A final University decision which, pursuant to the D.C. Official Code Section 1-606.03(a), may be appealed to the Office of Employee Appeals;
- (p) A grievance that could be submitted through the grievance procedures contained in a collective bargaining agreement
- (q) Non-selection for any competitive or non-competitive appointment or promotion from a group of candidates who were properly qualified, ranked or certified;
- (r) Performance evaluations conducted under the provisions of Chapter 19 of Title 8B of the DCMR;
- (s) The application or coverage of the Fair Labor Standards Act;
- (t) A prior grievance dismissed with prejudice;
- (u) Non-adoption of a suggestion;
- (v) Disapproval of a quality salary increase, performance award or other kind of honorary or discretionary award;
- (w) Any matter which is not subject to the jurisdiction of the Board of Trustees; and/or
- (x) The substantive content of any resolution, policy or procedure of the Board of Trustees.

1601+600-5 GENERAL PROVISIONS

1601.1 An employee shall first attempt to resolve a grievance informally through discussions with his or her supervisor. If the grievance is not resolved satisfactorily through informal discussion, the employee may pursue the grievance formally, beginning with the procedures set forth in ~~§1603~~ 1604.

~~1600.6~~  
1601.2 An employee shall ~~be required to informally present~~ not knowingly make false or unfounded charges when presenting a grievance ~~concerning a particular practice or occurrence.~~

1601.3 An employee filing a grievance under this chapter shall present the grievance within fifteen (15) days after the date that he or she knew or should have



known of the act or occurrence, or within fifteen (15) days that is the subject of the date the employee became aware of grievance.

1601.4 Each grievant and/or witness will be free from restraint, coercion, interference, discrimination, or reprisal for the act or occurrence of filing or supporting a grievance.

1601.5 The timeframes set forth in this chapter may be extended by mutual consent of the parties involved.

~~1602~~1600.7 A grievance shall be cancelled by the following:

- ~~(a)~~ At the employee's request;
- ~~(b)~~ Upon termination of the employee's employment, unless the relief sought by the employee may be granted after termination;
- ~~(c)~~ Upon the death of the employee, unless the grievance involves a question of pay; or
- ~~(a)~~ ~~(d)~~ Failure of the employee to prosecute the grievance.

#### ~~1601~~ RIGHTS OF EMPLOYEES

~~1601~~

1602.1 Each employee shall have the right to make known a dissatisfaction or complaint without fear of coercion or reprisal.

~~1601.2~~ An employee shall have the right to be ~~represented or~~ accompanied by a person of his or her choosing at any stage in the consideration of a grievance. If the employee chooses to be represented by an attorney, notice shall be provided to the supervisor or Cabinet member as applicable, 48 hours before the grievance is heard. In such case, the supervisor or Cabinet member may have an attorney present.

~~1601.3~~ An employee shall be entitled to official time to present the grievance. Official time may be determined by the Director of Personnel when appropriate.

1602.2 An employee submitting a grievance under the provisions of this chapter may be granted a reasonable amount of official time for the preparation and/or presentation of the grievance. If questions arise, the Vice President for Talent Management will determine what constitutes a reasonable amount of time.

#### 1603 RESPONSIBILITIES — DUTIES OF SUPERVISORS

~~1602~~1603.1 An employee's supervisor shall be responsible for making a sincere effort to ~~adjust~~ resolve the grievance presented by the employee.



~~1602.2~~1603.2 During an interview with the employee, the supervisor will note the employee's specific allegations, the facts supporting those assertions, and the relief being sought by the employee and determine whether a legitimate grievance has been presented based upon §§1600 and 1601.

1603.3 Each supervisor shall use sound judgment, keep superiors informed of the status of each grievance, and, as necessary, request guidance ~~or other assistance~~ from Talent Management.

~~1602.3~~1603.4 A grievance shall be given full, impartial, and prompt consideration, and (except in unusual circumstances) a decision shall be rendered by the supervisor on a grievance within ten (10) days after ~~initiation under~~ receipt of the formal procedures: grievance.

~~1602.4~~1603.5 If a supervisor hearing a grievance has reason to believe that the employee is knowingly making false and damaging statements, the supervisor should advise the employee that if those charges are found to be intentionally false and damaging, the employee may be subject to disciplinary action up to and including termination.

