

## **Section VI. Grievance Procedure**

This section applies to all regular faculty, classified employees and administrators.

### **A. Intent, Scope and Definitions**

#### **1. Intent and Scope**

The intent of this procedure is to provide a method for resolving differences of opinion about policy interpretation and/or implementation. The College encourages the resolution of these issues on an informal basis whenever possible. However, when an issue cannot be resolved informally, the College provides this formal grievance procedure, which is intended to provide a reasonable and timely resolution. Once a grievance is initiated, confidentiality will be maintained to the extent that is reasonably possible by all involved parties. Violations of confidentiality may result in corrective or disciplinary action per Section V: Code of Conduct/Discipline.

A grievance is defined as, and limited to, allegations that a specific personnel policy statement provision, a standard practice guide (SPG), and/or regulation has been or is being misapplied, misinterpreted, or not applied in such a way that the grievant or his/her working conditions have been affected. The content of the policy, SPG or regulation itself is not grievable. Complaints or other concerns that do not meet this definition will not be considered under this procedure.

Examples of issues that are **not** grievable under this procedure include:

- Alleged discrimination because of race, color, sex, age, religion, national origin, marital status, or non-disqualifying disability or alleged sexual harassment; such allegations are filed using the College's ADA and Equal Opportunity/Discrimination Complaint Process.
- Termination of an employee in the initial hire probation period.
- Terminations related to reduction-in-force or to expiration of temporary or externally funded grants or contracts (unless the grievance alleges policy violations).
- Non-selection from a properly constituted list of job candidates (unless the grievance alleges policy violations).
- The contents of a supervisory evaluation of performance, or outcome of a corrective action or disciplinary procedure except for failure to follow College policies and/or procedures. The outcome of this grievance process will not change the contents of the supervisory evaluation or corrective action outcome, but may result in an independent investigation of the process used to arrive at that outcome.

Any regular faculty member, classified employee or administrator may file a grievance.

The Office of Dispute Resolution is charged with oversight of the grievance process and for tracking and reporting on types, location and resolution of grievances. Copies of all responses that are part of the formal grievance procedure and all supporting documentation will be sent to the Office of Dispute Resolution (see Section VI., E.).

## 2. Definitions

- **Grievant:** the person filing the grievance.
- **Grievant group:** employees who agree to consolidate their individual grievances into a single grievance. The College or a group of employees may consolidate individual grievances into a group grievance when the policy concern is the same. However, a grievant may decide that his/her grievance will be handled individually and not as part of the group. A grievant's decision to participate in a group or individual grievance is irrevocable; when an employee has decided that his/her grievance will be included in a group grievance, the employee may not pursue the same issue as an individual grievance. The members of the grievant group are limited to those in the group at the time the formal grievance is filed.
- **Respondent:** the person who has allegedly misapplied, misinterpreted or not applied policy. In the case of an appeal, the respondent is the person that did not make the request for an appeal.
- **Representative:** the regular employee or member of the employee representative group supporting the grievant as per Section B.
- **Level one supervisor:** the person who supervises the grievant and respondent, or who supervises the grievant group and respondent. Alternatively, in a situation in which the grievant and respondent do not share a common supervisor, the respondent's supervisor will serve as the level one supervisor.
- **Executive administrator:** the person who reports to the Chancellor and who has final supervisory responsibility over the level one supervisor (e.g. the Campus President or Vice Chancellor).
- **Grievance Review Board:** a group of employees authorized to review an appeal of a formal grievance decision; see Section F4.
- **Appellant:** a grievant, grievant group or respondent that appeals a formal grievance decision as per Section F3.

### B. Representation

The grievant or grievant group and respondent each have the right and option to identify and select another regular College employee as a representative of his/her choice at any and all steps of the grievance process. This individual should be a member of the same employee group as defined in Board Policy 4001 unless the grievant or grievant group, respondent, and appropriate supervisor agree that a representative from another group is acceptable. A selected representative may decline and the grievant or respondent may then select another representative. A representative shall not be a key witness, or a potential grievant or respondent in the same matter.

If the representative has legal training or is an attorney, the representative may not act in the capacity of an attorney as related to this grievance or any issue that may be tied to the grievance.

If the grievant or grievant group, respondent, and appropriate supervisor or Review Board, agree, a 'representative in training' may observe the process but will not participate as a representative.

The grievant, grievant group or respondent may assign any or all of the following roles to his/her

representative, but is responsible for making all final decisions regarding how to pursue the grievance:

- observer
- note-taker
- person who speaks in addition to the grievant, but not for the grievant
- assistant to read and interpret policy or provide other appropriate support
- advisor

All communications between the representative and the grievant that relate to the grievance shall be confidential.

### **C. Time Line Exceptions**

All time requirements in the process shall be met unless the parties mutually agree to an extension, an unforeseen event occurs, or an extension is granted by the Office of Dispute Resolution. All extensions must be documented in writing and distributed to all parties involved (grievant or grievant group, respondent, and the appropriate supervisor or Review Board.)

