



# Brandeis University

## **Appeal Policy and Procedure for Staff**

### **Policy Statement**

There may be times when an employee disagrees with a decision made by his/her manager (or supervisor) in the application or interpretation of Brandeis University or department policy which results in the employee receiving a disciplinary action or in a decision affecting the individual's employment status.

This appeal policy and procedure is designed to allow the manager an opportunity to re-evaluate his/her decision and to provide a way for the employee to appeal the decision through other levels of management.

Topics for appeal include written warnings and other types of decisions affecting an individual's employment status. Performance reviews, compensation decisions such as merit increases, layoff decisions, and terminations from employment are excluded from this process and may not be appealed. In all situations, employees may meet with the Director of Employee Relations, Labor Relations and Compliance to discuss their concerns and available options.

Sexual harassment or other harassment/discrimination concerns are addressed under a separate policy, *Non-Harassment and Discrimination Problem Resolution and Appeal Procedure for Claims of Harassment/Discrimination against Staff or Faculty*. Any appeal that raises a harassment or discrimination issue will be handled pursuant to the University's Non-Harassment/ Discrimination Problem Resolution and Appeal Procedure.

### **Applicability**

This policy applies to regular staff members who have successfully completed the initial review period, except those covered by a collective bargaining agreement and Senior Officers reporting to the President.

### **Guidelines:**

#### **Problem Resolution**

If a manager makes a decision with which the employee disagrees, the employee is encouraged to resolve the problem through discussion with the manager. The employee should initiate this discussion within a week of the action that led to the disagreement. The manager is expected to consider the employee's point of view and make efforts to resolve the issue informally while following University policies. The Director of Employee Relations, Labor Relations and Compliance may be consulted with regard to current policy/practice and options for resolution.

#### **Appeal Process**

If the matter cannot be resolved informally, or if the employee chooses to appeal without discussing the issue with his/her manager, then the appeal procedure may be initiated.

To initiate an appeal, the employee must give written notice to the Vice President for Human Resources. The Vice President or his/her designee is responsible for coordinating the formal appeal meetings and providing relevant documentation to the parties involved.

The manager may request that the employee meet with him or her, even if earlier discussions and attempts to resolve the issue failed. However, if the manager feels that a thorough review has already occurred, then the appeal would go to the next managerial level.

### **Levels of Review**

The number of levels in the review process is generally based upon the level of manager to whom the employee reports. Given the complex nature of some reporting relationships, the next level of review may at times be unclear. In light of any uncertainty the Vice President for Human Resources will determine the appropriate level of review.

The appeals process may involve up to four levels of review including:

- **Level One:** A review by the manager making the decision under appeal.
- **Level Two:** A review by the next level manager. If there is more than one manager between the level one manager and the department head or chair, the Vice President for Human Resources will consult with the particular area to determine which manager is most appropriate to hear the appeal.
- **Level Three:** A review by the department head, dean, or department chair.
- **Level Four/Final and Binding:** A review by the President, Senior Vice President for Administration, Provost, or Senior Vice President for Students and Enrollment, as appropriate.

### **Level One Review**

The employee must submit the appeal to the Vice President for Human Resources within ten (10) workdays of the situation forming the basis for the appeal or after informal attempts fail to resolve the issue. The written appeal must include:

- Statement of the problem
- What, if any, efforts or alternatives have been suggested to resolve the problem informally
- Why, in the employee's opinion, any efforts and/or suggested resolution failed
- The resolution sought

The Vice President for Human Resources or designee will forward relevant documentation to the appropriate manager and arrange a meeting between the employee and that manager to discuss the appeal. The manager may also meet with anyone who has first-hand knowledge of the circumstances and decision under appeal. The manager will provide a response to the employee, in writing and through the Vice President for Human Resources or designee, within five (5) workdays of meeting with the appealing employee.

If the appeal is not resolved to the employee's satisfaction, the employee must notify the Vice President for Human Resources or designee within two (2) workdays of receiving the response.

The second level of appeal will be coordinated by the Vice President for Human Resources or designee.

### **Level Two and Next Levels of Review**

The Vice President for Human Resources or designee will schedule a meeting between the employee and the Level Two manager and will provide all relevant documentation to this manager for his/her review. In addition to the appeal meeting with the employee, the Level Two manager is encouraged to meet with the Level One manager to seek clarity about the appeal. The Level Two manager may also meet with anyone else who may have first-hand knowledge of the circumstances and decision under appeal. The Level Two manager will then

provide a response to the employee, in writing and through the Vice President for Human Resources or designee, within five (5) workdays following the meeting.

If the appeal is not resolved to the employee's satisfaction, the employee must notify the Vice President for Human Resources, within two (2) workdays of receiving the response. The Vice President for Human Resources or designee will then initiate the Level Three appeal.

The same process outlined above is used through Level Three until it is resolved and/or reaches the last, final and binding step, with a review by the Senior Administration Officer, Vice President for Students Affairs or Provost, as appropriate.

### **Final Level**

The Senior Administration Officer will make the final decision in the formal appeal process for the following areas:

- Administration
- Institutional Advancement
- Communications

The Provost will be the final decision maker in the formal appeal process for all academic areas. The Vice President for Students Affairs will be the final decision maker in the formal appeal process for all areas within the Student Life division.

