

## **DISPUTE RESOLUTION POLICY**

### **Fort Valley State University**

#### **Introduction**

Fort Valley State University ("FVSU") is committed to maintaining a campus environment where its diverse population can live and work in an atmosphere of tolerance, civility, and mutual respect for the rights, duties, and sensibilities of each individual. In order to fulfill that goal, FVSU makes decisions concerning recruitment, admissions, employment, provision of services, and accessibility to facilities and programs without unlawful consideration of race, color, religion, national origin, gender, age, disability, or veteran status.

Members of the FVSU community inevitably will have disagreements. The FVSU Dispute Resolution Program ("the Program") was created to help members of the FVSU community resolve disagreements. The Program serves as a resource for FVSU employees and students seeking to settle disputes. Among other things, the program will provide members of the FVSU community with the resources necessary to resolve disputes informally, pursue mediation of disputes, and file grievances.

First, the Dispute Resolution Coordinator will serve as the initial point of contact for parties seeking to use the Program's resources and will provide guidance about what dispute resolution alternative may work best to settle a particular dispute. Parties will be advised about the different dispute resolution techniques available through mediation (for example, one-on-one meetings between two parties to discuss personal differences affecting a work relationship, or group discussions to evaluate issues affecting an entire work unit).

The Dispute Resolution Policy ("the Policy") sets forth the procedures through which the Program can address the problems and complaints of FVSU employees or students. These procedures allow both sides to a dispute to be fairly considered, and permit disputes to be resolved in a timely and constructive manner. The mechanics of this Policy will be administered flexibly. The objective is to resolve FVSU-related disputes at the lowest possible administrative level with the cooperation of all concerned. Disputes may be addressed through this Policy's informal procedures and, if desired, through mediation. However, the Policy's formal procedures may be used only to handle claims that a person has been harassed or discriminated against in violation of the law, retaliated against for an improper reason, or harmed by any action that violates the policies of either FVSU or the Board of Regents of the University System of Georgia ("the Board of Regents").

This Policy supersedes and replaces FVSU Grievance Procedures.

Revised June , 2005

Responsible Office: Human Resources

**Prohibition of Retaliation**

Any attempt to intimidate or retaliate against a party for raising an issue or participating in dispute resolution under this Policy is strictly forbidden. Any party who makes such an attempt will be subject to disciplinary action which FVSU concludes is appropriate, up to and including termination.

**Administration of Disputes**Sexual Harassment and Discrimination

Disputes involving allegations of sexual harassment will be referred for investigation and resolution under the procedures outlined in FVSU's Sexual Harassment Policy. Disputes involving other allegations of harassment or discrimination will be addressed under the procedures provided in this Policy.

Final Resolutions

If parties to a dispute reach a resolution through mediation, that resolution will be memorialized at the discretion of the parties. If parties to a dispute reach a resolution by making use of an informal procedure other than mediation, that resolution should be memorialized in writing by the Dispute Resolution Coordinator, when appropriate, and signed by the parties. The Dispute Resolution Coordinator may be consulted in implementing such dispute resolutions; however, a person who has sought to resolve a dispute under this Policy may not present the same dispute again in an attempt to gain a more favorable resolution.

**Dispute Resolution Resources**Dispute Resolution Coordinator

Dispute Resolution Coordinator is located in the Office of Human Resources, and is responsible for helping to coordinate the expeditious and fair resolution of problems raised by FVSU employees. The role of the Dispute Resolution Coordinator is to assist the parties in seeking a satisfactory resolution of the issues and not to determine who is "right" or "wrong." The Dispute Resolution Coordinator will remain neutral throughout the proceedings and will serve primarily as a facilitator. In order to facilitate satisfactory resolution of a particular dispute, and with notice to the parties, the Dispute Resolution Coordinator may modify the steps or procedures set forth in this Policy.

### Dispute Resolution Committee

A Dispute Resolution Committee may be appointed to assist the Dispute Resolution Coordinator. In appropriate circumstances, the Dispute Resolution Committee also may coordinate efforts within various FVSU offices to resolve disputes in a prompt, flexible, and responsive manner.

### Mediation

Mediation may be initiated at any point during the dispute resolution process. Mediation can be pursued independently of these procedures, and offers a number of ways for parties to seek to resolve a dispute. The Dispute Resolution Coordinator will apprise the parties of the available methods, and will be available to provide guidance and assistance to any party with a question or concern about these procedures or any other dispute resolution mechanism. Mediation is voluntary, and no party will be required to participate in that process.

