
SHRA GRIEVANCE POLICY

GUIDELINES FOR GRIEVANCES

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UNC
HUMAN RESOURCES



GRIEVABLE ISSUES (Eligibility to grieve noted with "✓")		APPLICANT	Current/Former PROBATIONARY State Employee	Current/Former CAREER State Employee
ISSUES THAT FIRST MUST BE GRIEVED THROUGH THE INTERNAL UNIVERSITY PROCESS BEFORE APPEALING TO THE OFFICE OF ADMINISTRATIVE HEARINGS				
	DISCIPLINARY ACTION: Dismissal, demotion or suspension without pay for disciplinary reasons without just cause			✓
	INVOLUNTARY SEPARATION: Involuntary non-disciplinary separation due to unavailability and exhaustion of leave			✓
**	HIRING ACTION (RIF Priority): Denial of reemployment or hiring due to denial of reduction-in-force (layoff) priority as defined by G.S. 126-7.1			✓
**	HIRING ACTION (Promotional Priority): Denial of promotional opportunity due to failure to give priority consideration for a career State employee as defined by G.S. 126-7.1			✓
**	RETALIATION (Whistleblower): Any retaliatory personnel action for reporting improper government activities ("whistle blower") as defined by G.S. 126		✓	✓
**	HIRING ACTION (Failure to Post): Denial of hiring or promotional opportunity due to failure to post position (unless hiring opportunity is not required to be posted by law)	✓	✓	✓
**	VETERAN'S PREFERENCE: Denial of veteran's preference in initial/subsequent hiring or in determination of reduction-in-force (layoff)	✓	✓	✓
*	DISCRIMINATION/HARASSMENT: Discrimination or harassment against an applicant's/employee's terms and conditions of employment or application for employment based on a protected status as defined by G.S. 126-34.02 (b)(1) and (2)	✓	✓	✓
*	RETALIATION (Discrimination): Retaliation against an applicant's/employee's terms and conditions of employment or application for employment for protesting (objecting to or supporting another person's objection to) discrimination based on a protected status as defined by G.S. 126-34.02 (b)(1) and (2)	✓	✓	✓
ISSUES GRIEVABLE AT THE UNIVERSITY LEVEL ONLY				
*	DISCRIMINATION, HARASSMENT, RETALIATION: Discrimination, harassment or retaliation against an applicant's/employee's terms and conditions of employment or application for employment based on a protected status not defined by G.S. 126-34.02 (b)(1) and (2)	✓	✓	✓
**	PERSONNEL FILE: Denial of request to remove inaccurate and misleading information from applicant/personnel file (excluding the contents of a performance appraisal and written disciplinary action)	✓	✓	✓
**	ANNUAL PERFORMANCE APPRAISAL: Overall rating on annual performance appraisal lower than "meets expectations"			✓



INTRODUCTION

This document provides guidance on what information you might provide for different types of Grievances. Your primary responsibility as a Grievant is to present clear, concise, accurate, and relevant information in support of your position to show by a preponderance of the evidence (that is, the more probable or likely truth) that management's action(s) were neither warranted nor defensible by law, regulation, policy, or by established department practice consistent with law, regulation, or policy.

Although you are not required to structure your Grievance-related submissions as recommended in this document, we encourage you to follow these guidelines in order to provide complete and thorough information. Providing information as recommended in this document in no way guarantees that the Grievance will be decided in your favor, but it may help to ensure that all relevant information has been considered.

Once you submit your SHRA Grievance Initial Filing Form, the Grievance Officer will review the information you provided to determine if the issue(s) are grievable and if the information you have provided is sufficient to continue the process. If the information is insufficient, the Grievance Officer may return the filing to you for completion or may close the Grievance. If the information is sufficient, then the Grievance Officer will contact you about next steps.

SUPPORTING DOCUMENTS AND WITNESS INFORMATION

Submitting too little information makes it difficult for decision-makers to accept the claims you make in your filing. Submitting too much information makes it difficult for decision-makers to find the facts that support the claims you make in your filing. Do all that you can to make your case clear and concise.

✓ RELEVANCE

Submit only documents that you refer to specifically in your filing form, and number each document for easier reference. For a Step 2 Hearing, the Grievance Officer in conjunction with the Panel Chair can set limits on submissions and reject anything determined to be irrelevant or redundant. You do not need to submit supporting documentation for facts that you have indicated that you agree are true. Documentation may include but is not limited to memos, emails, reports, protocols, SOPs, etc. Be careful with email submissions. Most emails embed previous emails, so eliminate duplicate copies of emails within the chain of conversation.

✓ REQUESTS FOR ADDITIONAL INFORMATION

If there is a document that you believe is important but you do not have direct access to it, contact the Grievance Officer to see if it is something that is relevant or appropriate to provide.

✓ WITNESSES

You cannot require witnesses to participate in the Grievance process. You can request that the Respondent speak with certain individuals during the Informal Discussion process or in preparation for the Step 1 Mediation. If you want someone to appear as a witness at a Step 2 Hearing, you can ask them to participate, let them know that they are not compelled to participate, let them know that they can contact the Grievance Officer if they have questions regarding participation, and provide them a copy of the "3R" document ("Roles, Responsibilities, and Rights for Witnesses") available on the OHR website or from Employee & Management Relations.

✓ FOR EACH ITEM YOU SUBMIT, ASK YOURSELF:

- Does this document directly prove, disprove, or support some contested fact in this grievance?
- Is this the best example? Do I have a better or clearer example I can provide?
- Is there anything I've mentioned in my filing that I haven't provided information (if available) to support?

✓ COVER PAGE

It is helpful to provide a cover page that lists each attachment and/or witness by number and briefly explains (in a sentence or two) why the document or witness is relevant.



**GUIDELINES - SHRA
GRIEVANCES**

DETERMINING NEXT STEPS

After you have successfully submitted the Initial Filing Form, there are three different paths that the Grievance may follow:

TYPE OF GRIEVANCE	FIRST STEP	NEXT STEP ** <i>(if not resolved with First Step)</i>
<ul style="list-style-type: none"> • Harassment • Discrimination • Retaliation for alleging Harassment or Discrimination 	<p><i>Equal Opportunity Informal Inquiry</i> conducted by the University’s Equal Opportunity & Compliance Office</p>	Step 1 Mediation
<ul style="list-style-type: none"> • Hiring actions (promotion/posting) • Veterans’ status • Personnel file • Performance appraisal • Retaliation (whistleblower) 	<p><i>Informal Discussion</i> coordinated by the Grievance Officer</p>	Step 1 Mediation
<ul style="list-style-type: none"> • Suspension • Demotion • Dismissal • Involuntary separation due to unavailability 	<p>Step 1 Mediation conducted by State-assigned mediators</p>	Step 2 Hearing

****Going to the next step requires that a Supplemental Filing Form be submitted by the appropriate deadline.**

If a Grievance contains allegations of prohibited harassment, discrimination, or retaliation for alleging harassment or discrimination, and also contains other issues, then the Informal Inquiry process will be completed on the harassment, discrimination, and/or retaliation issues first. The additional issues in the Grievance will be addressed if you decide to proceed with the Grievance process after the Informal Inquiry.

PREPARING FOR THE INFORMAL DISCUSSION

For Grievances that do not involve disciplinary actions, harassment, discrimination, or retaliation, the Grievance Officer will arrange for an Informal Discussion between you and a Respondent. The Respondent is someone in your management chain, usually, your direct supervisor or next-level supervisor. The goal of the Informal Discussion is to address the issue(s) without having to complete the formal steps of the Grievance process. The Respondent receives a copy of the supporting documents you provided with the Initial Filing Form. You should be prepared to discuss the issues you raised in your filing.