#### ~~1603~~1604 **FORMAL GRIEVANCE ~~PROCEDURES~~PROCEDURE: STEP 1**

~~1603~~1604.1 To begin formal grievance procedures at Step 1, the employee shall present the grievance in writing to his or her immediate supervisor. ~~The grievance shall state the relief sought by the employee~~ within 15 days of the act, violation, or occurrence, or within 15 days of the date the employee became aware of the act, violation, or occurrence.

~~1603~~1604.2 The formal grievance will be referred to as a "Statement of the Grievance". The Statement of the Grievance shall contain enough detail to clearly identify the basis for the grievance, the facts supporting the grievance, and the specific relief requested.

1604.3 Within five (5) days of receipt of the Statement of the Grievance, the supervisor shall document do one of the following:

- a. Acknowledge receipt of the grievance, and begin processing;
- b. Deny the grievance as being a matter not subject to review;
- c. Deny the grievance as being untimely; or
- d. Request the employee to supply additional information or inform the employee that additional information will be gathered. The parties may agree to extend timeframes to permit the gathering of such additional information.

1604.4 The supervisor shall conduct ~~informal discussions~~ an interview and discussion with the employee, and advise the employee in writing of ~~the~~his or her decision within ten (10) days following receipt of the Statement of the Grievance, unless additional information is required and the parties have agreed to extend timeframes.

~~1603.3~~1604.5 If the supervisor does not grant the relief sought by the employee, or lacks authority to grant the relief sought, the supervisor shall advise the employee in writing, stating the basis for the decision and inform the employee of ~~the~~his or her right to appeal the grievance to the Step 2 level within five (5) days from the date of receipt of the notification.

1604.6 If the employee does not receive a written answer to the Statement of the Grievance within ten (10) days following receipt of the Statement of the Grievance (and the parties have not agreed upon an extension of time), or the employee disagrees with the supervisor's decision, the employee shall have the right to appeal the grievance to Step 2.

#### 1605 FORMAL GRIEVANCE PROCEDURE: STEP 2

1605

#### ~~1604~~ FORMAL GRIEVANCE PROCEDURES: STEP 2

~~1604.1~~ If a grievance is not resolved under ~~§1603~~1604, it shall be presented by the employee to the employee's second level supervisor in the chain of command within five (5) days after receipt of the ~~decision~~supervisor's decision or the expiration of the required period for a decision to be made in Step 1.

~~1604~~1605.2 The Step 1 grievance appeal shall be in writing, shall contain ~~sufficient~~the materials presented at Step 1 and enough details to clearly identify and clarify the basis for the grievance appeal, and ~~shall state~~ the relief sought by the employee. No new allegations may be added to the Step 2 grievance.

~~1604~~1605.3 The second level supervisor shall review the grievance materials and advise the employee in writing of his or her decision within ten (10) days of receipt of the grievance. Step 1 grievance appeal or advise the employee of the need for additional information. The parties may agree to extend timeframes to permit the gathering of such additional information.

~~1604~~1605.4 If the second level supervisor does not grant the relief sought by the employee, or lacks authority to grant the relief sought, the second level supervisor shall advise the employee in writing, stating the basis for the decision and inform the employee of ~~the~~his or her right to ~~carry~~appeal the grievance to the

Step 3 level within five (5) days from date of receipt of the notification. ~~Step 2 decision.~~

~~1605.5~~ If the employee does not receive a written answer within ten (10) days following the second level supervisor's receipt of the Step 2 appeal (and the parties have not agreed upon an extension of time), or if the employee disagrees with the second level supervisor's decision, the employee shall have the right to appeal the grievance to Step 3.

### **1606 FORMAL GRIEVANCE PROCEDURE: STEP 3**

~~1606~~

#### ~~1605~~ **FORMAL GRIEVANCE PROCEDURES: STEP 3**

~~.1~~ Within five (5) days of receipt of the Step 2 decision or the expiration of the required period for a decision to be made, the grievant may appeal the action to the appropriate vice president. Cabinet member (the official within the employee's chain of command or a Cabinet member designated by the President).

