

## East Carolina University Human Resources Policy and Procedure Manual

<b>Mediation and Grievance Policy for SPA Employees</b>	<b>Policy Statement 7</b>
Approval Date: October 9, 2008	Approved by: State Personnel Commission
Effective Date: November 1, 2008	Revised Date(s): 3/3/03, 5/17/06, 09/08, 06/09, 10/09, 08/10

### I. PURPOSE

The purpose of this policy is to provide a means of communication between East Carolina University (ECU) supervisors and employees and establish principles of administration to ensure a prompt, orderly, and fair response to an employee's grievance or complaint.

### II. POLICY

Any career State employee having a grievance arising out of or due to employment shall first discuss the problem or grievance with his/her supervisor or the appropriate supervisor, and, after this discussion, employees may follow this grievance procedure.

Allegations of illegal discrimination or unlawful workplace harassment are exceptions. Employees alleging discrimination because of age, sex, race, color, national origin, religion, creed, handicapping condition (disability), political affiliation, veteran's status shall have the right to file a complaint through the University grievance procedure established by the Office of Equal Opportunity & Equity (Equity Office) within the time frame established, or may appeal directly to the State Personnel Commission *within thirty (30) calendar days* of the action giving rise to the grievance. *(Note: Employees alleging discrimination because of sexual orientation can grieve only within the internal grievance process; they are not appealable to the State Personnel Commission.)*

Grievances alleging discrimination may, at the grievant's choice, proceed either through the University procedures as indicated in Section VIII, below, or may proceed directly to the Office of Administrative Hearings (OAH). Complaints of unlawful workplace harassment are addressed through the University's Unlawful Workplace Harassment procedure as administered by the Equity Office. Employees alleging unlawful workplace harassment or retaliation concerning unlawful workplace harassment **must** follow the University's Unlawful Workplace Harassment Policy in order to bring a subsequent appeal to the State Personnel Commission. The University shall investigate the matter and take appropriate action **within sixty (60) days** of the complaint or grievance.

If a completed SPA Employee Mediation and Appeal Request Form indicates an allegation of unlawful discrimination or harassment (based on a protected class) or retaliation relating thereto, the allegation shall be referred to the Equity Office for internal review and handling. Grievable issues regarding protected classes are indicated by an asterisk "\*" in Section III

## East Carolina University Human Resources Policy and Procedure Manual

<b>Mediation and Grievance Policy for SPA Employees</b>	<b>Policy Statement 7</b>
Approval Date: October 9, 2008	Approved by: State Personnel Commission
Effective Date: November 1, 2008	Revised Date(s): 3/3/03, 5/17/06, 09/08, 06/09, 10/09, 08/10

below. Should the Equity Office determine the issue is not within its purview, the Equity Office will refer the employee back to Human Resources. The grievance shall be held in abeyance during any review by the Equity Office. Upon completion of the Equity Office's review, the Equity Office will forward its conclusions to the Employee Relations Specialist, who will meet with the grievant in order to determine whether the grievant wants to proceed with the grievance or to voluntarily withdraw the grievance in whole or in part. An allegation of unlawful discrimination or harassment or retaliation relating thereto may also be filed with the State Personnel Commission within 30 days of the occurrence forming the basis of the grievance.

### III. COVERED EMPLOYEES/ACTIONS

The following indicates the person(s) covered and which issues may be grieved through this policy.

<b>Covered Persons</b>	<b>Grievable Issues</b>
Career state employees or former career state employees	<ul style="list-style-type: none"> <li>• Dismissal, demotion or suspension without pay without just cause</li> <li>• Denial of promotion due to failure to post a vacant position for the required time period</li> <li>• Failure to give promotional priority over outside applicants</li> <li>• Failure to give reduction in force (RIF) re-employment considerations</li> <li>• Failure to give policy-making/confidential exempt status priority re-employment consideration</li> <li>• Denial of veteran's preference in connection with RIF*</li> </ul>
Any state employee or former state employee	<ul style="list-style-type: none"> <li>• Denial of request to remove inaccurate or misleading information from personnel file</li> <li>• Policy-making designation</li> <li>• Demotion, reduction in force, or termination in retaliation for the employee's opposition to alleged discrimination on account of the employee's age, sex, race, color, national origin, religion, creed, political affiliation, handicapping condition as defined by N.C. Gen. Stat. §168A et seq. (Persons With Disabilities Protection Act), veteran's status or sexual orientation* (see <i>Note</i> under Section II. Policy);</li> </ul>