If the Informal Discussion does not resolve the issue, then you can submit a Supplemental Filing Form to continue the Grievance process. You must submit the Supplemental Filing Form to the Employee & Management Relations office within 15 calendar days of the date Employee & Management Relations received your Initial Filing Form. If you have questions about the deadlines, contact the Grievance Officer. If you file the Supplemental Filing Form by the deadline, then the process will proceed to the Step 1 Mediation.

PREPARING FOR THE EQUAL OPPORTUNITY INFORMAL INQUIRY

For Grievances that allege prohibited harassment, discrimination, or retaliation due to harassment or discrimination, the Grievance Officer will contact the University’s Equal Opportunity & Compliance Office (EOC), which will conduct the Informal Inquiry. An investigator from the EOC will contact you to schedule an interview and may speak with other relevant parties to the Inquiry.

The investigator has 45 calendar days from the date you submitted the Initial Filing Form to complete the Informal Inquiry and provide a written response to you regarding the outcome of the Inquiry. You and the EOC can agree to an additional 15 calendar days for the Inquiry period if necessary to complete the investigation. If the Informal Inquiry does not resolve the issue, then you can submit a Supplemental Filing Form to continue the Grievance process. You must submit the Supplemental Filing Form to the Employee & Management Relations office within 15 calendar days of the date you received the written response from the EOC. If you have questions about the deadlines, contact the Grievance Officer.



PREPARING FOR THE STEP 1 MEDIATION

Mediation is a formal part of a Grievance process in which a Grievant and a University representative (the Respondent) use the assistance of a neutral third party to explore options for a mutually acceptable resolution of a Grievance. The focus is on reaching agreement based on each party's interests rather than someone else making a decision about who is right or wrong. The parties are expected to enter into Mediation in good faith with the goal of reaching an agreement. If an agreement cannot be reached, then the Grievant has the right to proceed to Step 2 of the Grievance process.

ROLES & ATTENDANCE

Only the Grievant and Respondent attend the Mediation. Representatives, advisors and attorneys are not permitted to attend the Mediation session.

Mediator's Role: The Mediator(s) serve as the neutral third party whose role is to guide the process, to facilitate communication, and to help the parties generate and evaluate possible outcomes. A Mediator does not act as a judge, give advice, express an opinion on who is right or wrong, or render decisions. At times, the Mediator(s) may meet separately with the participants during the Mediation to further the communication process.

Participant's Role: The Grievant and the Respondent should come to Mediation prepared to tell their account of what happened, prepared to listen to the views of the other party, prepared to state clearly their requirements for resolving the Grievance, and be willing to negotiate a settlement agreement that will be mutually satisfying for both sides, if possible.

TIME EXPECTATIONS & CONSULTATION DURING THE MEDIATION PROCESS

There is no time limit on the length of the Mediation process; however, sessions typically last three to eight hours. The time spent in the Mediation is governed by the complexity of the issues and the participants' commitment to reach a mutually satisfactory resolution. The Mediation session will be scheduled early in the morning in the event the entire day is needed. If the parties are close to reaching agreement, Mediation may be reconvened for another date for the additional time needed.

The Grievant and the Respondent may request a recess at any time during Mediation to obtain legal advice, to consult with anyone they feel would be helpful in discussing alternatives for resolution, or to review the Mediation Agreement. It is vital that both the Grievant and the Respondent make prior arrangements with those individuals to be available for consultation during the scheduled mediation. Due to time constraints, recesses will be limited to no more than 15 minutes.

CONFIDENTIALITY

Mediation is considered confidential, and information is only shared that is needed to reach and process an agreement. Both parties are to respect the confidentiality of the process by not disclosing externally the information discussed in Mediation. Exceptions to confidentiality are: reports of abuse, threats of physical harm to self/others, and threats to cause significant damage to real or personal property. If an agreement is reached, the agreement becomes a public record under NC State law.

TIPS FOR SUCCESSFUL MEDIATION PARTICIPATION

1. Enter into Mediation in good faith and with the belief that a satisfactory resolution for the dispute is possible.
2. Understand that the best possible solution for the dispute lies within you and the other party.
3. Enter into Mediation with a willingness to work toward a mutually acceptable resolution.
4. Be willing to approach Mediation in the spirit of compromise and negotiation.
5. Ask yourself how you may have contributed to the problem, and seek to understand the other party's perspectives.
6. Provide full and accurate information during Mediation so that both parties can make informed decisions.
7. Be prepared to state clearly how you feel you have been wronged and identify what you need to resolve the dispute.
8. Listen to what the other party is willing to do to resolve the conflict.
9. Be open to creative solutions that can realistically address both your needs and the needs of the other party.
10. Commit to uphold the confidentiality of the Mediation discussions.
11. Look forward to a new future rather than remaining tied to events of the past.
12. Invest in your participation in the Mediation process to resolve the Grievance.



PREPARING FOR THE STEP 2 HEARING

At the Step 2 Hearing, a panel of three SHRA employees will hear the information provided by you and by the Step 2 Respondent (usually, your direct supervisor or second-level supervisor). You will have an opportunity to ask questions of the Respondent and any called witnesses.

The Grievance Officer has control over the order and flow of the proceedings. This includes the authority to modify the presentation sequence; interrupt a presentation to clarify information being presented; determine if any information is repetitious or irrelevant; sequester witnesses; and make rulings on other procedural or evidentiary questions where appropriate. The number of witnesses may cause changes to the timeline for the hearing.

The Panel makes a recommendation to the Vice Chancellor, on behalf of the Chancellor who then makes the Final University Decision (FUD) for The University on the Grievance. Based on the Panel's recommendation, the Vice Chancellor may uphold the Grievance, deny the Grievance, or provide a modified outcome.

TIME FRAMES

- **Preparation:** The Step 2 Hearing generally will be held within the two weeks immediately following the Step 1 Mediation.
 - The Grievance Officer will meet with you prior to the Step 2 Hearing to discuss the specifics of the Step 2 process.
 - The Grievance Officer will inform you and Step 2 Respondent of the deadline to submit witness lists and any additional documentation for the Hearing. However, the majority of the information relevant to the Grievance should have been provided with prior to Step 2.
- **Step 2 Hearing:** The Hearing is scheduled for four hours. The order of presentation is determined by who has the burden of proof in the case (see the sections regarding Burden of Proof found in the guidelines in this document).
 - **Opening the Hearing** (Grievance Officer)
 - Welcome
 - Introductions of Parties Present
 - Brief Overview of Step 2 Grievance Process
 - Motion to go into closed session under Open Meetings Compliance
 - Sequestering of Witnesses
 - **Opening Statements** (1-3 minutes each for Grievant and Respondent)
 - **Case Presentations** (approx. 1.5 hours for each Party)
 - Respondent's Case, Witnesses & Cross-Examination
 - Grievant's Case, Witnesses & Cross-Examination
 - Final Questions
 - **Closing Statements** (1-3 minutes each for Grievant and Respondent)
 - **Conclusion** (Grievance Officer)
 - Final remarks
 - Release of Parties
 - Panel deliberation
 - Motion to come out of closed session and close the hearing
 - **Closing the Hearing** (Panel Chair)
- **Final University Decision (FUD):** After the hearing, the Panel has 5 calendar days to submit its report and recommendation to the Vice Chancellor.
 - The Vice Chancellor will write the FUD to send to the Office of State Human Resources (OSHR), which has 10 calendar days to review the FUD.
 - Once OSHR has reviewed the FUD, The Vice Chancellor has 5 calendar days to issue it to the Grievant. The FUD will be sent to the Grievant's home address via certified mail.
- Should the Vice Chancellor require additional time to render a decision, the Grievance Officer will communicate the revised date to the Grievant and Respondent.



DESIGNATION OF STEP 2 RESPONDENT

The Step 2 Respondent is a representative of department management assigned to present the department's case at the hearing. The Respondent may be the supervisor, second-level supervisor, or other party determined by management to be appropriate for the hearing and approved by the Grievance Officer.