~~1605~~ ~~1606.2~~ If the grievant desires a review before an impartial panel, The Step 2 grievance appeal shall be in writing, shall contain the materials presented at Step 2 and enough details to clearly identify the basis for the appeal, and the relief sought by the employee. No new allegations may be added to the Step 3 grievance.

~~1606.3~~ The appropriate vice president shall, Cabinet member shall review the grievance materials and advise the employee in writing of his or her decision within fifteen (15) days from receipt of the grievance, refer the matter to an impartial panel for review and recommendation. Step 2 appeal or advise the employee of the need for additional information. The parties may agree to extend timeframes to permit the gathering of such additional information.

~~1605.3~~ The impartial review panel shall be comprised of three (3) persons appointed by the 1606.4  
If the appropriate vice president in no case shall a panel include an employee in the same department or office as the grievant.

~~1605.4~~ The panel Cabinet member does not grant the relief sought by the employee, or lacks authority to grant the relief sought, the appropriate Cabinet member shall elect a chairperson who shall be the spokesperson for the panel. advise  
**IMPARTIAL GRIEVANCE HEARING PANEL**

~~1606.1~~ The panel shall conduct an independent inquiry.

~~1606.2~~ At the panel's discretion, the inquiry may consist of any or all of the following:

- (a) The securing of documentary evidence;
- (b) Personal interviews;

(e) — A group meeting; and

(d) — An informal hearing, to be held in accordance with the provisions of §§1607 and 1608;

~~1606.3~~ — After the panel conducts its inquiry, the employee shall be given an opportunity to review the file and respond. After the employee has been given an opportunity to review the file, **employee in writing, stating the** panel shall prepare a report of its findings and recommendations and submit the report and grievance file to the appropriate vice president. The panel shall also furnish a copy of the report to the employee.

basis

### ~~1607~~ IMPARTIAL HEARING PROCEDURES

~~1607.1~~ — Attendance at a hearing shall be limited to persons determined by the panel to have a direct connection with the grievance.

~~1607.2~~ — The hearing shall be conducted to bring out pertinent facts regarding the grievance raised.

~~1607.3~~ — Rules of evidence shall not be applied strictly, but the panel may exclude irrelevant or unduly repetitious testimony. Decisions on the admissibility of evidence or testimony shall be made by the panel.

~~1607.4~~ — A record of the hearing shall be made. The panel shall determine whether the record of the proceedings shall be a verbatim transcript or a summary of the hearing. The full record of the hearing shall include all pertinent documents made a part of the record.

~~1607.5~~ — When the hearing is not reported verbatim, a summary of pertinent evidence shall be compiled for the record of the proceeding.

~~1607.6~~ — If the grievant fails to agree on the summary, written exceptions may be submitted regarding any part of the hearing. The exceptions shall be included in the official record of the hearing.

### ~~1608~~ WITNESSES FOR GRIEVANCE HEARINGS

~~1608.1~~ — If a hearing is held, the grievant and the organization or persons, if any, against whom the complaint has been made shall be entitled to present witnesses.

~~1608.2~~ — Supervisors shall make employees available as witnesses before a panel, upon request.

~~1608.3~~ — If a supervisor determines that it is not administratively practical to comply with a request of the panel, the supervisor shall notify the panel in writing of the reasons for that determination. If, in the panel's judgment, attendance of the witness is essential to a full and fair hearing, the panel may postpone the hearing until the witness is available.

~~1608.4~~ — An employee shall be considered on active duty status during the time he or she is made available to participate in a hearing.



## ~~1609~~ **CONSIDERATION OF RECOMMENDATIONS AND DECISION**

~~1609.1~~ The appropriate vice president shall consider the record and the recommendations of the panel and shall render a decision in writing within fifteen (15) days of the receipt of the record and the panel's recommendations. The decision shall be based on and supported by the record and :

~~1609.2~~ A copy of the vice president's decision shall be transmitted to the grievant:

~~1609.3~~ If the vice president rejects the recommendations of the panel, the reasons shall be stated in a letter to the grievant.

~~1609.4~~ If the decision is adverse to the grievant, the letter shall be transmitted to the grievant personally or by certified mail, return receipt requested.

