



NOORDA COLLEGE
of OSTEOPATHIC MEDICINE

Policy Name:	Employees, Faculty, Credentialed Instructional Staff Grievance Policy
Approval Authority:	Board of Trustees
Responsible Executive:	President
Responsible Office(s):	President's Council Director of Human Resources
Effective:	March 2019
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Employees, Faculty, Credentialed Instructional Staff Grievance Policy

Policy Statement

Noorda College of Osteopathic Medicine (Noorda-COM) is committed to treating all members of the COM community (administrators, faculty, staff, students, all other persons that participate in the COM's educational programs and activities) fairly with regard to their personal and professional concerns.

Noorda-COM recognizes the need for Employees, Faculty, and Credentialed Instructional Staff to voice grievances and to seek resolution to issues with faculty/staff/students, or interpretations of institutional policy. Noorda-COM also recognizes the responsibility of the Faculty to express their concerns in a professional and ethical manner.

Noorda-COM is committed to providing a learning and working (administrative personnel, faculty and staff) environment that promotes personal integrity, civility, and mutual respect in an environment free of discrimination on the basis of age, color, creed, marital status, medical condition, national or ethnic origin, race, religion, cultural heritage, gender, sex, sexual orientation, gender identity, political affiliation, disability, genetic information, amnesty, or status as a covered veteran in accordance with applicable federal, state and local laws or any other individual personal attribute.

Employees, Faculty, and Credentialed Instructional Staff with complaints should refer to the specific policies below. If assistance is needed, Employees, Faculty, and Credentialed Instructional Staff can contact the Human Resources Manager for further information. In addition to the complaint procedures below, Employees, Faculty, and Credentialed Instructional Staff also have the opportunity to provide anonymous feedback on matters through the "Noorda-COM Suggestion Box". Noorda-COM forbids any retaliatory action against Employees, Faculty, and Credentialed Instructional Staff who present concerns and complaints in good faith.

It is the policy of Noorda College of Osteopathic Medicine (Noorda-COM) to comply with all federal and state laws concerning the employment of persons with disabilities and to act in accordance with regulations and guidance issued by the Equal Employment Opportunity Commission (EEOC).

Furthermore, it is the company policy not to discriminate against qualified individuals in regard to application procedures, hiring, advancement, discharge, compensation, training or other terms, conditions and privileges of employment.

Entities Affected by the Policy

Faculty
Staff
Credentialed Instructional Staff

Policy Procedures

Procedure for a Grievance:

Prior to filing a complaint, Employees, Faculty, and Credentialed Instructional Staff are expected to seek resolution through informal means. Employees, Faculty, and Credentialed Instructional Staff should begin the informal process by discussing their concerns in a professional and ethical manner directly with the other party in the designated administrative unit. If the attempt to resolve the matter is successful, no further progression through this policy is warranted.

If a(n) Employee, Faculty, and Credentialed Instructional Staff member requires assistance, the Human Resources Manager is available for consultation and to provide guidance regarding whether an exception to the procedure is indicated.

If attempts at informal resolution are not successful, the Employees, Faculty, and Credentialed Instructional Staff member should register the complaint by completing the Faculty/Employee Grievance Form found in the Office of Human Resources. All complaints will be monitored and reviewed by the Human Resources Manager within two (2) business days of receipt. Complaints should be filed within 30 business days of the incident prompting the complaint.

If the time requirement is not met, management may notify the employee in writing that the grievance will be administratively closed due to non-compliance, and that the employee has the right to request a compliance ruling from Human Resources to overturn the closing of the grievance.

The request must be in writing, signed by the Faculty member, and include the following information:

- The identity of the grievant
- A clear and precise statement of the grievance
- The specific rule, policy, procedure, practice, or law which is alleged to have been violated, if known
- Name the respondent parties (the person(s) against whom the grievance is filed)
- State how each respondent is responsible for the action or decision
- State attempts at informal resolution of grievance
- State the requested remedy

Upon receipt of the complaint, the Human Resources Manager will pursue resolution of the complaint, bringing the matter to the attention of the relevant administrative unit head, as needed.

If a satisfactory outcome is achieved, the Human Resources Manager will notify the Employees, Faculty, and Credentialed Instructional Staff member via certified notification, and close the matter. If a satisfactory resolution is not obtained, the matter will be routed to the next highest level of authority.

If a satisfactory resolution is not obtained after exhausting the appropriate levels of authority, the Human Resources Manager will bring the issue to the Due Process Committee of the Dean's Council for deliberation and final resolution.

The Director of Human Resources will be responsible for notifying all parties. Final documentation on the resolution of the complaint will be maintained by the Office of Human Resources.