ESTABLISH THE ISSUES AND DESIRED OUTCOME

The Panel is charged with reviewing the case, recommend to the Chancellor if the Grievance should be upheld or denied, and if upheld, whether the desired outcome of the Grievance is warranted. The desired outcome of the Grievance is based on the Step 1 Filing. The Grievant cannot add additional stipulations to the desired outcome at the Step 2 stage, but can remove aspects of desired outcome. Not all outcomes requested by the Grievant may be allowable, feasible, or appropriate. The Grievance Coordinator will clarify with all parties which requested outcomes may be considered.

REPLACEMENT OF PANELIST

The Grievant may request replacement of one Hearing Panelist if the Grievant believes the Panelist has a conflict of interest in the case. This option can be exercised only once and must be requested in writing by the deadline provided by the Grievance Officer, who would assign a new Panelist to the case. Panelists are not assigned from the Grievant's school/division.

LEGAL REPRESENTATION

The Step 2 Hearing is an internal dispute resolution process. Although its structure shows similarities to a court of law, it does not function as a court of law. The Grievant and Respondent may secure, at their own expense, legal counsel while preparing for a Hearing; however, attorneys cannot be present at the Hearing or at any other internal Grievance process meetings.

SUBMISSION OF ADDITIONAL DOCUMENTATION

The Grievant and Respondent are responsible for securing documentation to support their cases. This may include letters, reports, correspondence, timesheets, evaluations, etc. Depending on the nature of the Grievance, some information may not be available to the Grievant or Respondent. All relevant documentation will be available to the Panelists. Questions about access to information may be addressed to the Grievance Officer.

Any additional documentation and identification of witnesses must be submitted by the stated deadline provided by the Grievance Officer. Witnesses and documents not submitted by the deadline will not be allowed at the Hearing, unless by agreement of the Grievant, Respondent, Grievance Officer, and Panel Chair. It is anticipated that both the Grievant and Respondent will have submitted the majority of their relevant documentation during the Step 1 process.

E&MR will label each item for reference. Evidence submitted by the Grievant shall be labeled as GX-1, GX-2, etc. Evidence submitted by the Respondent shall be labeled as RX-1, RX-2, etc.

SUBMISSION OF WITNESS INFORMATION

The Grievant and Respondent may request that relevant University employees provide information directly to the Hearing Panel during the Step 2 Hearing. Each Grievant and Respondent is responsible for contacting potential witnesses and informing them of the date, time, and location of the Hearing. The Grievance Officer does not communicate this information to the witnesses.

Each Grievant and Respondent must submit, by the evidence submission deadline set by the Grievance Officer, their witness list, which should include the names of the people who have accepted to speak at the hearing, their position titles, and descriptions of what relevant issues they will address.

No person is compelled to be a witness in a Grievance Hearing, although the University encourages anyone with relevant information to participate if asked to do so. Even so, neither party in the hearing (Grievant or Respondent) may require, coerce, nor intimidate anyone into participating (or not participating) in a Grievance as a witness.

Anyone called as a witness is free to consult with the Grievance Officer regarding their role in the Hearing process and their protections under the policy. Parties are encouraged to provide potential witnesses a copy of the "Roles, Responsibilities, and Rights for Witnesses" document available on OHR website.



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GRIEVANCES**

Witnesses are not under oath but are expected to provide honest testimony.

- Witnesses must have direct knowledge of relevant case. Hearsay evidence is not acceptable.
- Character witnesses as a general rule will not be allowed.
- A written statement from a potential witness made for the purpose of the Hearing will not be accepted because the other party would not have the opportunity to cross-examine.
- The Grievance Officer and/or Panel Chair will instruct the Panel to exclude from evidence any statements of witnesses and any documents that in their judgment are irrelevant to the case.

Witnesses are required to be present at the beginning of the Hearing unless an exception is provided by the Grievance Officer. Once the Hearing goes into closed session, the Grievance Officer will sequester the witnesses to a waiting room until they are called.

Witnesses are present during the case presentation only for the time frame in which they are specifically being questioned. Once they have completed their responses, they are required to leave the Hearing and not return to the waiting room with the other witnesses.

ALTERNATIVE DISPUTE RESOLUTION OPTIONS

Employees and their supervisors are encouraged to find informal means of resolving concerns or problems in the workplace. Discussion and compromise should characterize the resolution of work-related problems, and employees are strongly encouraged to talk over any workplace concerns, problems or grievances with their supervisor. Both parties may engage in continuing alternative dispute resolution processes while the Step 2 process is occurring. The Grievance Officer can assist with making arrangements for these discussions.

FURTHER APPEAL

Some issues are appealable to the State's Office of Administrative Hearings. Information on eligibility is provided in this document for each type of grievance.

If you have any questions, contact Employee & Management Relations at 843-3444.



GUIDELINES - SHRA GRIEVANCES DISCIPLINARY ACTIONS

WHAT'S ELIGIBLE

Disciplinary Action: Lack of just cause for a suspension without pay, demotion, or dismissal.

Discrimination: Prohibited discrimination regarding a suspension, demotion, or dismissal due to a protected status of the Grievant. (*See Guidelines for Discrimination.*)

Retaliation: Retaliation in regard to suspension, demotion, or dismissal due to the Grievant protesting prohibited harassment or discrimination or alleging improper government activities (whistleblower protection). (*See Guidelines for Retaliation.*)

BURDEN OF PROOF

Management has the burden of proof to show it had just cause to take disciplinary action. "Just cause" is the substantive basis for the discipline or dismissal of an employee (unsatisfactory job performance or unacceptable personal conduct).

The Grievant must provide sufficient information and documentation to show that the disciplinary action and/or its severity is inappropriate or lacks validity.

RELEVANT POLICIES

Refer to the SHRA Disciplinary Action & Related Separations Policy for more information. Other policies may be relevant to issues raised in the disciplinary action. To determine which other policies should be reviewed, consult with the Grievance Officer or your Employee & Management Relations Consultant.

RELEVANCE OF EARLIER DISCIPLINARY ACTIONS

If an employee does not grieve an eligible disciplinary action within 15 calendar days of the date it was issued, then the disciplinary action will remain as issued and cannot be contested if a later disciplinary action is grieved.

Example: Employee receives a suspension on April 2. The employee does not grieve the suspension (or, the Grievance was denied). Six months later, the employee receives a dismissal and files a Grievance. The April 2 suspension can be entered as supporting documentation but cannot be contested, and management is not required to defend the April 2 action. The Grievance can address only the recent events that resulted in the dismissal.

POSSIBLE OUTCOMES

For disciplinary actions, possible outcomes are:

- the disciplinary action is rescinded (removed as though it had not been issued)
- the severity of the disciplinary action is reduced to a lesser action
- the disciplinary action remains as issued but is made inactive earlier than normal (suspension or demotion only)
- the disciplinary action remains as issued.

If the action is rescinded or reduced, the Grievant may receive back wages to restore their pay and benefits as though the action had never occurred. Payment of back wages is subject to the approval of the Office of State Human Resources.

Other outcomes or additional terms and stipulations are not eligible for consideration for a Grievance but may be eligible for consideration through Mediation or other alternative dispute resolution processes.

FURTHER APPEAL

Just cause for suspensions, demotions or dismissals can be appealed to the Office of Administrative Hearings. Final determination of eligibility for a contested case at the Office of Administrative Hearings is made by the State, not the University. The information above is provided as basic guidance only and does not assert nor guarantee eligibility for appeal at the State level.

If you have any questions, contact Employee & Management Relations at 843-3444.



**GUIDELINES - SHRA GRIEVANCES
DISCIPLINARY ACTIONS**

PREPARING THE SHRA GRIEVANCE INITIAL FILING

The following is a suggested way to write your Grievance filing statement.