### Supervisors and Managers

Supervisors at all levels have a fundamental responsibility to resolve workplace disputes by taking whatever appropriate, prompt, and fair action is commensurate with their authority. To enable supervisors to discharge this responsibility, FVSU will offer training in the areas of personnel management and dispute resolution. Supervisors attempting to resolve disputes should seek appropriate assistance from their department head, dean, director, the Dispute Resolution Coordinator in the Office of Human Resources, the Equal Opportunity Officer, and/or any other suitable FVSU resource or University System of Georgia resource.

### **Advisors or Legal Counsel**

Any party participating in the dispute resolution process is free to seek the assistance of a personal advisor or legal counsel. If participation in the process involves a meeting or hearing, the legal counsel/personal advisor may be present for the limited purpose of providing confidential advice to the client. The counsel/advisor, however, may not participate in any other fashion in meetings or hearings and is specifically prohibited from questioning or addressing any party, to include witnesses, during proceedings.

### **Federal and State Laws**

There are federal and state laws that cover school and workplace complaints and provide remedies for some school and workplace disputes. Participating in dispute resolution efforts under this Policy does not extend the deadlines to seek redress from outside agencies or initiate appropriate legal proceedings.

**Time Limits for Raising an Issue**

A party with a dispute or complaint ("complainant") must raise such within ten working days from the occurrence of the particular incident. The Dispute Resolution Coordinator may extend time limits for good reason. Unless a complainant has requested an extension of the time limit, failure to act within the time limit established in this Policy must terminate the dispute resolution process. In those situations, parties will remain free to seek to resolve disputes through mediation.

**Dispute Resolution Procedures**Step One: Initial Informal Procedures

As a first step, complainants should try to resolve problems and complaints by contacting their immediate supervisor or the academic department head or unit director. This initial contact should be made within ten working days from the occurrence of the problem. The supervisor or department head must arrange a meeting with the complainant, and all parties should make a good faith effort to resolve the problem.

In instances where the complainant feels uncomfortable speaking to an immediate supervisor, department head, or has any reservations about initiating the initial contact within the complainant's department, school, or work unit, the complainant should contact the Dispute Resolution Coordinator. The Dispute Resolution Coordinator will discuss the matter with the complainant, become familiar with the complaint, and then advise the complainant about options available for resolving the problem. The Dispute Resolution Coordinator may ask the complainant to meet with the complainant's immediate or second level supervisor, the director of the complainant's organization, or the dean of the complainant's school or college in order to give those parties an opportunity to resolve the matter. The Dispute Resolution Coordinator may meet with the parties together or separately to discuss the problem and may involve others in these discussions, including the Dispute Resolution Committee, or the Equal Opportunity Officer, as appropriate.

Step Two: Referral to Mediation Coordinator

If the dispute cannot be resolved through Step One, the parties will discuss whether mediation is an appropriate means for resolving the dispute. Mediation is a process that helps parties resolve disputes for themselves in a mutually acceptable way in which those involved can meet with one or more trained mediator. In a private setting, the mediator provides an orderly, simple process for the parties to discuss their dispute along with their feelings, perceptions and needs. The goal is to begin communication and move toward resolving the dispute in a manner agreeable to all.

### Step Three: Referral to Grievance Coordinator

If a dispute involves allegations of discrimination, and the parties are unwilling or unable to resolve their dispute through mediation, the matter should be referred to the Grievance Coordinator. The Grievance Coordinator must interview each party to identify relevant witnesses and documents related to the dispute. The Grievance Coordinator must interview each witness so identified, as well as any party identified by witness as having additional information. The Grievance Coordinator must prepare a report summarizing the witness interviews. The Grievance Coordinator also should obtain copies of the documents identified by the parties as relevant to the dispute. The Grievance Coordinator may meet with any party to facilitate a prompt resolution of the dispute. If such meetings fail to resolve the dispute, the complainant will be directed to prepare a Written Request for a Grievance Hearing as outlined.

If the dispute does not involve discrimination and the parties do not wish to pursue mediation or if mediation is unsuccessful in resolving the dispute, the matter will be referred to the Grievance Coordinator. No investigation will be conducted, and the complainant will be directed to prepare a Written Request for a Grievance Hearing as outlined below.

Every effort should be made to complete the foregoing steps promptly and not later than four weeks after the complainant's initial contact with their supervisor, department head, or the Dispute Resolution Coordinator. However, it is recognized that resolution of complex disputes may take longer, particularly if a formal investigation is necessary.

### Step Four: Written Request for Grievance Hearing

A Written Request for Grievance Hearing must be completed within two weeks after the conclusion of Step Three or any mediation proceedings initiated as a part of Step Three. In order to accommodate FVSU holidays, or if informal attempts at resolution are ongoing, the Grievance Coordinator may extend the time for submission of the Written Request. The Grievance Coordinator will be available to assist complainants in preparing the Written Request.

