

## **P&S Procedures for Appealing a Summary Dismissal Decision**

An employee notified of a summary dismissal from employment decision may choose to appeal that decision.

### **Employee's Written Notice of Appeal**

Within ten (10) business days of the notice of summary dismissal, the employee may submit a written appeal to the Office of the Executive Vice President and Provost.

Upon receipt of the notice of appeal, the Executive Vice President and Provost (hereafter referred to as EVPP) shall convene an appeals committee to hear the evidence and to make a recommendation on the appeal. As an alternative, the employee may opt to have his/her appeal heard by an Administrative Law Judge, as governed by Iowa Code Chapter 17A and Iowa Administrative Code section 681.20. If the employee elects to have the appeal heard by an Administrative Law Judge, the Administrative Law Judge shall hold a hearing and submit written findings of fact and recommendations to the Provost.

The written appeal to the EVPP must identify which method of review is elected; if no election is made the University review set forth below will be used.

### **Formation of Appeals Committee**

The P&S Council president shall provide the EVPP the names of five possible P&S employees to serve on the three-member appeals committee. The P&S Council president shall choose these five candidates from a standing pool of P&S employees who have previously agreed to serve on such appeals committees. No member of the committee shall have a real or apparent conflict of interest with the appeal, nor shall any member be an employee of the same department or unit as the affected employee. The employee and the initiator have the right to challenge the EVPP's selection of the committee members. Challenges must be made in writing no more than two business days after the EVPP announces the committee members. The P&S Council president and the EVPP will determine the standing of the challenges. If nominees are successfully challenged the EVPP will assign a new committee member. The P&S Council president and the EVPP will jointly name the chair of the appeal committee.

### **Hearing**

Within ten (10) business days after the committee is convened, the committee shall schedule a hearing to gather information concerning the appeal. The dismissed employee will be present as well as the initiator of the dismissal (the person or persons against whom the appeal is made) and any other person whom the parties or committee believe might help the committee in arriving at a decision. The hearing will be recorded. The EVPP may issue additional procedures governing the hearing as needed.

At all times, the employee and the initiator may choose to have someone assist them in presenting their cases during the appeal process; however, the representative is present for support and advice only and will not speak for the parties or otherwise present the cases on the parties' behalf. The choice of a representative shall be communicated to the Committee in advance of the hearing. For good cause, the employee may seek advance approval from the Committee to allow the representative to present the case on the employee's behalf. The Committee has the discretion to grant or deny the request or to set further guidelines concerning the proceedings. If the Committee grants the request, the initiator shall be afforded the same opportunity.

### **Committee Recommendation**

Following the completion of the hearing, the committee shall make a written recommendation to the EVPP regarding whether the summary dismissal action was supported by substantial evidence and consistent with University policy. In all appeals, after the committee makes its recommendation, the committee chair shall collect all information and materials related to the appeal, including exhibits and the recording of the hearing, and forward to the EVPP. The EVPP shall maintain the record of the appeal. Any other materials maintained by the committee shall be destroyed unless instructed otherwise by University Counsel.

### **Executive Vice President and Provost Decision on Appeal**

The EVPP shall render a written decision within ten (10) business days of receipt of the committee or Administrative Law Judge recommendation. The EVPP's decision will be sent to the employee with a copy to the Manager of Employee and Labor Relations and the initiator. The decision of the EVPP is the final decision of the University.

If the EVPP's decision is to reverse the summary dismissal action, the employee shall be returned to work with full pay, benefits, and back pay.

### **Further Appeals**

The employee may request the President review the final decision of the EVPP. The President has discretionary authority to grant or deny the request. When the President decides to review the decision of the EVPP, the President's decision becomes the final decision of the University.

Further appeal of a final decision may be made to the Iowa Board of Regents under the Regents Policy Manual.

### **No Retaliation**

The University prohibits retaliation against an employee who uses or participates in the appeal process. <http://policy.iastate.edu/policy/nonretaliation/>