IN THIS SECTION...	...ADDRESS THESE ISSUES
<p>A. Accuracy and completeness.</p> <p>Which statements in the disciplinary letter are factual and accurate?</p> <p>Which statements in the disciplinary letter are untrue or inaccurate?</p> <p>What relevant information is missing from the disciplinary letter that should have been considered?</p>	<p>It is helpful to acknowledge upfront which facts you are not contesting. You do not need to provide any information regarding these items. This will save you and your management time so you can focus on the contested issues.</p> <p>Include any key supporting information that would show why you think the facts presented in the disciplinary letter are inaccurate (or are missing from the document) that if corrected would change the outcome or severity of the disciplinary action.</p>
<p>B. Notice and reasonableness of rules/expectations.</p> <p>Were you aware (or should you have been aware) of the work rule, policy, or performance/conduct expectation?</p> <p>Were you aware (or should have been aware) of the possible consequences for failing to meet that performance or conduct expectation?</p> <p>Was the rule/expectation reasonable? If not, why?</p>	<p>Explain what awareness you had of the expectations and how you became aware (for example: from an email, staff meeting, policy guide, work plan, protocol/procedure document, counseling memo, or direct conversation with supervisor).</p> <p>Confirm whether or not you agree that the expectation is reasonable and if not, explain why the expectation is unreasonable or inappropriate for someone in your job.</p>
<p>C. Prompt and thorough investigation.</p> <p>Did management provide you at least one opportunity to explain the issue from your perspective prior to issuing the disciplinary letter?</p> <p>What information had you provided to your supervisor (or investigator) about relevant factors that may have affected the situation?</p>	<p>Indicate what conversations you have had with the supervisor and/or investigator about the issues in the disciplinary letter and what information you have already provided.</p> <p>Provide key information that was not provided previously to the supervisor and/or investigator or was not included in the disciplinary letter and provide supporting documentation for this information.</p>
<p>D. Appropriate and consistent severity.</p> <p>Why was the degree of discipline applied:</p> <ul style="list-style-type: none"> • Not appropriate for the issue; • Not appropriate given your overall record; and/or • Not appropriate given factors outside your control? <p>Do you have any reason to believe that discipline for similar issues has been applied differently or not at all?</p>	<p>You can file a Grievance solely on whether or not the severity of the action taken was appropriate based on the facts. Explain why you think the penalty is too severe and/or why you think a different penalty would be more appropriate.</p> <p>A second disciplinary action within a 12 month period could be more severe than the first action, even if they are on the same issue. The overall employee history may or may not be a significant factor.</p>
<p>E. Conclusions and summary of Grievance filing.</p>	<p>Tie together the facts you are presenting in a paragraph or two to summarize why the action is unwarranted.</p>
<p>F. List of attached supporting documentation with brief descriptions of each.</p>	



**GUIDELINES - SHRA GRIEVANCES
HARASSMENT**

WHAT'S ELIGIBLE

Harassment: Prohibited workplace harassment based on a protected status of the Grievant.

DEFINITION OF PROTECTED STATUS

"Protected Status" is the basis for an allegation of harassment or discrimination based on the Grievant's:

- | | |
|-----------------------|---------------------|
| Race/Color | Age (40 or older) |
| National Origin | Genetic Information |
| Religion | Sex |
| Political Affiliation | Sexual Orientation |
| Veteran Status | Gender Identity |
| Disability | Gender Expression |

DEFINITION OF HARASSMENT

Harassment is unwelcome conduct that is based on a protected status where enduring the offensive conduct becomes a condition of continued employment or the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

Offensive conduct may include, but is not limited to: offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance, based on a protected status of the Grievant.

Petty slights, annoyances, and isolated incidents (unless extremely serious) do not necessarily rise to the level of harassment.

BURDEN OF PROOF

The Grievant must show that conduct has occurred that may be considered harassment and that the conduct may be based on a protected status of the Grievant.

Management has the burden of proof to show that it sufficiently investigated the allegation to determine if harassment has occurred and if so, has taken sufficient action to address the situation and reasonable action to prevent further harassment.

RELEVANT POLICIES

Refer to the Policy on Prohibited Discrimination, Harassment and Related Misconduct for more information. To determine which additional policies should be reviewed, consult with the Grievance Officer, your Employee & Management Relations Consultant, or the Equal Opportunity & Compliance Office.

POSSIBLE OUTCOMES

If Harassment is found to have occurred, then action would be taken to address the situation(s) grieved and to prevent similar situations from occurring again. Due to confidentiality requirements, it may not be possible to share with the Grievant all corrective actions taken.

Any other outcomes or additional terms and stipulations are not eligible for consideration but may be eligible for consideration through Mediation or other alternative dispute resolution processes.

FURTHER APPEAL

Harassment may be appealed to the Office of Administrative Hearings, but only on protected statuses defined at the State level. Final determination of eligibility for a contested case at the Office of Administrative Hearings is made by the State, not the University. The information above is provided as basic guidance only and does not assert nor guarantee eligibility for appeal at the State level.

If you have any questions, contact Employee & Management Relations at 843-3444.



**GUIDELINES - SHRA GRIEVANCES
HARASSMENT**

PREPARING THE SHRA GRIEVANCE INITIAL FILING

The following is a suggested format for writing your Grievance filing statement.

IN THIS SECTION...	...ADDRESS THESE ISSUES
<p>A. Identify the Harasser(s).</p> <p>Who is harassing you?</p> <p>What is the nature of your working relationship with the harasser?</p>	<p>Provide the first and last name of each alleged harasser and explain your working relationship (for example, supervisor, co-worker, customer). It is helpful to know how long you have worked together or known each other and the general nature of the relationship (good, bad, average, tense, etc.) up to this point.</p>
<p>B. Define the Harassing Conduct.</p> <p>What was the harassing conduct?</p> <p>When and where did the conduct occur?</p> <p>Did anyone else witness the conduct? If so, who?</p>	<p>For this section, keep your descriptions focused on facts rather than your opinions about them.</p> <ul style="list-style-type: none"> • If the alleged harassment was something said, be as specific as possible on the exact words that were said by all parties involved. • If it was a physical action, describe the action in detail and the context in which the action occurred. • If the alleged harassment was a picture, email, or object, describe it, or if possible, provide a copy or photo of it. <p>For harassment that occurred on several occasions, describe each completely (what, when, where, who, how) before describing the next.</p> <p>Be sure to include the names of who else was present and your working relationship to those persons (co-worker, supervisor, etc.).</p>
<p>C. Define the Protected Status.</p> <p>Which protected status(es) do you believe this conduct has violated?</p> <p>Do you have any other information to show a direct correlation between the action taken and your protected status?</p>	<p>If not clear from the description of the events, explain how these actions connect to a protected status.</p> <p>If the conduct is recurring, indicate if you have ever directly asked the alleged harasser to stop the conduct, and include when and where this conversation occurred.</p>
<p>D. Describe Management’s Involvement.</p> <p>Prior to filing the Grievance, was your management aware of the alleged harassment? If so, when were they made aware and who told them?</p> <p>What information have you provided to your management about this issue?</p> <p>What actions (if any) have been taken by your management on this issue so far?</p>	<p>If the harasser is your supervisor, indicate if you have spoken to your second-level supervisor or someone else in your department’s management or University administration about the alleged harassment.</p> <p>If you filed a written complaint (letter, email, etc.) about the issue with your management, include that with your filing. Also indicate what other information you have provided so far on this issue.</p> <p>If your management has already taken some action to address this issue, describe why you believe the action taken by management was inappropriate or insufficient, or, if management did not find harassment to have occurred, why you disagree with management’s conclusion.</p>
<p>E. Conclusions and Summary of Filing.</p>	<p>Tie together the facts you are presenting in a paragraph or two to summarize why the conduct constitutes harassment and has not been addressed appropriately.</p>
<p>F. List of attached supporting documentation with brief descriptions of each.</p>	



**GUIDELINES - SHRA GRIEVANCES
DISCRIMINATION**

WHAT'S ELIGIBLE

Discrimination: Prohibited discrimination in regard to the Grievant's terms and conditions of employment based on a protected status of the Grievant.