Complainants are required to prepare Written Requests to ensure that the subsequent Grievance Hearing will address the specific issues that most concern the complainant. The guidelines set forth below for preparing Written Requests are designed to ensure that the Written Request identifies clearly those issues.

The Written Request, when made, must include the following:

- the complainant's name and, when applicable, job title;

- the department/unit/course in which the complainant is employed or enrolled;
- the nature of the problem or complaint;
- any communication that has taken place between the complainant and his or her academic department head, supervisor and/or second level supervisor concerning the matter;
- the supervisor's and/or other superior's response;
- the reason the complainant disagrees with that response; and
- the complainant's suggestion for proper resolution of the matter.

Any witnesses the complainant intends to call during the Grievance Hearing should be identified to the Grievance Coordinator at the time a Written Request for Grievance Hearing is made. Any documents the complainant wish to offer as evidence during the Grievance Hearing must be submitted to the Grievance Coordinator at the time a Written Request for Grievance Hearing is made. A copy of the documents will be provided to the other party or parties to the dispute ("respondent"). The respondent will have an opportunity to identify witnesses and provide documents to the Grievance Coordinator. A copy of the documents will be provided to the complainant. Should an objection be raised to the relevancy of any documents, the Grievance Coordinator will review such documents and delete those documents which are not relevant to the matters to be addressed in the hearing.

The Grievance Coordinator then will arrange for the hearing as soon as possible. The hearing will be held before a Grievance Hearing Panel and will be conducted in accordance with the procedures set forth.

#### Step Five: Grievance Hearing

Availability of Grievance Hearing: A grievance hearing will not be available to dispute promotion and tenure decisions, performance evaluations, hiring decisions, classification appeals, challenges to grades or assessments, challenges to salary decisions, challenges to transfers or reassignments (unless it is alleged that the act was based on impermissible bias or violated FVSU or Board of Regents policy), layoff because of lack of work or elimination of a position, investigations or decisions reached under the FVSU's Sexual Harassment Policy, and normal supervisory counseling.

Appropriately grievous disputes will be processed under the procedures set forth below.

The Grievance Hearing Pool: Grievous matters will be considered by members of the Grievance Hearing Pool, which will be generated by the Director of Human Resources by random selection from FVSU records. To the extent possible, the demographical makeup of the Pool should be generally representative of females, minorities, and the seven EEO job categories (Executive/Administrative/Managerial, Faculty, Professional/Non-faculty, Clerical/Secretarial, Technical Paraprofessional, Skilled Crafts, and Service/Maintenance). The Pool will be comprised only of full-time employees and shall be reconstituted at least once every two years.

The Grievance Hearing Panel: For consideration of a particular grievance, the Grievance Coordinator will randomly select eleven names from the Pool and provide these names to the parties. Each party will strike three persons each from the eleven named, and the five persons remaining will constitute the Grievance Hearing Panel. The five members of the Grievance Hearing Panel will, by majority vote, select one member to act as Chair.

Students may serve on the Panel only when a student is the complainant and/or the other party is a graduate assistant, faculty member, or administrator in his/her capacity as an employee. If the complainant is an undergraduate, one undergraduate student Panel member will be selected by the Grievance Coordinator in consultation with the Office of Student Affairs. When the complainant is a graduate student, one graduate student Panel member will be selected by the Grievance Coordinator from a pool of graduate students generated annually by the Director of Human Resources by random selection from FVSU records.

Once the Panel has been finalized, the Grievance Coordinator will provide each member with a copy of those documents submitted by the parties which are relevant to the hearing, a copy of the report summarizing any witness interviews conducted by the Grievance Coordinator, and a copy of any documents gathered by the Grievance Coordinator as identified by the parties as relating to the dispute. When the dispute involves the Grievance Coordinator, or the Grievance Coordinator cannot remain impartial, the Grievance Coordinator will request that another person who was not involved in the dispute, act as Grievance Hearing Officer and preside over the Grievance Hearing. In all other matters the Grievance Coordinator will act as Grievance Hearing Officer.

The Grievance Hearing Procedures: The Grievance Hearing Officer will begin the hearing by introducing the parties to the dispute, the members of the Grievance Hearing Panel, and any other attendees. All attendees will be advised that the proceedings, except for the deliberations of the Panel, will be recorded by audiotape. The Grievance Hearing Officer will then outline the matters to be addressed as set forth in the Written Request for Grievance Hearing and provide the Panel with a Statement of Issues for Determination. The issues set forth in the Statement will track those identified in the Written Request and will contain areas for the Panel to indicate its finding as to each issue for determination. Additionally, the Statement may incorporate parts of the written report summarizing the witness interviews. The scope of the hearing will be confined to the issues outlined in the Written Request. The Grievance Hearing Officer will swear in each party by requiring them to repeat this statement: "I do solemnly swear or affirm that the testimony that I am about to give before this panel will be the truth, the whole truth and nothing but the truth." The Grievance Hearing Officer also will swear in each witness before the witness testifies. Potential witnesses, other than the parties, must remain outside the hearing room until they have been called to testify.