**East Carolina University  
Human Resources Policy and Procedure Manual**

<b>Mediation and Grievance Policy for SPA Employees</b>	<b>Policy Statement 7</b>
Approval Date: October 9, 2008	Approved by: State Personnel Commission
Effective Date: November 1, 2008	Revised Date(s): 3/3/03, 5/17/06, 09/08, 06/09, 10/09, 08/10

	<ul style="list-style-type: none"> <li>• Performance pay dispute for failure to receive an increase in pay, the amount of the performance pay increase, and/or the overall performance appraisal rating and/or employee competency appraisal rating<sup>1</sup></li> <li>• Salary decisions which are eligible for consideration as indicated in the ECU Career Banding Salary Administration Plan (<a href="http://www.ecu.edu/cs-admin/humanresources/customcf/Class_and_Comp/ClassAndCompPrimaryPageF4/ECURevisedCBSalAdmPlanOSP8242009.doc">http://www.ecu.edu/cs-admin/humanresources/customcf/Class_and_Comp/ClassAndCompPrimaryPageF4/ECURevisedCBSalAdmPlanOSP8242009.doc</a>)<sup>1</sup></li> </ul>
Any applicant for state employment	<ul style="list-style-type: none"> <li>• Denial of veteran’s preference in initial state employment*</li> <li>• Denial of employment on the basis of illegal discrimination*</li> <li>• Dissatisfaction with a decision on a request for reasonable accommodation through ADA*</li> </ul>
Any state employee	<ul style="list-style-type: none"> <li>• A false accusation about political threats or promises</li> <li>• Violation of the FLSA or FMLA</li> <li>• Violation of the Age Discrimination Act, or ADA *</li> <li>• Dissatisfaction with a decision on a request for reasonable accommodation through ADA*</li> </ul>

University employees have a right to present a grievance free from interference, restraint, coercion, or reprisal.

Matters of inherent management rights are not subject to appeal under this policy. These matters include, but are not limited to, such areas as the program and functions of the University, standards of service, utilization of technology, and the assignment and reassignment of staff to positions, duty stations, and shifts, except where such transfers include a demotion to a lower classification.

A written warning is not grievable pursuant to this policy. Should an employee wish to contest the written warning, s/he may write a letter “To the File” stating his/her point of view in the matter. This document shall be forwarded to the Director of Employee Relations to be placed in the employee’s permanent file along with the warning.

<sup>1</sup> These issues cannot be appealed to the State Personnel Commission.

**East Carolina University  
Human Resources Policy and Procedure Manual**

<b>Mediation and Grievance Policy for SPA Employees</b>	<b>Policy Statement 7</b>
Approval Date: October 9, 2008	Approved by: State Personnel Commission
Effective Date: November 1, 2008	Revised Date(s): 3/3/03, 5/17/06, 09/08, 06/09, 10/09, 08/10

Generally, matters not specifically set out in this policy as those which can be grieved cannot be grieved or appealed to the State Personnel Commission. Specific questions on what is and is not considered grievable may be directed to the Director of Employee Relations.

**IV. DEFINITIONS**

The following are definitions used for the purpose of this policy:

<b>Term</b>	<b>Definition</b>
Adverse Action	Personnel action and/or disciplinary action that is considered by an employee to be unfavorable.
Agency	A department, university, office, board or commission.
Career State Employee	A State employee who is in a permanent position appointment and has been continuously employed by the State of North Carolina in a position subject to the State Personnel Act (SPA) for the immediate 24 preceding months.
Grievance	An issue that is defined as grounds for a contested case that may be appealed to the State Personnel Commission.
Grievant	The grievant is the person filing the grievance.
Mediation	Mediation is the process where parties involved in a dispute use the assistance of a neutral third party to attempt to resolve their dispute(s) in a mutually acceptable manner. Primary responsibility for the resolving the dispute rests with the parties.
Mediation Agreement	A written agreement resulting from the successful resolution of a grievance reached in mediation. The Mediation Agreement is binding on both parties.
Mediator	A mediator is an OSP-approved neutral third party whose role is to guide the mediation process, facilitate communication, and to help the parties generate and evaluate possible outcomes. A mediator does not act as a judge and does not render decisions.
Permanent Position Appointment	This appointment refers to any employee who is in a permanent position and has successfully completed their probation period.
Protected Class(es)	Groups of people protected from discrimination or harassment based on federal law, state law or institutional policy. Protected