DEFINITION OF PROTECTED STATUS

"Protected Status" is the basis for an allegation of harassment or discrimination based on the Grievant's:

- | | |
|-----------------------|---------------------|
| Race/Color | Age (40 or older) |
| National Origin | Genetic Information |
| Religion | Sex |
| Political Affiliation | Sexual Orientation |
| Veteran Status | Gender Identity |
| Disability | Gender Expression |

BURDEN OF PROOF

The Grievant has the burden of proof to provide sufficient information and documentation to show:

- That an adverse employment action has occurred (or has not occurred as it should have), for example, in regard to promotion, transfer, salary, training, dismissal, or layoff, or related employment actions;
- That the adverse action by management is not valid on its own merits; and
- That there is a sufficient correlation between the adverse action and the Grievant's protected status to indicate that the adverse action was discriminatory.

Management has the burden of proof to provide sufficient information and documentation to show that the actions taken are valid on their own merits and are not attributable to discrimination.

RELEVANT POLICIES

Refer to the Policy on Prohibited Discrimination, Harassment and Related Misconduct for more information. To determine which additional policies should be reviewed, consult with the Grievance Officer, your Employee & Management Relations Consultant, or the Equal Opportunity & Compliance Office.

POSSIBLE OUTCOMES

If Discrimination is found to have occurred, then action would be taken to correct the discriminatory action and to prevent similar situations from occurring again. Due to confidentiality requirements, it may not be possible to share with the Grievant all corrective actions taken.

Any other outcomes or additional terms and stipulations are not eligible for consideration but may be eligible for consideration through mediation or other alternative dispute resolution processes.

FURTHER APPEAL

Discrimination may be appealed to the Office of Administrative Hearings, but only on protected statuses defined at the State level. Final determination of eligibility for a contested case at the Office of Administrative Hearings is made by the State, not the University. The information above is provided as basic guidance only and does not assert nor guarantee eligibility for appeal at the State level.

If you have any questions, contact Employee & Management Relations at 843-3444.



**GUIDELINES - SHRA GRIEVANCES
DISCRIMINATION**

PREPARING THE SHRA GRIEVANCE INITIAL FILING

The following is a suggested format for writing your Grievance filing statement.

IN THIS SECTION...	...ADDRESS THESE ISSUES
<p>A. Define the Employment Action.</p> <p>What employment (in) action do you believe is discriminatory?</p> <p>When did this action occur?</p>	<p>Indicate what employment action has occurred (e.g., dismissal, promotion, layoff, etc.), when the action took place, and when you became aware of the action.</p> <p>Include the name of the person who made the decision on the action and explain the nature of your working relationship (direct supervisor, second-level supervisor, hiring supervisor, etc.).</p>
<p>B. Explain Inappropriateness of Action.</p> <p>Why was the action taken by management inappropriate?</p> <p>Were you denied opportunities that were provided to other employees? If so, how?</p>	<p>Explain why the employment action was not fair or appropriate on its own terms.</p> <p>You may refer to the sections in this Guideline regarding disciplinary, hiring, or other related actions for additional guidance on how to address these topics.</p> <p>If you think you have been treated differently than other employees regarding this issue, briefly describe how you think you have been treated differently and provide documentation to support this belief.</p>
<p>C. Define Protected Status.</p> <p>Which protected status(es) do you believe this employment action violated?</p> <p>How is the employment action discriminatory based on the protected status(es)?</p> <p>Do you have other information that would show a direct correlation between the action taken and your protected status?</p>	<p>If it is not clear from the description of the events, explain how these actions connect to a protected status and why you think the protected status is the reason why the adverse employment action occurred.</p> <p>Include any information or documentation provided to you by your management or other relevant parties regarding this action that would show how the action is connected to a protected status.</p>
<p>D. Describe Management’s Involvement.</p> <p>Prior to you filing the Grievance, was your management aware of the alleged discrimination? If so, when were they made aware and who told them?</p> <p>What information have you provided to your management about this issue?</p> <p>What actions (if any) have been taken by your management on this issue?</p>	<p>If the action was taken by your supervisor, indicate if you have spoken to your second-level supervisor or someone else in your department’s management or University administration about the alleged discrimination.</p> <p>If you filed a written complaint (letter, email, etc.) about the issue with your management, include that with your filing. Also indicate what other information you have provided so far to your management on this issue.</p> <p>If your management has already taken some action to address this issue, describe why you believe the action taken by management was inappropriate or insufficient, or, if management did not find discrimination to have occurred, why you disagree with management’s conclusion.</p>
<p>E. Conclusions and Summary of Filing.</p>	<p>Tie together the facts you are presenting in a paragraph or two to summarize why the action taken by management is unwarranted.</p>
<p>F. List of attached supporting documentation with brief descriptions of each.</p>	



**GUIDELINES - SHRA GRIEVANCES
RETALIATION**

WHAT'S ELIGIBLE

Retaliation: Retaliation in regard to the terms and conditions of employment of the Grievant for protesting prohibited harassment or discrimination or alleging improper government activities (whistleblower protection).

(See also Guidelines for Disciplinary Actions, Harassment, Discrimination, and Hiring for additional information, as relevant.)

DEFINITION OF RETALIATION

“Retaliation” is an intentional action by management upon an employee (e.g., prohibited harassment or a loss of position, status, pay, promotional/developmental opportunities, or other equitable workplace amenities associated with the position) because the employee has engaged in some sort of protected conduct (e.g., filed a prohibited harassment/discrimination complaint or reported improper government activities).

DEFINITION OF PROTECTED ACTIVITIES

PROTESTING PROHIBITED HARASSMENT/DISCRIMINATION

The Grievant must have filed an allegation of prohibited harassment/discrimination with their management, the Office of Human Resources, and/or the University’s Equal Opportunity & Compliance Office based on a “protected status”:

1. **“Protected Status”** is the basis for an allegation of harassment or discrimination based on the race, color, national origin, religion, political affiliation, veteran status, disability, age, genetic information, sex, sexual orientation, gender identity, and/or gender expression as established in University policy.
2. **“Discrimination”** in regard to an adverse employment action based on a protected status.
3. **“Harassment”** in regard to prohibited workplace harassment based on a protected status.

WHISTLEBLOWER PROTECTION

North Carolina General Statute 126-84: “It is the policy of the State of North Carolina that employees shall be encouraged to report to their supervisor, department head, or other appropriate authority evidence of activity by a State agency or State employee constituting:

- (1) A violation of State or federal law, rule or regulation;
- (2) Fraud;
- (3) Misappropriation of State resources;
- (4) Substantial and specific danger to the public health and safety; or
- (5) Gross mismanagement, a gross waste of monies, or gross abuse of authority.

Further, it is the policy of this State that State employees be free of intimidation or harassment when reporting to public bodies about matters of public concern, including offering testimony to or testifying before appropriate legislative panels.”

BURDEN OF PROOF

The Grievant has the burden of proof to provide sufficient information and documentation to show:

- That the Grievant participated in a protected activity,
- That an adverse action has occurred in regard to their terms and conditions of employment,
- That the action taken by management is not valid on its own merits, and
- That there is a sufficient correlation between the adverse action and the Grievant’s participation in a protected activity to indicate that the adverse action was retaliatory due to that participation.

Management must provide sufficient information and documentation to show that the actions taken are valid on their own merits and are not attributable to retaliation.