After the complainant gives an opening statement not to exceed fifteen minutes, the Panel will have thirty minutes to ask questions of the complainant. The respondent will then have an opportunity to make an opening statement not to exceed fifteen minutes. If the complainant seeks relief against more than one respondent, each respondent will have an opportunity to make an opening statement. After hearing each respondent, the Panel will have thirty minutes to ask questions.

After the opening statements and questions have been completed, the complainant will call each of the complainant's witnesses. The complainant will have twenty minutes to ask questions of each witness. If the Grievance Hearing Officer determines that the testimony of a witness may require additional time because the testimony is particularly involved, the complainant may be allowed additional time for questioning. Following the complainant's questioning, each respondent will have fifteen minutes to ask questions of the witness. Following the questioning by each respondent, the Panel will have thirty minutes to ask questions of the witness.

After the complainant has called all of his or her witnesses, each respondent will then have the chance to call witnesses. Each respondent will have twenty minutes to ask questions of each of its witnesses. If the Grievance Hearing Officer determines that the testimony of a witness may require additional time because the testimony is particularly involved, the respondent may be allowed additional time for questioning. Following the questioning by each respondent of each of their witnesses, the complainant will have fifteen minutes to ask questions of the witness. Following the questioning by the complainant, the Panel will have thirty minutes to ask questions of the witness.

At least ten working days in advance of the hearing The Panel may consider the sworn statement of a witness who cannot or will not appear when the party seeking to use the statement has provided it to the Grievance Hearing Officer.

After each side has called all of their witnesses, the complainant and each respondent will have fifteen minutes to make a closing statement. After the closing statements are completed, the Grievance Hearing Officer will review briefly the Statement of Issues for Determination. The Panel will then begin deliberations.

The complainant has the burden of proving by a preponderance of the evidence that he or she has been wronged. If at the conclusion of the hearing the Panel is unable to reach a decision, the complainant fails to carry this burden and the finding should be in the respondent's favor. If the Panel concludes that it could reach a decision if it could hear the testimony of other witnesses or obtain additional information, the Grievance Hearing Officer may assist the Panel in obtaining any additional information and, when necessary, schedule a second hearing. Any additional information gained will be provided to the parties. All interviews with additional witnesses will take place in the presence of the full Panel and will be recorded by audiotape. The Grievance Hearing Officer will schedule any other hearings that are deemed appropriate to consider additional information or to hear witness testimony as soon as the information or witness can be made available to the Panel.

When any FVSU employee or official is asked to submit additional information in connection with a pending hearing, that official or employee must submit the requested information within five business days of the request. If it is impossible to comply with such a request within the five day period, the official or employee must notify the Grievance Hearing Officer of the reason for the delay, and the estimated time for submission of the requested information. Any additional information will be made available to all parties.

Once all evidence has been submitted, the members of the Panel will meet in closed session to review the evidence and reach a decision by majority vote.

### **Report of the Grievance Hearing Panel**

The Chair of the Grievance Hearing Panel shall prepare a written report summarizing the Panel's findings. The report should contain the Panel's conclusion as to each Issue for Determination as well as the Panel's recommendations for corrective action, if any (as approved by a majority). Members of the Panel who disagree with the majority's findings, conclusions or recommendations may prepare as an addendum to the report any contrary opinions and recommendations. The report and any addenda must be transmitted to the Grievance Hearing Officer within ten working days of the conclusion of the hearing. The Grievance Hearing Officer will then transmit the report and any other relevant information to the FVSU President.

### **Decision of the President**

The President is the chief executive officer of FVSU and is authorized by the Board of Regents to exercise such supervision and direction as will promote the effective and efficient operation of FVSU. The President will use the report of the Grievance Hearing Panel to reach a decision that best promotes these goals.

The President will furnish a decision to the parties within thirty days after receiving the report of the Panel. If the President's review of a case requires longer than thirty days, the President will notify the parties of the delay. The President's decision shall be final at the institutional level.

### **Discretionary Review by the Board of Regents**

The Board of Regents reserves discretionary authority to review all decisions made by the member institutions. The Board of Regents normally will review only in extraordinary cases, such as those where proper procedures may have been violated, where the decision is unsupported by the facts, or where the decision violates FVSU or Board of Regents policy. Any appeal to the Board of Regents must be made within twenty days following the decision of the President.