## East Carolina University Human Resources Policy and Procedure Manual

<b>Mediation and Grievance Policy for SPA Employees</b>	<b>Policy Statement 7</b>
Approval Date: October 9, 2008	Approved by: State Personnel Commission
Effective Date: November 1, 2008	Revised Date(s): 3/3/03, 5/17/06, 09/08, 06/09, 10/09, 08/10

	classes are age, disability, creed, national origin, race/color, religion, political affiliation, sex/gender, veterans' status and sexual orientation.
Respondent	A designated agency representative who will mediate in good faith and will have the authority to reach an agreement on behalf of the agency to resolve a grievance.

### V. GENERAL GUIDELINES

**Representation:** Neither East Carolina University nor the employee shall be represented by any outside parties (i.e., representatives, advisors, legal counsel, etc.) during East Carolina University's internal grievance process.

**Correspondence.** Unless otherwise specified in this policy, copies of all correspondence and written documentation related to a grievance/appeal should be sent to:

Associate Vice Chancellor of Human Resources  
Department of Human Resources  
East Carolina University  
210 East First Street  
Greenville, NC 27858  
(252) 328-9884

**Deadlines.** If a deadline falls on a non-workday or any established state holiday, the deadline shall be extended until the next business day.

**Postponement.** The postponement of any step of the internal grievance hearing will be considered only in the instance of a documented medical emergency or the death of an immediate family member of the grievant, management representative, or grievance panel committee member, as applicable. The individual seeking the postponement will need to contact the Associate Vice Chancellor of Human Resources at the earliest convenience when such circumstances occur.

In the event the grievant fails to show up for any step of the internal grievance hearing which s/he requested and of which s/he was notified in accordance with this policy, and s/he has made no contact with the Associate Vice Chancellor of Human Resources as set out above,

**East Carolina University  
Human Resources Policy and Procedure Manual**

<b>Mediation and Grievance Policy for SPA Employees</b>	<b>Policy Statement 7</b>
Approval Date: October 9, 2008	Approved by: State Personnel Commission
Effective Date: November 1, 2008	Revised Date(s): 3/3/03, 5/17/06, 09/08, 06/09, 10/09, 08/10

and the grievant fails to provide sufficient reasons for non-attendance, the appeal will be permanently closed and noted as “withdrawn by grievant.”

**Posting and Publication.** This policy shall be posted in a permanent and conspicuous manner within each division office and will be placed in the ECU’s Human Resources Manual. New employees will be informed of the policy and grievance procedure during employee orientation training sessions. All employees will be notified of grievance policy and procedure changes through staff newsletters and/or ECU Official/Announce email notifications. All employees shall be notified no later than *thirty (30) calendar days* prior to the effective date of the change. Employees also will be provided a copy of this Policy as an attachment/enclosure to any grievable disciplinary action.

**VI. FILING A GRIEVANCE**

An employee who has adverse action taken against him/her will be given written notice of any applicable appeal rights. Should the adverse action be grievable, the employee will be provided a copy of this Policy as an attachment/enclosure to the adverse action.

An eligible employee who wishes to grieve a decision internally, under this Policy, must file the grievance *no later than fifteen (15) calendar days* after the incident for which the employee is filing the grievance. See the attached SPA Employee Mediation and Appeal Request Form.

**Time Off to Prepare.** Employees shall be allowed time off from regular duties as may be necessary and reasonable, up to a maximum of **eight (8) hours**, for the preparation of the internal grievance without loss of pay, use of vacation leave or other time credits. Employees must notify their supervisor in advance of the necessity to be absent from work for preparation of the internal grievance and receive prior approval to be absent from work for preparation of the internal grievance.

For participation in contested case hearings, or other administrative hearings, the employee may request necessary time away from work without use of vacation or other time credits. This request is subject to the supervisor or personnel officer's approval. Prior notification and approval are required and employees must document the time needed for this purpose. The Director of Employee Relations shall provide guidance to employees and supervisor in case of disagreement as to a reasonable amount of time off for the purpose of preparing for a

**East Carolina University  
Human Resources Policy and Procedure Manual**

<b>Mediation and Grievance Policy for SPA Employees</b>	<b>Policy Statement 7</b>
Approval Date: October 9, 2008	Approved by: State Personnel Commission
Effective Date: November 1, 2008	Revised Date(s): 3/3/03, 5/17/06, 09/08, 06/09, 10/09, 08/10

grievance. Documentation of the time required by the presiding official may be requested by the supervisor before leave approval is granted.