RELEVANT POLICIES

To determine which policies should be reviewed, consult with the Grievance Officer, your Employee & Management Relations Consultant, or the Equal Opportunity & Compliance Office.



**GUIDELINES - SHRA GRIEVANCES
RETALIATION**

POSSIBLE OUTCOMES

If Retaliation is found to have occurred, then action would be taken to reverse the employment action. Payment of back wages (if any) is subject to approval of the Office of State Human Resources. The University may pursue other appropriate administrative action, as appropriate. Due to confidentiality requirements, it may not be possible to share with the Grievant all corrective actions taken. Any other outcomes or additional terms and stipulations are not eligible for consideration but may be eligible for consideration through mediation or other alternative dispute resolution processes.

FURTHER APPEAL

Retaliation can be appealed to the Office of Administrative Hearings. Final determination of eligibility for a contested case at the Office of Administrative Hearings is made by the State, not the University. The information above is provided as basic guidance only and does not assert nor guarantee eligibility for appeal at the State level.

PREPARING THE SHRA GRIEVANCE INITIAL FILING

The following is a suggested format for writing your Grievance filing statement.

IN THIS SECTION...	...ADDRESS THESE ISSUES
<p>A. Define the Protected Activity.</p> <p>What was the protected activity? When were you involved in the protected activity? What was the outcome of that activity?</p>	<p>Briefly describe the protected behavior that you believe resulted in the retaliation (e.g., filed a harassment/discrimination complaint, made a whistleblower complaint) and clearly indicate when this activity occurred. Provide available documentation of that participation.</p> <p>Briefly describe what (if anything) resulted from your participation in this protected activity.</p>
<p>B. Define the Retaliatory Action.</p> <p>What was the retaliatory action? When did this action occur?</p>	<p>You must specify one or more employment actions that you believe are retaliatory. Describe these actions and when they occurred. Include any related documentation provided by your management.</p>
<p>C. Explain the Employment Action.</p> <p>Why was the action taken by management inappropriate? Were you denied opportunities that were provided to other employees? If so, how?</p>	<p>Explain why the action taken by management was inappropriate. For other actions, clarify specifically which aspects of the action you are not contesting and which aspects you are contesting.</p> <p>If you think you have been treated differently than other employees regarding this issue, briefly describe how you think you have been treated differently and provide documentation to support this belief.</p>
<p>D. Explain Other Direct Correlation.</p> <p>Do you have other information that shows a correlation between the action taken and your participation in a protected activity?</p>	<p>Explain and include any other documentation or information showing why you believe the action taken by management should be considered retaliatory.</p>
<p>E. Conclusions and Summary of Filing.</p>	<p>Tie together the facts you are presenting in a paragraph or two to summarize why the disciplinary action is unwarranted.</p>
<p>F. List of attached supporting documentation with brief descriptions of each.</p>	

If you have any questions, contact Employee & Management Relations at 843-3444.



WHAT'S ELIGIBLE

Performance Appraisal: Contested overall rating of Not Meeting Expectations on the Grievant's Annual Performance Appraisal.

WHAT'S NOT ELIGIBLE

- Overall ratings on annual appraisal of Meets or Exceeds Expectations
- Changes to individual ratings in the annual appraisal that would not change the overall rating
- Language or comments made in the annual appraisal that would not change the overall rating
- Performance plans
- Off-cycle reviews
- Corrective action plans or development items
- Employee competency assessments (ECA)

It may be possible to address one or more of these issues through mediation or other dispute resolution programs.

BURDEN OF PROOF

The burden of proof is on the Grievant to show that the Grievant's performance warranted ratings of Meets or Exceeds Expectations relative to the expectations provided to the Grievant by management.

The burden of proof is on management to show that the Grievant's performance warranted a rating of Not Meeting Expectations relative to the expectations provided to the Grievant by management.

RELEVANCE OF PAST PERFORMANCE APPRAISALS

Grievances for annual performance appraisals are limited to discussing only work performed during that performance cycle. The past two annual performance appraisals are submitted as part of the Grievance documentation to provide an historical context and what if any prior notice or discussions occurred relevant to the Grievance. Documentation regarding older performance cycles generally will not be considered. Mid-cycle reviews, if conducted, are also submitted as documentation, but ratings and comments on the mid-cycle review cannot be contested as part of the grievance.

RELEVANT POLICIES

Refer to the SHRA Performance Appraisal Policy for more information.

To determine if other policies may be relevant to the Grievance, consult with the Grievance Officer or your Employee & Management Relations Consultant.

POSSIBLE OUTCOMES

For annual performance appraisals, the only outcome you can request is a change to your overall rating.

To justify a change to the overall rating, you will need to justify changes to one or more individual ratings. If changes to these ratings will not result in a change to the overall rating, then the issue is not grievable.

If you want a change to one or more individual ratings but are not requesting a change to the overall rating, you may consider addressing the issue through a facilitated conversation or other alternative dispute resolution programs.

FURTHER APPEAL

The annual performance appraisal is not appealable to the Office of Administrative Hearings. Final determination of eligibility for a contested case at the Office of Administrative Hearings is made by the State, not the University. This information is provided as basic guidance only and does not assert nor guarantee eligibility or ineligibility for appeal at the State level.

If you have any questions, contact Employee & Management Relations at 843-3444.



PREPARING THE SHRA GRIEVANCE INITIAL FILING

The following is a suggested format for writing your Grievance filing statement.

IN THIS SECTION...	...ADDRESS THESE ISSUES
<p>A. List Disciplinary Actions Issued during This Performance Cycle.</p>	<p>Disciplinary actions issued during the performance cycle will result in a rating less than “meeting expectations” rating for the areas relevant to the disciplinary action. Because you cannot contest a disciplinary action itself as part of the annual performance appraisal unless it was issued within 15 calendar days of your Grievance filing date, your eligibility to change to these ratings may be limited.</p>
<p>B. List Ratings You Are <u>Not</u> Contesting.</p>	<p>It is helpful to acknowledge upfront which ratings you are not contesting. You do not need to provide any information regarding performance that falls under these areas.</p>
<p>C. For Each Rating You Are Contesting:</p>	<p>It is important to organize your filing and your documentation so that information for each relevant individual rating can be reviewed separately.</p>
<p>1. What rating did you receive and what rating do you think you should have received?</p>	<p>Indicate what rating you think <u>realistically</u> you should have received for the individual category. Performing the work at the level of expectation listed in the work plan would result in a “Meets Expectations”.</p>
<p>2. Explain why the comments included with the rating are accurate, inaccurate, inconsistent with the rating given, or an unfair representation of your performance during the cycle.</p>	<p>The comments in the performance comments section cannot reflect everything that occurred in the entire performance cycle. Briefly indicate the comments you agree with, then explain in more detail why you don’t agree with the other comments, and provide documentation to support your claims. How would changes to these comments affect the rating issued?</p>
<p>3. How were you aware of the performance expectations? Did your supervisor ever discuss with you any concerns about you failing to meet expectations?</p>	<p>A key source for your performance expectations is the work plan. Other communication from your supervisor (through meetings, emails, procedure guides, etc.) can revise existing expectations. Include documentation that shows what key guidance or feedback was provided to you regarding the issues you are contesting.</p>
<p>D. Explain any other factors that you believe should be reflected in your overall appraisal and explain any supporting information.</p>	<p>Some performance items are not reflected directly in the performance plan. These can be factored into the overall rating and are usually referenced in the overall comments section of the appraisal. Management has some discretion in deciding overall ratings that are “on the border” between two ratings, so you may need to provide some “tie-breaker” information that would give a reason to tip the scale in a different</p>
<p>E. Summarize Your Filing.</p>	<p>Tie together the facts you are presenting in a paragraph or two to summarize why the performance appraisal should be changed as you have requested.</p>
<p>F. List of attached supporting documentation with brief descriptions of each. <i>(See page 2 for additional information.)</i></p>	<p>Required Documentation:</p> <ol style="list-style-type: none"> 1. Performance Plan and Performance Appraisal for current cycle and past two cycles for work in the same position. 2. Any off-cycle reviews conducted for current cycle and past two cycles for work in the same position. <p>Departments are required to keep performance information for 3 years.</p>



GUIDELINES - SHRA GRIEVANCES POLICY VIOLATION – HIRING ACTIONS

WHAT'S ELIGIBLE

Hiring Actions: Failure to provide priority consideration for Career Status or layoff priority employees or failure to post a vacancy as required by policy.