~~1609.5~~ If the vice president's action is subject to the provisions of §1603(b) of Title XVI of D.C. Law 2-139, the letter shall inform the grievant employee of his or her right to appeal the decision to the Office of Employee Appeals grievance to the Step 4 level within five (5) days from the date of receipt of the Step 3 decision.

~~1606.5~~ If the employee does not receive a written answer within ten (10) days following receipt of the Step 3 appeal (and the parties have not agreed upon an extension of time), or if the employee disagrees with the appropriate Cabinet member's decision, the employee shall have the right to appeal the grievance to Step 4.

## **1607 FORMAL GRIEVANCE PROCEDURE; STEP 4 – FINAL APPEAL TO THE PRESIDENT**

~~1607.1~~ Within ten (10) days of the Step 3 decision or the expiration of the required period for a decision to be made, the grievant may appeal the action to the President.

~~1607.2~~ The appeal must be in writing with all documentation from the previous appeals attached, and enough details to clearly identify the basis for the appeal, and the relief sought by the employee. No new allegations may be added to the Step 4 grievance.

~~1607.3~~ The President shall review the grievance materials, and advise the employee in writing of his or her decision within ten (10) days from receipt of the Step 3 appeal, or advise the employee of the need for additional information, in which case, the President shall advise the employee of the date by which a final decision will be issued.

~~1607.~~

~~16104~~ The decision of the President shall be final.

**1608 EMPLOYEES REPORTING TO THE PRESIDENT OR A VICE PRESIDENT CABINET MEMBER**

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~~1610~~1608.1 In all instances where the President is the first or second line supervisor, the employee's appeal rights shall terminate with the President, whose decision shall be final, ~~subject to any right of the employee to appeal to the Office of Employee Appeals.~~

~~1610~~1609.2 In all instances where a vice president is the employee's first level supervisor, the employee's appeal shall terminate with the President whose decision shall be final.

~~1610.3~~ In cases where the vice president is the second level supervisor, the employee's appeal rights shall terminate with the vice president.

- ~~1611 RESERVED~~
- ~~1612 RESERVED~~
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- ~~1619 RESERVED~~

**1620 FACULTY DISMISSAL OF GRIEVANCE PROCEDURE: GENERAL PROVISIONS**

1609.1 An employee may request a dismissal of the grievance at any time.

~~1609.2~~1620.1 Any faculty member or members who allege that there exists a breach, violation, misapplication of, or failure to act pursuant to the policies and practices of the University or other applicable policies and practices may file a grievance using the procedures set forth in §§1620 through 1624. Every attempt shall be made to settle the grievance equitably at each step.

~~1620.2~~ In the event of extenuating circumstances, the time constraints referenced throughout this procedure may be modified in writing by the President, Vice President for Academic Affairs, or the Faculty Senate.

~~1620.3~~ This grievance procedure shall be utilized in the settlement of grievances excluding questions of non-reappointment except in cases when the grievant claims inadequate consideration, inaccurate information, discrimination, or violations of academic freedom.

~~1620.4—Appeals of removal for cause shall not be subject to the grievance procedure.~~

~~1620.5—Documentation which supports or refutes the grievance shall be made available to all parties concerned.~~

~~1620.6—The grievant shall have the right to be present at each step and to be represented or accompanied by any person of the grievant's own choosing.~~

~~1620.7—Complete records on every grievance will be maintained by the faculty governance body and the Vice President for Academic Affairs.~~

### ~~1621—FACULTY GRIEVANCE PROCEDURE: STEP 1~~

~~1621.1—The grievant shall file the grievance with the Faculty Senate and the Vice President for Academic Affairs.~~

~~1621.2—At the same time the grievance is filed, the grievant shall schedule a conference with the dean (or other appropriate supervisor) to be held within five (5) working days of the filing date.~~

### ~~1622—FACULTY GRIEVANCE PROCEDURE: STEP 2~~

~~1622.1—If the matter is not resolved under §1621, the grievant shall request and be granted a conference with the Vice President for Academic Affairs. The conference shall be held within seven (7) working days of the completion of Step 1.~~