**Available Assistance.** Employees may contact an Employee Relations Specialist with questions related to this Policy.

Employees can use a fellow employee in the role of a volunteer employee advocate during the grievance process according to the following guidelines for employee advocate.

- The employee advocate is appointed by the Executive Committee of the ECU Chancellor’s Staff Senate, and has been trained on the SPA Discipline and Grievance Policies and Procedures.
- The employee advocate will be allowed to assist the employee once the employee has exhausted Step 1 of the grievance process.
- The grievant must request an employee advocate be assigned to him/her by submitting a written request to the Associate Vice Chancellor of Human Resources. This request must be received in Human Resources on or before ***ten (10) work days*** prior to the Step 2 hearing date.
- The employee advocate can assist the grievant in preparing for the Step 2 grievance hearing.
- The employee advocate can accompany the grievant to the Step 2 hearing; however, the advocate will not be allowed to speak on behalf of the grievant.
- The employee advocate will be allowed a reasonable amount of time away from his/her regular job duties with pay to assist the grievant in preparing for the Step 2 hearing.
- Employee advocates are protected from retaliation by management for volunteering to serve in this supportive role.
- The relationship between the grievant and the advocate is a confidential relationship. Management cannot request the advocate divulge information that would violate this confidential relationship.

**East Carolina University  
Human Resources Policy and Procedure Manual**

<b>Mediation and Grievance Policy for SPA Employees</b>	<b>Policy Statement 7</b>
Approval Date: October 9, 2008	Approved by: State Personnel Commission
Effective Date: November 1, 2008	Revised Date(s): 3/3/03, 5/17/06, 09/08, 06/09, 10/09, 08/10

**VII. PROCEDURES FOR NON-DISCRIMINATION GRIEVANCES**

The University encourages direct communication between employees and supervisors as the first method of attempting to address grievances in the spirit of cooperation and compromise.

**A. Step 1 – Mediation**

Mediation is the first step in the grievance process and involves the services of neutral third person(s) who will serve as mediator(s). Mediation provides an opportunity for the grievant and a designated university representative, serving as the respondent, to openly discuss the grievance with the goal of reaching a resolution that is mutually acceptable to both the employee and the university. Mediation only applies to those items listed under “Covered Employees/Actions” in Section III above. Unless specifically indicated otherwise, all grievances must go through the University mediation process.

To initiate a grievance, the employee must complete entirely and present the SPA Employee Mediation and Appeal Request Form to the Associate Vice Chancellor of Human Resources *within 15 calendar days* of the contested action or after attempting and unsuccessfully resolving the grievance informally, whichever is longer. The mediation process shall be concluded *within 45 calendar days* from the filing of the grievance unless the parties agree in writing to a longer period of time.

**Location and Timing** – Mediations shall be conducted in a location approved by the mediator and shall be scheduled for an amount of time determined by the mediator to be sufficient. Mediations may be recessed by the mediator and reconvened at a later time.

**Mediators** – ECU will only use OSP approved mediators. The OSP mediation coordinator will identify and contact mediators to facilitate the mediation. Co-mediators will be utilized whenever possible.

**Designation of Management Representative** – The ECU mediation coordinator will notify the head of the division from which the grievance arises and request that s/he designate a management representative to serve as Respondent for the mediation.

**Participation by Parties** – The designated management representative serving as Respondent must participate in the mediation in good faith and shall have the authority to negotiate an agreement on behalf of the university to resolve the grievance. The respondent shall notify the Associate Vice Chancellor of Human Resources or his

**East Carolina University  
Human Resources Policy and Procedure Manual**

<b>Mediation and Grievance Policy for SPA Employees</b>	<b>Policy Statement 7</b>
Approval Date: October 9, 2008	Approved by: State Personnel Commission
Effective Date: November 1, 2008	Revised Date(s): 3/3/03, 5/17/06, 09/08, 06/09, 10/09, 08/10

designee in advance if circumstances prevent the respondent from attending a scheduled mediation. The employee must participate in good faith to resolve the grievance, attend the mediation as scheduled and notify the Associate Vice Chancellor of Human Resources or his designee in advance if circumstances prevent the employee from attending a scheduled mediation. Failure to make such an advanced notification as indicated in *Postponement* in Section V., above, shall cause the employee to forfeit their rights to the grievance process and the appeal will be permanently closed and noted as “withdrawn by grievant.”