If the appeal is brought against the Senior Administration Officer, Vice President for Student Affairs, or Provost by his/her direct report, the President will serve as the final decision maker.

The Vice President for Human Resources or designee will provide the President, Senior Administration Officer, Provost, or Vice President for Student Affairs, as appropriate, with all documentation related to the employee's appeal. He/she will review the materials and, at his/her discretion, may or may not meet with the appealing employee or manager(s) involved.

Within ten (10) workdays, the President, Senior Administration Officer, Provost, or Vice President for Student Affairs, will notify the Vice President for Human Resources or designee in writing of his/her decision to:

- uphold the decision
- modify the decision
- overturn the decision

The Vice President for Human Resources or designee will provide the employee and relevant managers with a copy of the final and binding decision.

### **Other Considerations**

#### **Scope of Appeal**

The appeal is intended to review whether or not a decision made by the supervisor/manager was fair and consistent with departmental or University policy as it applies to an individual employee. Employees may appeal a decision that applies only to him/her personally and not on behalf of others.

The appeal will focus exclusively on the decision under appeal. Broader issues related to University policies, management style, and other such issues will not be considered as part of the appeal.

### **Outcome of the Decision**

Questions will sometimes arise regarding the process used by the original decision maker to reach the decision under appeal. In evaluating whether the decision was fair, managers at the various levels should evaluate whether the outcome (the decision being appealed) was warranted, regardless of the process, unless there was a violation of policy used to reach the decision.

### **Written Appeal to Next Level**

Following the initial written appeal, employees may verbally appeal for the next level of review by contacting the Vice President for Human Resources or designee. However, there are situations in which a written appeal to the next level is required. For instance, at times managers may suggest a remedy, compromise, or modification that is different from the employee's requested outcome. If an employee is dissatisfied with the suggested remedy and wishes to appeal to the next level, he/she may be asked to put his/her appeal in writing to explain the reasons why he/she is dissatisfied with the proposed solution.

### **Remedy**

The remedy that an employee seeks is an important part of the appeal. The initial written appeal must address what the employee seeks as an outcome; i.e., withdrawal of warning, reducing a written warning to a verbal warning, and so on. Back pay, benefits, placement in another department, or other such employment conditions are not appropriate for appeal and will not be addressed by the appeal process.

### **Timeframes**

The timeframes contained in this policy are intended as guidelines. Although reasonable efforts will be made to adhere to these timeframes, scheduling difficulties or other reasons may require flexibility on the part of the appealing employee, managers, and others involved.

### **Documentation**

Documentation relevant to the appeal is assembled by the Vice President for Human Resources or designees and will be provided to the employee, managers, and the President, Senior Vice President for Administration, Provost, or Senior Vice President of Students and Enrollment as appropriate. Documentation may include, but is not necessarily limited to:

- Documentation related to the decision under review (memos, warnings, performance reviews, etc.)
- Employee's written appeal
- Written responses from managers
- Related policies

The Vice President for Human Resources or designee will review the employee's entire personnel file to ensure that all pertinent documentation is made available to the employee and those hearing the appeal. The Vice President for Human Resources or designee will determine the appropriateness of any information and/or documentation to be submitted during the appeal process.

### **Third Party Assistance/Moral Support**

The appeals policy and procedure was voluntarily established by Brandeis to address issues raised by employees concerning the application or interpretation of policy in their individual case. Therefore, representation of employees by non-employees and/or attorneys during the appeals process is not permitted.

At any step in the appeal process, the employee may bring another employee of his or her choice to meetings to provide moral support, to serve as an informal advisor, and/or to take notes. The employee must notify the Vice President for Human Resources or designee in advance of the appeal that a fellow employee will be serving as moral support. The individual must be employed by the University at the time of the appeal. Employees who do not wish to accompany the appealing employee are under no obligation to do so.

The accompanying employee may not speak on behalf of the employee and is not permitted to speak during the appeal meetings. If either the appealing employee or accompanying employee wishes to confer during the meeting, they may be temporarily excused from the meeting.

No one employed in the Office of Human Resources may serve as the accompanying employee. No one who is in a subordinate position to the appealing employee may serve as the accompanying employee.

### **Withdrawal of Appeal**

Per written notice the appeal may be withdrawn or ended by the employee at any time.

### **Confidentiality**

It is expected that information related to the employee or others involved in the appeal be treated as confidentially as possible.

### **Pay**

Appeals will generally be held during normal working hours. Employees will be paid as if they worked during this time. There will be no loss of pay for any employee involved.

### **Retaliation**

Retaliation is prohibited against any person who in good faith initiates an appeal, provides information during an appeal, or serves in the role of providing moral support. Retaliation against any such employee may result in corrective action, up to and including termination from employment or loss of privileges.

### **Appeal Records**

Appeals are not included in the employee's personnel file. These records are maintained separately in the Office of Human Resources

*This policy is for general guidance only. It does not create an employment contract or any right to continued employment at Brandeis University. Brandeis University reserves the right to modify, revoke, suspend, terminate and/or change any and all policies and procedures at any time, with or without notice.*

Office of Human Resources  
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