Veterans' Status: Failure to apply veterans' status preferences in initial or subsequent hiring.

(See Guidelines for Discrimination and/or Retaliation for additional information. See also the Guidelines for Other Involuntary Separations for information on veterans' preference in layoff determination.)

BURDEN OF PROOF

The Grievant has the burden of proof to provide sufficient information and documentation to show that management's hiring action:

- (1) violated priority selection criteria for promotional Career Status candidates or layoff (RIF) candidates,
- (2) violated the posting requirements as required by policy,
- (3) violated veterans' preference in initial application or subsequent employment actions,
- (4) is the result of prohibited discrimination based on a protected status of the applicant, and/or
- (5) is an act of retaliation due to the grievant alleging discrimination or alleging improper government activities (whistleblowing).

Management must provide sufficient information to show that the hiring action followed University policy.

RELEVANT POLICIES

Refer to the Recruitment & Hiring Policy for SHRA Permanent Employment and Veterans' Preference Policy for more information on requirements and criteria. Refer directly to the policy whenever possible in your filing. To determine if any other policies should be reviewed, consult with the Grievance Officer or the Employee & Management Relations Consultant assigned to work with your department.

CONFIDENTIALITY OF HIRING DOCUMENTS

Due to the confidentiality of personnel records, the application and hiring information for the selected candidate cannot be shared with you. Reference information received about you is also confidential and cannot be shared with you. The Step 1 and Step 2 Respondent(s) and the Step 2 Hearing Panel will have access to this information, as needed. Your filing should focus on your qualifications for the position and any related policy requirements.

POSSIBLE OUTCOMES

If the Hiring Action is found to have violated the Recruitment & Hiring Policy for SHRA Permanent Employment or the SHRA Veterans' Preference Policy, then the Grievant may be placed in the position, if feasible, or placed in a comparable position when available. The University may also pursue other appropriate administrative action if management's action were determined to have been retaliatory. Any other outcomes or additional terms and stipulations are not eligible for consideration through the grievance process, but may be eligible for consideration through mediation or other alternative dispute resolution processes.

FURTHER APPEAL

Some hiring actions may be appealed to the Office of Administrative Hearings. Final determination of eligibility for a contested case at the Office of Administrative Hearings is made by the State, not the University. The information above is provided as basic guidance only and does not assert nor guarantee eligibility for appeal at the State level.

If you have any questions, contact Employee & Management Relations at 843-3444.



**GUIDELINES - SHRA GRIEVANCES
POLICY VIOLATION – HIRING ACTIONS**

PREPARING THE STEP 1 FILING

The following is a suggested format for writing your Grievance filing statement.

IN THIS SECTION...	...ADDRESS THESE ISSUES
<p>A. Define Hiring Policy Violation.</p> <p>Which aspects or requirements of the hiring policy are you alleging were not followed properly?</p>	<p>There are multiple issues that could be addressed as a violation of the hiring policy (see Burden of Proof section above). Be clear and specific about which aspects you are or aren't contesting. You do not need to provide information about aspects that you are not contesting.</p> <p>Whenever possible, provide a direct citation from the policy for the section you believe was not followed appropriately.</p>
<p>B. Describe Position & Application.</p> <p>What was the position for which you applied?</p> <p>What information did you provide as part of your application?</p>	<p>Clearly provide information regarding the position (department, classification, working title). Also provide the name of the hiring supervisor, if known. Include a copy of the posting for the position. The Grievance Officer can provide a copy of the posting, if requested.</p> <p>If the position was not posted, explain how and when you became aware of the recruitment process for that position.</p> <p>Attach a copy of your University employment application and any other documents (for example, a cover letter and resume) that you provided as part of your application or provided during the interview process.</p>
<p>C. Note Priority Employment Qualifications.</p> <p>Do you qualify for any priority consideration in employment? If so, which priorities?</p>	<p>Carefully review the priority selection criteria as listed in the SHRA Hiring Policy to indicate the priority considerations for which you qualify. Also review the Veterans' Preference Policy to determine if appropriate training and education has been applied to your application.</p> <p>If you qualify for layoff priority consideration, provide the date of your layoff notification and indicate if you had listed on your application that you had priority consideration.</p>
<p>D. Explain Lack of Basis for Employment Action.</p> <p>Were you interviewed for the position? If so, when and by whom?</p> <p>Why do you believe you should have been selected for the position over the selected candidate?</p>	<p>Explain how you believe your qualifications best match the qualifications listed for the position on the posting. Also explain how you presented those qualifications to the selection committee or hiring supervisor during the hiring process.</p> <p>You cannot include information about yourself that was not made available to the hiring supervisor or selection committee at the time of the recruitment process.</p> <p>If you were not interviewed for the position, indicate if you received any information on why you were not interviewed.</p> <p>If applicable, refer to the Guidelines for Harassment/Discrimination or Retaliation for more information on how to address those issues here.</p>
<p>E. Summarize your Grievance filing.</p>	<p>Tie together the facts you are presenting in a paragraph or two to summarize why the hiring decision should be changed as you have requested.</p>
<p>F. List of attached supporting documentation with brief descriptions of each.</p>	



**GUIDELINES - SHRA GRIEVANCES
OTHER INVOLUNTARY SEPARATIONS**

WHAT'S ELIGIBLE

Involuntary Separation: Contested involuntary separation due to unavailability and exhaustion of leave.

Veterans' Status in RIF: Failure to apply veterans' status in determining reduction-in-force (layoff) actions.

BURDEN OF PROOF

Involuntary Separation: Management has the burden of proof to demonstrate that, despite receiving notice of intent to separate, or taking reasonable efforts to provide notice, the employee was unavailable for work once their protected medical leave and available paid leave were exhausted. The Grievant must provide sufficient information and documentation to show that they were available to return to work or that reasonable notification or accommodation was not attempted.

Veterans' Status in RIF: The Grievant has the burden of proof to show that the Grievant had provided their veterans information to their management and that their veterans' status was not applied appropriately in determining the employee(s) to be laid off. Management must provide sufficient information and documentation to show that management had not received the Grievant's veterans' status information or that the status was appropriately applied in the selection process and the determination was valid.

RELEVANT POLICIES

Refer to the SHRA Disciplinary Action & Related Separations Policy, the SHRA Layoff Policy, and the Veterans' Preference Policy for more information. Other leave policies may be relevant to the involuntary separation due to unavailability. To determine which other policies should be reviewed, consult with the Grievance Officer or your Employee & Management Relations Consultant.

CONFIDENTIALITY OF LAYOFF DOCUMENTS

Veterans' Status in RIF: Due to the confidentiality of personnel records, the information about other employees used in determining a layoff cannot be shared with you. Previously-issued employment documents to you or others, such as disciplinary actions or annual performance appraisals cannot be contested as part of this Grievance. The Step 1 and Step 2 Respondent(s) and the Step 2 Hearing Panel will have access to this information, as needed. Your filing should focus on the accuracy of the use of your veterans' information.