**Representation by Other Individuals** – Representatives, advisors and attorneys are not allowed to appear in person to represent either party during a mediation session. However, because a mediation that resolves an employee’s grievance will result in a Mediation Agreement, either party may ask for a recess at any time during the mediation in order to obtain advice regarding the terms of the agreement.

**Electronic Devices**

- Audiotape, videotape or other automated recordings are not permitted
- Cell phones and other electronic devices should be turned off while mediation is in session.

**Mediation Agreement** – When mediation results in a resolution of the grievance, both parties will sign a mediation agreement and receive signed copies. The Mediation Agreement is binding on both parties. The original signed Mediation Agreement will be maintained on file within the University for not less than 3 years.

**Mediation Impasse** – At the conclusion of mediation, the mediator will prepare either a Mediation Agreement that is signed by the parties, or a statement that mediation did not result in resolution (impasse). If it results in impasse, the Respondent at the Mediation process will provide the employee with a copy of this Policy and advise of his/her right to appeal to Step 2.

**Limitations on a Mediation Agreement** – Parties to the mediation cannot enter into an agreement that would exceed the scope of their authority. The Mediation Agreement will:

- Serve as a written record;
- Not contain any provision contrary to OSP policies and rules, and applicable state and federal law; and
- Not be transferable to another state agency.

**East Carolina University  
Human Resources Policy and Procedure Manual**

<b>Mediation and Grievance Policy for SPA Employees</b>	<b>Policy Statement 7</b>
Approval Date: October 9, 2008	Approved by: State Personnel Commission
Effective Date: November 1, 2008	Revised Date(s): 3/3/03, 5/17/06, 09/08, 06/09, 10/09, 08/10

When mediation resolves a grievance but it is later determined that one or more provisions of the Mediation Agreement do not comply with University and/or OSP policies or rules, or other applicable state or federal law, the parties are encouraged to return to mediation to resolve those issues that can be resolved by the parties.

**Breach of a Mediation Agreement** – Employees and supervisors who breach a mediated agreement may be subject to disciplinary action up to and including dismissal based on unacceptable personal conduct.

**Confidentiality of Documents** – Mediation agreements are considered public documents under G.S. 132-1.3. Except for the Mediation Agreement itself, all other documents generated during the course of mediation and any communication shared in connection with mediation are intended to be confidential to the extent provided by law.

**B. Step 2 – Appeal to the Chancellor through the SPA Grievance Committee**

Employees must comply with the following University requirements before proceeding to Step 2:

- Meet with the immediate supervisor or other appropriate supervisor in the chain of command to attempt to resolve the grievance; and
- Demonstrate a good faith effort to resolve the grievance by attending mediation in accordance with Step 1 of this Policy

In situations where mediation does not produce an agreement, employees may appeal to the University’s SPA Grievance Panel appointed by the Chancellor. Any request for review by the SPA Grievance Panel must be received by the Associate Vice Chancellor of Human Resources *within five (5) calendar days* of receipt of the Notice of Mediation Impasse form, which is signed by all parties and the mediator. The Associate Vice Chancellor of Human Resources, or his designated representative, will appoint the Grievance Panel (“Panel”).

The Panel shall consist of five voting members and two alternates. None of the seven members of the Committee shall be from the same operational unit as the grievant. The Panel shall not be made up entirely of supervisory or administrative personnel.

The Panel will be selected from the Panel Pool (“Pool”) that is comprised of three representatives from each division. Each division will have diverse representation in the Pool. Members of the Pool will serve a period of twelve months and may be called to

**East Carolina University  
Human Resources Policy and Procedure Manual**

<b>Mediation and Grievance Policy for SPA Employees</b>	<b>Policy Statement 7</b>
Approval Date: October 9, 2008	Approved by: State Personnel Commission
Effective Date: November 1, 2008	Revised Date(s): 3/3/03, 5/17/06, 09/08, 06/09, 10/09, 08/10

serve on the Panel during that period. The selected members of the Panel shall receive training on the hearing process and sign confidentiality statements.

Each party, which includes the grievant, the management representative and the members of the Panel, shall be notified at least **ten (10) work days** in advance of the date and location of the hearing. Once notified, the Panel will convene and select the Chairperson and determine alternates for that specific hearing.