The Employees, Faculty, and Credentialed Instructional Staff Grievance Procedure governs complaints except for grievances related to sexual harassment/sexual misconduct, discrimination, non-compliance with AOA Accreditation Standards, or grade appeals. To register a complaint in these areas, please see the related policies.

Each step of the Resolution and Grievance Procedures typically take ten (10) business days to complete, unless otherwise noted. Extensions or waivers to this timeframe may be granted on a case-by-case basis. Notice of a request for an extension from a Employees, Faculty, and Credentialed Instructional Staff member will be submitted within five (5) business days prior to the deadline. Decisions about granting or denying the request for extension will be communicated to the Employees, Faculty, and Credentialed Instructional Staff member via certified notification within five (5) business days of receipt of the request for extension. Likewise, if Noorda-COM needs to extend a deadline, the Human Resources Manager will provide said notice two (2) business days before the deadline.

Investigation and Confidentiality

In the event a complainant requests confidentiality or asks that a complaint not be investigated, the COM will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If a complainant insists that his or her name not be disclosed to the alleged perpetrator, the COM's ability to respond may be limited. The COM reserves the right to initiate and proceed with an investigation despite a complainant's request for confidentiality in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the COM Community.

Resolution

If a(n) Employees, Faculty, and Credentialed Instructional Staff member's complaint is found to be substantiated, the COM will take appropriate corrective and remedial action. Faculty and staff found to be in violation of this policy will be subject to discipline up to and including written reprimand.

Bad Faith Complaints

While Noorda-COM encourages all good faith complaints the COM has the responsibility to balance the rights of all parties. Therefore, if the COM's investigation reveals that a complaint was knowingly false, the complaint will be dismissed and the person who filed the knowingly false complaint may be subject to discipline up to and including written reprimand.

Academic Freedom

While the COM is committed to the principles of free inquiry and free expression, conduct constituting is neither legally protected expression nor the proper exercise of academic freedom.

Rights of the Parties

During the investigation and resolution of a complaint, the complainant and respondents shall have equal rights. They include:

- Equal opportunity to identify and have considered witnesses and other relevant evidence
- Similar and timely access to evidence considered by the Human Resources Manager in preparing the written report
- Equal opportunity to review any statements or evidence provided by the other party

Equal access to review and comment upon any evidence independently developed by the Human Resources Manager

Appeals

Employees, Faculty, and Credentialed Instructional Staff who have a complaint can expect to have their complaint addressed through this procedure.

Grounds of Appeal

The complainant or respondent may appeal the determination of a complaint only on the following grounds:

- The decision was contrary to the substantial weight of the evidence.
- There is a substantial likelihood that newly discovered information, not available at the time evidence was presented to the Human Resources Manager, would result in a different decision
- Bias or prejudice on the part of the Director for Human Resources or
- The punishment or the corrective action imposed is disproportionate to the offense

Method of Appeal

Appeals must be filed with the Office of the President within ten (10) days of receipt of the written determination of the outcome of the complaint. The appeal must be in writing and contain the following:

- Name of the complainant
- Name of the respondent
- A statement of the determination of the complaint, including corrective action if any
- A detailed statement of the basis for the appeal including the specific facts, circumstances, and argument in support of it, and
- Requested action, if any.

The appellant may request a meeting with the President, but the decision to grant a meeting is within the President's discretion. The President may refuse the meeting if the appeal has not been presented in writing, in advance of the meeting. However, if a meeting is granted, then the other party will be granted a similar opportunity.

- Grievants are expected to represent themselves.
- In disciplinary actions and dismissals for unsatisfactory performance, the employee bears the burden of establishing any affirmative defenses to discipline and any evidence of mitigating circumstances related to discipline. In all other grievances, the employee presents his/her evidence and must prove his/her claim by a preponderance of evidence.
 - Appellant may make opening and closing statements.
 - Formal rules of evidence do not apply.
 - Testimony and exhibits may be admitted into evidence and made part of the record.
 - Non-party witnesses are not to be present at the hearing except to give testimony
 - The hearing is closed to the public.

Resolution of the Appeal

The COM will resolve the appeal in a reasonably prompt manner. The decision of the President is final. The President shall issue a short and plain, written statement of the resolution of the appeal, including any changes made to the Human Resources

Manager previous written determination and/or the sanctions and remedial measures imposed. The written statement shall be provided to the complainant, respondent, and the Human Resources Manager within three (3) days of the resolution.

The President may order appropriate remedies but may not grant relief that is inconsistent with law, policy, or grievance procedure. In granting relief, the President may consider the relief requested in the written grievance. Relief may include, but is not limited to:

- Reinstatement to the employee's former position or, if occupied, to an equivalent position;
- Reduction or rescission of disciplinary actions;
- An order that Noorda-COM comply with applicable law and policy.