### ~~1623—FACULTY GRIEVANCE PROCEDURE: STEP 3~~

~~1623.1—If the matter is not resolved under §1622, the grievant may petition for the convenance of an ad hoc faculty grievance review committee.~~

~~1623.2—The grievance review committee shall consist of five (5) faculty members, as follows:~~

~~(a) — Two (2) appointed by the Vice President for Academic Affairs;~~

~~(b) — Two (2) appointed by the Faculty Senate; and~~

~~(c) — One (1) appointed by the grievant.~~

~~1623.3—The review committee shall meet no later than ten (10) working days following the completion of Step 2 and shall hold a hearing.~~

~~1623.4—A ruling by the committee shall be made within ten (10) working days of the conclusion of the hearing. Copies of the decision shall be delivered in writing (certified mail, return receipt requested) to the grievant and the Vice President for Academic Affairs.~~

~~1623.5—If the committee is unable to decide due to deadlock, the grievant shall proceed to Step 4.~~

### ~~1624—FACULTY GRIEVANCE PROCEDURE: STEP 4~~



- ~~1624.1~~ If the ruling under § 1623 is unsatisfactory to either the Vice President for Academic Affairs or the grievant, an appeal for reversal may be made to the President by either party.
- ~~1624.2~~ In the absence of an appeal under this section, and upon expiration of five (5) working days after the committee's ruling, the ruling shall become final and binding on the parties.
- ~~1624.3~~ In the event of a deadlock at Step 3, or an appeal to the President, the President shall render a final decision within five (5) working days, subject to the provisions of Title XVI of D.C. Law 2-139 which may permit further appeal to the Office of Employee Appeals.

## ~~1699~~ DEFINITIONS

~~1699.1~~ When used in this chapter, the following terms and phrases shall have the meanings ascribed:

~~Second-level supervisor~~—the administrative level reporting directly to the a vice-president.

~~Supervisor~~—An employee having authority to hire, transfer, suspend, recall, promote, discharge, lay-off, assign, reward, or discipline other employees, or responsibility to direct them, adjust their grievances, or effectively recommend adjustment. Supervisory authority is not routine or clerical in nature, but requires the use of independent judgment.

A supervisor or second level supervisor may dismiss a grievance if the employee fails to carry out his or her responsibilities; fails to participate; separates from the University; or otherwise impedes the grievance process under this chapter.

1609.3 A dismissal requested by an employee or issued pursuant to this section following the issuance of a Step 2 grievance shall be final.

All persons desiring to comment on the subject matter of the proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Comments should be filed with the Office of General Counsel, Building 39, Room 301-Q, University of the District of Columbia, 4200 Connecticut Avenue, N.W., Washington, D.C. 20008.

Comments may also be submitted by email to [OfficeofGC@udc.edu](mailto:OfficeofGC@udc.edu). Individuals wishing to comment by email must include the phrase "Comment to Proposed Rulemaking: Revision of Grievance Procedures for Employees Not Represented by a Collective Bargaining Agreement " in the subject line.



## FISCAL IMPACT STATEMENT

**TO:** Board of Trustees

**FROM:** Managing Director of Finance *David A. Franklin*

**DATE:** September 10, 2019

**SUBJECT:** DCMR Change – Title 8B, Chapter 16 – Grievances

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### **Conclusion**

It is concluded that there is no significant fiscal impact associated with the Board of Trustees' authority to adopt, prescribe, amend, repeal, and enforce bylaws, rules, and regulations that it believes necessary for the governance and administration of the University.

### **Background**

Pursuant to 8B DCMR, the Board of Trustees intends to revise Chapter 16 (Grievances) of its regulations to streamline the grievance process by eliminating the Impartial Grievance Hearing Panel and Procedures, standardizing timeframes, excluding bargaining unit employee grievances that can be processed pursuant to a negotiated grievance procedure, and providing that decisions by the President are final.

These changes have been determined to represent improvements to the existing grievance-related regulations to the extent they streamline and simplify the process and eliminate duplicative avenues for resolving grievances.

### **Financial Impact**

The University expects the impact of its revision of the Grievance procedures to be immaterial. The University may realize some modest savings in expenses as a result of the elimination of duplicative avenues for grievance resolution.