At least **seven (7) work days** prior to the scheduled date of the hearing, the grievant and the management representative must provide to the Associate Vice Chancellor of Human Resources a list of any and all witnesses that they wish to have present at the hearing. The Associate Vice Chancellor of Human Resources will provide the list of witnesses to the Chairperson of the Panel. The grievant and management representative will be responsible for notifying their own witnesses as to the date, time and location of the hearing. Witness attendance at a Step 2 hearing is voluntary; therefore, witnesses do not have to attend.

On the first day of the Step 2 hearing, the grievant shall be allowed the opportunity to eliminate up to two members of the Panel where there is an issue of whether the members can render an unbiased decision. Once the members are eliminated, the alternates will serve as voting replacements on the Panel. Should no members be eliminated, the alternates will be excused from the hearing. Neither the Associate Vice Chancellor or Human Resources nor the Employee Relations staff members shall serve in any capacity on the Panel or participate in any deliberations of the Panel. They may only serve as advisors on personnel policy.

At the end of the hearing, it will be the responsibility of the Chairperson of the Panel to inform the Chancellor, in writing, of the details of the grievance, share the dissenting opinions of the employee, and provide a recommendation for the final agency decision (FAD). This written summary shall include reasons why the problem was not resolved at the preceding steps and shall be forwarded to the Chancellor within **ten (10) work days** after the conclusion of the hearing.

The grievant shall be provided with the FAD within ten workdays from the date the Chancellor receives the written summary from the Panel, or be advised as to the conditions which prevent a response within the ten workdays and when a response may be expected. A written FAD and the grievant's appeal rights must be delivered to the grievant within a reasonable time from the date the grievance was initiated. A reasonable

**East Carolina University  
Human Resources Policy and Procedure Manual**

<b>Mediation and Grievance Policy for SPA Employees</b>	<b>Policy Statement 7</b>
Approval Date: October 9, 2008	Approved by: State Personnel Commission
Effective Date: November 1, 2008	Revised Date(s): 3/3/03, 5/17/06, 09/08, 06/09, 10/09, 08/10

time is no more than **90 calendar days** for dismissals and demotions, and no more than **120 calendar days** for all other issues. If there are extenuating circumstances, both parties may agree to an extension.

**Attendees** – may include:

- Management (immediate supervisor and/or department director)
- Employee and employee advocate, if applicable
- Grievance Panel
- Employee Relations Personnel
- Witnesses (employees, ex-employees, and/or students with first-hand relevant knowledge of circumstances) who will be sequestered in a room outside the hearing.
- Representatives, advisors and/or attorneys are not permitted to attend.

**Electronic Devices**

- Audiotape, videotape or other automated recordings are not permitted.
- Cell phones and other electronic devices should be turned off during the hearing.

**C. Step 3 – Appeal to the State Personnel Commission (SPC)**

Any career State employee, who does not agree with the FAD **and** has attained career status as defined earlier in this policy, may appeal this decision within **thirty (30) calendar days** by filing a petition for a contested case hearing with the Office of Administrative Hearings (OAH) to appeal to the SPC. An Administrative Law Judge will render a recommended decision to the State Personnel Commission, who will issue a Final Decision and Order.

The employee must comply with the following minimum requirements before proceeding to Step 3:

- Attempt to resolve the grievance issue with their immediate or other appropriate supervisor in the employee’s chain of command;
- For issues subject to mediation, demonstrate a good faith effort to resolve the grievance by attending mediation (Step 1)
- Present the case to a Hearing Panel (Step 2). The Chair of the Panel must have been afforded the opportunity to forward a recommended decision to the Chancellor; and
- The Chancellor must have been afforded a reasonable period of time to render a Final Agency Decision (FAD).