Relief that is not available include:

- Damages
- Attorney's fees
- Establishing or revising policies, procedures, rules, or regulations
- Taking any adverse action against an employee.

Withdrawal of Grievance

When the grievant withdraws the grievance prior to the issuance of the President's decision, or when the parties agree to a settlement of the grievance, the grievant must submit to the President a statement clearly stating that he or she is withdrawing the grievance. Such a withdrawal statement terminates the grievance process. A copy of the settlement agreement is sent to the Human Resources Manager. The President shall prepare and issue in writing the dismissal of the grievance to Human Resources Manager to document that the grievant has withdrawn the grievance and the grievance has been dismissed.

Documentation

Throughout all stages of the investigation, resolution, and appeal, the Human Resources Manager, and the President as the case may be, are responsible for maintaining documentation of the investigation and appeal, including documentation of all proceedings conducted under these complaint resolution procedures, which may include written findings of fact, transcripts, and audio recordings.

If you think you have been discriminated against in employment on the basis of disability, you should contact the U.S. Equal Employment Opportunity Commission (EEOC). A charge of discrimination generally must be filed within 180 days of the alleged discrimination. You may have up to 300 days to file a charge if there is a State or local law that provides relief for discrimination on the basis of disability. However, to protect your rights, it is best to contact the EEOC promptly if discrimination is suspected. Complaints can be filed [here](#)

Grievable Issues

The following issues may be grieved using this Policy:

- Any disciplinary action will remain in place throughout the grievance process until final resolution of the grievance at which time the findings and recommendations of the grievance will determine the state of the action.
- Dismissal of permanent employees (does not include employees on probation). A grievance involving such a dismissal shall proceed directly to a formal resolution and hearing; Any dismissal action will remain in place throughout the grievance process until final resolution of the grievance at which time the findings and recommendations of the grievance will determine the state of the action.
- Policy and Procedure (i.e., whether the action being grieved was made in accordance with relevant Noorda-COM policies, rules, or procedures);
- Retaliation for participating in the grievance process, complying with any law or reporting a violation of such law to a governmental authority, seeking to change any state or federal law, reporting an incidence of abuse, fraud, gross mismanagement, or exercising any right otherwise protected by law

Non-Grievable Issues

The following issues are exempt from this Policy:

- Discretionary actions such as salary adjustments, lump sum awards, wages, hours of work, assignment of overtime, work standards, staffing levels, work assignments, job title assignments, fringe benefits, performance improvement plans, and performance evaluations may not be grieved unless written policies, rules, or procedures are not being followed.
- Management Rights. Employees may not grieve activities falling under management rights. Noorda-COM management possesses the sole right to operate to carry out the mission and goals of Noorda-COM. Management rights include, but are not limited to:
 - The ability to utilize personnel, methods, and means in the most appropriate and efficient manner possible as determined by management.
 - To manage and direct Noorda-COM employees.
 - To suspend, demote, dismiss, or take other appropriate disciplinary action against employees for just cause.
 - To determine the size and composition of the workforce and to lay off employees in the event of lack of work or funds or under conditions where management believes that continuation of such work would be inefficient or nonproductive.

- To determine the mission of Noorda-COM, the content of written policies and procedures, and the methods and means selected to fulfill that mission.
- The management of position classification, position qualification standards, establishment and abolition of classifications, and allocation of positions to classifications.
- Investigation Fact Findings. Employees may not grieve any matter which has been previously submitted through the Noorda COM of Osteopathic Medicine's investigation process. Any findings by an independent Fact Finder are considered final.

Definitions

Grievance - is a complaint arising out of any alleged unauthorized or unjustified act or decision by an individual (e.g., Faculty, staff, administrator) that in any way adversely affects the status, rights or privileges of a member of the Faculty.

- General mistreatment
- Mentoring
- Privacy of educational records
- Privacy of health records
- Parking
- Security and safety
- Employee health.

Parties - A grievance may be filed by one or more Noorda-COM staff employees.

Grievant - The person filing the grievance. The grievance must be filed by the aggrieved employee(s) and may not be filed by anyone else on that employee's behalf.

Appellant - The person who appeals a decision

Respondent - The person(s) against whom the grievance is filed

Responsibilities

President
 Director of Human Resources
 Faculty
 Credentialed Instructional Staff
 Staff

Policy Violations

Faculty and employees found to be in violation of this policy will be subject to discipline up to and including written reprimand.

Interpreting Authority

President
President's Council
Director of Human Resources

In the event there is a conflict between interpreting authorities, the President will make the final interpretation decision.

Statutory or Regulatory References

N/A

Relevant Links

<https://www.eeoc.gov/employees/howtofile.cfm>

Policy Adoption Review and Approval