POSSIBLE OUTCOMES

If the involuntary separation or layoff is found to have violated policy, then the Grievant may be returned to their position, if feasible, or placed in a comparable position when available. Payment of back wages is subject to the approval of the Office of State Human Resources.

Other outcomes or additional terms and stipulations are not eligible for consideration for a Grievance but may be eligible for consideration through Mediation or other alternative dispute resolution processes.

FURTHER APPEAL

An involuntary separation due to unavailability or a denial of veterans' preference in layoff determination may be appealed to the Office of Administrative Hearings. Final determination of eligibility for a contested case at the Office of Administrative Hearings is made by the State, not the University. The information above is provided as basic guidance only and does not assert nor guarantee eligibility for appeal at the State level.

If you have any questions, contact Employee & Management Relations at 843-3444.



**GUIDELINES - SHRA GRIEVANCES
OTHER INVOLUNTARY SEPARATIONS**

PREPARING THE SHRA GRIEVANCE INITIAL FILING

The following is a suggested way to write your Grievance filing statement.

IN THIS SECTION...	...ADDRESS THESE ISSUES
FOR INVOLUNTARY SEPARATION DUE TO EXHAUSTION OF LEAVE	
<p>A. Notice of Intent.</p> <p>When did you receive the notice of intent letter and decision letter from your management?</p> <p>Was your approved medical leave and available paid leave exhausted?</p>	<p>Provide a copy of the Notice of Intent and the decision letter. Explain what information you provided in response to the notice of intent letter. Also provide any other emails or letters between you and your management/HR during your absence to show the status of your approved medical leave or paid leave.</p> <p>If you did not receive a notice of intent letter, explain what information was provided to you from your management regarding your leave.</p>
<p>B. Availability.</p> <p>Were you available to return to work by the deadline stated by your management?</p> <p>If not, what did you communicate to your management regarding your ability to return to work?</p> <p>Did you submit a request for a reasonable accommodation for a disability from the Equal Opportunity & Compliance Office?</p>	<p>Once an employee has exhausted protected medical leave and available paid leave, the employee is expected to return to work. Management is not required to extend the leave without pay period.</p> <p>Clarify when you were available to able to return to work. If you needed restrictions on work duties in order to return, show if you had requested an accommodation for a disability prior to the involuntary separation being issued to you and the decision of the accommodation request, if received.</p>
<p>C. Conclusions and summary of Grievance filing.</p>	<p>Tie together the facts you are presenting in a paragraph or two to summarize why the action is unwarranted.</p>
<p>D. List of attached supporting documentation with brief descriptions of each.</p>	
FOR DENIAL OF VETERANS' PREFERENCE IN LAYOFF DETERMINATION	
<p>A. Military Service.</p> <p>What military service do you have that should have been considered in the layoff determination?</p> <p>Why do you think that this information was not considered?</p>	<p>Veterans' preference in layoff determination provides that some or all of your military service can be applied to your years of creditable service, if the layoff decision requires Total State Service of employees to determine.</p> <p>If so, you would need to show that veterans' status was not applied to the calculation.</p> <p>Provide documentation of your military service to show what should have been included in the calculation.</p>
<p>B. Conclusions and summary of Grievance filing.</p>	<p>Tie together the facts you are presenting in a paragraph or two to summarize why the action is unwarranted.</p>
<p>C. List of attached supporting documentation with brief descriptions of each.</p>	



**GUIDELINES - SHRA GRIEVANCES
INACCURATE/MISLEADING INFO IN PERSONNEL FILE**

WHAT'S ELIGIBLE

Personnel File: Denial of a request to remove inaccurate or misleading information from the Grievant's personnel file.

WHAT'S NOT ELIGIBLE

The following items in the personnel file cannot be grieved:

- Administration of the State's career banding classification and compensation system (refer to the Career Banding Dispute Resolution process).
- Management-employee counseling sessions and supervisory conferences.
- Performance Plans, off-cycle performance reviews, written warnings, and other documentation of performance/conduct.
- Placement on investigatory status with pay.

Some disciplinary actions are grievable under separate provisions of the University System SHRA Employee Grievance Policy.

BURDEN OF PROOF

The Grievant has the burden of proof to provide sufficient information and documentation to show:

- that the Grievant had requested that the contested information be removed or corrected
- that the request was denied, and
- that the contested information is inaccurate or misleading.

Management must provide sufficient information and documentation to show that the contested information is accurate.

DEFINITION OF PERSONNEL FILE

The North Carolina State Human Resources Act defines a "personnel file" as "any employment related or personal information gathered by" the University as an employer. The State Human Resources Act further states that "employment-related information contained in a personnel file includes information related to an individual's application, selection, promotion, demotion, transfer, salary, leave, contract for employment, benefits, performance evaluation, suspension, disciplinary actions, and termination." Personal information contained in a personnel file includes an individual's "home address, social security number, medical history, personal financial data, marital status, dependents, and beneficiaries."

ACCESS TO PERSONNEL FILE

Employees may, upon request, receive access to their personnel files (either departmental or the official University record in the Office of Human Resources). However, employees shall not have access to the following information:

- letters of reference solicited prior to initial University employment
- information concerning medical disabilities (mental or physical) that a physician might not have disclosed to the employee. (Medical information may be disclosed to a licensed physician designated in writing by the employee.)

RELEVANT POLICIES

To determine which policies should be reviewed, consult with the Grievance Officer or the Employee & Management Relations Consultant assigned to work with your department.

POSSIBLE OUTCOMES

If the material is found to be inaccurate or misleading, then the material would be removed from your personnel file or revised for accuracy, as appropriate.

Any other outcomes or additional terms and stipulations are not eligible for consideration but may be eligible for consideration through mediation or other alternative dispute resolution processes.

If you have any questions, contact Employee & Management Relations at 843-3444.



GUIDELINES - SHRA GRIEVANCES
INACCURATE/MISLEADING INFO IN PERSONNEL FILE

FURTHER APPEAL

Denial of a request to remove inaccurate or misleading information from your personnel file is not appealable to the Office of Administrative Hearings. Final determination of eligibility for a contested case at the Office of Administrative Hearings is made by the State, not the University. This information is provided as basic guidance only and does not assert nor guarantee eligibility or ineligibility for appeal at the State level.

PREPARING THE STEP 1 FILING

The following is a suggested format for writing your Grievance filing statement.

IN THIS SECTION...	...ADDRESS THESE ISSUES
<p>A. Identify Inaccurate or Misleading Information.</p> <p>On what document(s) is the contested information found?</p> <p>What is the contested information?</p>	<p>Briefly indicate what document in your file contains the information and specify what section(s) are inaccurate or misleading.</p> <p>Attach a copy of the document to your filing. If you cannot get a copy of the document, contact the Grievance Officer for assistance.</p>
<p>B. Request to Remove.</p> <p>When did you learn that the contested information was in your file?</p> <p>When did you request this information to be removed/corrected? To whom did you make this request?</p> <p>When were you given a response to your request? What reason(s) were given for not removing or correcting the information?</p>	<p>You must have made a request to have the information removed or corrected before filing your grievance, so indicate when and how this occurred and how management responded to your request.</p> <p>If you made the request in writing, provide a copy of the document. If management’s response was provided in writing, also attach that document.</p>
<p>C. Explain Inaccuracy.</p> <p>Why is the contested information inaccurate or misleading?</p> <p>What information do you have to support your claim?</p>	<p>Clarify specifically what information in the document you are contesting and provide documentation supporting this claim. Explain what response you received from management and why it is insufficient or doesn’t address your concerns.</p> <p>You do not have to provide any information regarding other information in the document that you are not contesting.</p>
<p>D. Conclusions and Summary of Filing.</p>	<p>Tie together the facts you are presenting in a paragraph or two to summarize why this document should be removed or revised.</p>
<p>E. List of attached supporting documentation with brief descriptions of each.</p>	