**East Carolina University  
Human Resources Policy and Procedure Manual**

<b>Mediation and Grievance Policy for SPA Employees</b>	<b>Policy Statement 7</b>
Approval Date: October 9, 2008	Approved by: State Personnel Commission
Effective Date: November 1, 2008	Revised Date(s): 3/3/03, 5/17/06, 09/08, 06/09, 10/09, 08/10

**Procedures for Appeal to the State Personnel Commission**

A Petition for a Contested Case Hearing (form H-06A) must be filed (received) within 30 days of the final agency decision or within 30 days of the action or omission giving right to the right of appeal at:

Office of Administrative Hearings  
6714 Mail Services Center  
Raleigh, NC 27699-6714  
(919) 431-1000

Forms can be secured from the Office of Administrative Hearings (OAH) or State Personnel Commission (SPC):

State Personnel Commission  
6714 Mail Services Center  
Raleigh, NC 27699-6714  
(919) 807-4850

After the hearing, the Administrative Law Judge has 45 days from the close of the record to file a recommended decision to the State Personnel Commission. Cases are then heard and the State Personnel Commission renders a final administrative decision. These decisions are appealable to the Superior Court.

**East Carolina University  
Human Resources Policy and Procedure Manual**

<b>Mediation and Grievance Policy for SPA Employees</b>	<b>Policy Statement 7</b>
Approval Date: October 9, 2008	Approved by: State Personnel Commission
Effective Date: November 1, 2008	Revised Date(s): 3/3/03, 5/17/06, 09/08, 06/09, 10/09, 08/10

**VIII. GRIEVANCES ALLEGING ILLEGAL DISCRIMINATION, UNLAWFUL WORKPLACE HARASSMENT, RETALIATION AND/OR REGARDING REASONABLE ACCOMMODATION**

An employee wishing to file an internal complaint as it relates to illegal discrimination should contact the University's Office of Equal Opportunity & Equity (Equity Office) for additional information/procedures. Contact information for the Equity Office:

Ms. Taffye Benson Clayton  
Assistant to the Provost and University Equity Officer  
Office of Equal Opportunity & Equity  
East Carolina University  
Old Cafeteria Complex  
Suite G 406  
Greenville, NC 27858  
(252) 328-6804  
<http://www.ecu.edu/eoe/>

**IX. GRIEVANCE RECORD MAINTENANCE AND POLICY REVIEW**

In accordance with the UNC General Records Retention and Disposition Schedule, all grievance records will be maintained for a period of at least three (3) years. Grievances filed and all related information will be analyzed on an annual basis by demographics, group and nature of issues grieved to ensure that University policies and procedures are administered fairly and consistently and follow good employee relations practices. The Director of Employee Relations will respond to all requests for information regarding grievances and appeals and will report this and other relevant information as requested to the other appropriate authorities.

This policy will be forwarded to the Office of State Personnel on a schedule determined by OSP for their review to ensure that it is in compliance with current State laws and rules.

This plan will be reviewed internally on an annual basis to determine implementation of goals and procedures.

# East Carolina University

## SPA Employee Mediation and Appeal Request Form Step 1 - Mediation

**Instructions:**

To file a formal grievance, an employee is required to complete and submit this form to the Department of Human Resources in accordance with the guidelines of ECU's regulations regarding Mediation and Grievance Policy for Employees Subject to the Personnel Act. **In order for the process to begin, all information MUST be completed.** Failure to provide sufficient information may result in your grievance form being returned to you for completion/clarification or may result in your grievance being dismissed. You may attach additional sheets as necessary. **Please print or type.**

<b>Employee Information</b>	
Employee's Full Name:	
ECU ID (Banner ID):	
Position Title:	Department:
Campus Address:	Work Phone #:
Home Address:	
Home Phone #:	Date of Incident:
Supervisor's Name/Title:	Supervisor's Phone #:

<b>Grievance Information</b>	
I am requesting Mediation for the covered issue(s) specified: <sup>2</sup>	
<input type="checkbox"/> DISCIPLINARY ACTION (specify) <input type="checkbox"/> Suspension without pay <input type="checkbox"/> Demotion <input type="checkbox"/> Dismissal <input type="checkbox"/> PERFORMANCE/COMPETENCY RATINGS <input type="checkbox"/> FAILURE TO GIVE RE-EMPLOYMENT PRIORITY CONSIDERATION <input type="checkbox"/> FAILURE TO GIVE PROMOTIONAL PRIORITY CONSIDERATIONS <input type="checkbox"/> DENIAL OF PROMOTION DUE TO FAILURE TO POST POSITION FOR REQUIRED TIME <input type="checkbox"/> RETALIATION FOR PARTICIPATION IN A NON-PROTECTED CLASS GRIEVANCE <input type="checkbox"/> DENIAL OF REQUEST TO REMOVE MISLEADING INFORMATION FROM PERSONNEL FILE <input type="checkbox"/> <b>OTHER</b> (PROVIDE SPECIFIC GRIEVABLE ISSUE FROM SECTION III): _____	<p style="text-align: center; margin: 0;"><b>ISSUES REGARDING PROTECTED CLASSES*</b></p> <input type="checkbox"/> HARASSMENT or <input type="checkbox"/> DISCRIMINATION based on: <input type="checkbox"/> Age <input type="checkbox"/> Sex <input type="checkbox"/> Race/Color <input type="checkbox"/> Religion <input type="checkbox"/> Creed <input type="checkbox"/> National Origin <input type="checkbox"/> Disability <input type="checkbox"/> Sexual Orientation <input type="checkbox"/> Political <input type="checkbox"/> Veterans' Status Affiliation  <input type="checkbox"/> RETALIATION DUE TO ALLEGATION(S) OF PROTECTED CLASS DISCRIMINATION RESULTING IN DEMOTION, REDUCTION IN FORCE, OR TERMINATION <input type="checkbox"/> DENIAL OF VETERANS' PREFERENCE <input type="checkbox"/> DISSATISFACTION WITH DECISION ON A REQUEST OF ACCOMMODATION OF A DISABILITY

<sup>2</sup> Mediation requests regarding protected class issues will be referred to the Office of Equal Opportunity and Equity (Equity) for internal review and handling. Individuals requesting mediation for discrimination, harassment or retaliation based on a protected class may do so with the Equity Office.

Describe the specific event(s) that caused you to file this grievance (include actions you have taken to resolve this matter informally with your supervisor or other involved parties as well as any information that might support your cause). Also provide specific details clarifying your covered issue:

State the specific resolution being requested:

Employee Signature:

Date:

Submit this form to: Associate Vice Chancellor of Human Resources, Department of Human Resources, East Carolina University, 210 East First Street, Greenville, NC 27858

## East Carolina University

### SPA Employee Mediation and Appeal Request Form Step 2 – Grievance Panel Hearing (Due to Impasse in Step 1 – Mediation)

**Instructions:**

To file a formal grievance, an employee is required to complete and submit this form to the Department of Human Resources in accordance with the guidelines of ECU’s regulations regarding Mediation and Grievance Policy for Employees Subject to the Personnel Act. **In order for the process to begin, all information MUST be completed.** Failure to provide sufficient information may result in your grievance form being returned to you for completion/clarification or may result in your grievance being dismissed. You may attach additional sheets as necessary. **Please print or type.**

<b>Employee Information</b>	
Employee’s Full Name:	
ECU ID (Banner ID):	
Position Title:	Department:
Campus Address:	Work Phone #:
Home Address:	
Home Phone #:	Date of Incident:
Supervisor’s Name/Title:	Supervisor’s Phone #:

<b>Grievance Information</b>	
I am requesting a Step 2 Panel Hearing for the reason(s) specified below: The Mediation Process resulted in non-agreement (impasse).	
<input type="checkbox"/> DISCIPLINARY ACTION (specify) <input type="checkbox"/> Suspension without pay <input type="checkbox"/> Demotion <input type="checkbox"/> Dismissal  <input type="checkbox"/> PERFORMANCE/COMPETENCY RATINGS  <input type="checkbox"/> FAILURE TO GIVE RE-EMPLOYMENT PRIORITY CONSIDERATIONS  <input type="checkbox"/> FAILURE TO GIVE PROMOTIONAL PRIORITY CONSIDERATIONS  <input type="checkbox"/> DENIAL OF PROMOTION DUE TO FAILURE TO POST POSITION FOR REQUIRED TIME	<input type="checkbox"/> RETALIATION FOR PARTICIPATION IN A NON-PROTECTED CLASS GRIEVANCE  <input type="checkbox"/> DENIAL OF REQUEST TO REMOVE MISLEADING INFORMATION FROM PERSONNEL FILE  <input type="checkbox"/> POLICY MAKING DESIGNATION  <input type="checkbox"/> <b>OTHER</b> (PROVIDE SPECIFIC GRIEVABLE ISSUE FROM SECTION III): _____

Describe the event(s) that caused you to file this grievance (include any information that might support your cause):

State the specific resolution being requested:

Employee Signature:

Date:

Submit this form **and** copy of the completed form “Notice of Mediation Impasse” to: Associate Vice Chancellor of Human Resources, Department of Human Resources, East Carolina University, 210 East First Street, Greenville, NC 27858