If the respondent fails to meet the time requirements and has not received an extension, the grievance advances by default to the next step in the process.

If the grievant fails to meet the time requirements, the grievance shall be considered withdrawn.

The Office of Dispute Resolution may extend any of the following timelines if it is determined that attempts to resolve the matter legitimately caused a participant to miss any of the following deadlines (e.g., if mediation efforts delay the initial filing) or if there are other extenuating circumstances.

Note that as per Section F2, a formal grievance must be filed within thirty calendar days of the incident triggering the grievance. The thirty-day period begins the day following the incident.

### **D. Conflict of Interest**

If anyone in a position to make a decision regarding the outcome of the grievance believes that there may be a conflict of interest or appearance of conflict of interest in reviewing the grievance and issuing a decision, has a conflict of interest, or believes that someone else has a conflict of interest, he/she will request that another individual with a similar role or an alternate identified as member of the Review Board serve in his/her stead.

The Office of Dispute Resolution is charged with addressing any unresolved conflict of interest concerns.

### **E. Written Documentation**

At the conclusion of the grievance, all documents, communications, and other records dealing with the formal grievance process outlined in this section will not be filed in the employee's personnel file, but will be maintained in a separate grievance file in the Office of Dispute Resolution.

## **F. Resolution Process: Informal Resolution and Formal Grievance**

A flow chart summarizing the order of events in this process is presented in Section H. Section I. contains a cover form that serves as a checklist to ensure that: timelines are followed; all necessary parties are informed; and to confirm in which phase the process is.

### **1. Informal Resolution Attempt**

The College encourages the resolution of policy interpretation or implementation issues on an informal basis whenever possible. The potential grievant(s) typically works with the potential respondent to clarify and resolve the matter expeditiously and informally. This gives the potential respondent an opportunity to correct the situation or to provide an explanation of the matter.

The potential grievant(s) and/or respondent may request assistance from the Office of Dispute Resolution or ask that a designee from the Office of Dispute Resolution serve as an intermediary and attempt to bring the parties together informally for resolution. In addition, the College's Mediation Program (Appendix D) or other informal resolution models may be pursued prior to filing a grievance.

In a situation in which the potential grievant believes he/she cannot discuss the matter with the potential respondent (such as when the two employees do not share reporting lines or due to the nature of the issue(s)), then it is permissible to contact the next higher supervisor of the potential respondent.

### **2. Formal Grievance**

If the grievant is not satisfied with the outcome of attempts to informally resolve the issue, or if he/she did not attempt informal resolution, the grievant may file a formal written grievance within thirty calendar days after the incident. The grievant must complete a PCC Formal Grievance Form (URL to be created later). On this form, the grievant will:

- a. Identify the policy statement provision that is alleged to have been violated,
- b. Provide a statement of the facts surrounding the grievance with appropriate documentation; this statement may reference prior examples of the same type of incident that precipitated the grievance filing,
- c. Identify the remedy sought. If the grievance is related to a supervisory evaluation or corrective action, then the only remedy that may be sought is a review of the process used to reach the conclusion. Those reviews will be conducted by the Office of Dispute Resolution.
- d. Be filed on line for routing to the Office of Dispute Resolution. The Office of Dispute Resolution will forward the information to:
  - the respondent
  - the level one supervisor(s) or the person the grievant believes has the authority to resolve the issue if it is not the level one supervisor

Any formal grievance that does not include these essential elements may be rejected.

The respondent must submit his/her written response to the grievant or grievant group and the level one supervisor within seven calendar days from the date the grievance was filed.

The level one supervisor may confer with the parties, and any other persons he/she deems appropriate, to investigate the issues. Within fourteen calendar days from the date the grievance was filed, the level one supervisor will provide a written decision and justification to the grievant and the respondent.

Supervisors are to investigate and discuss a grievance only with those individuals who have a need to know about it or who are needed to supply necessary information.

If the grievance is against the Chancellor, the process described in Common Personnel Policy Section V.E.1 should be followed.

### **3. Formal Grievance – Initial Appeal to Executive Administrator**

If the grievant, grievant group or respondent (the appellant) is not satisfied with the decision received at the first stage of the grievance process described in section two above the appellant may appeal the decision to the executive administrator responsible for the campus or department where the grievance originated, unless the grievance is with the executive administrator.

No allegations of other policy violations may be added to the appeal, although additional examples or other documentation regarding the incident that led to the initiation of the formal grievance process may be added.

The appeal must be in writing and must include the formal grievance paperwork and decision, and the reasons the decision is not considered satisfactory. The appeal must be sent to all participants in the process to date. Any appeal that does not include these essential elements may be considered withdrawn. The appeal must be signed by the grievant, grievant group or respondent or sent from the appellant's PCC email account.

This appeal must occur within seven calendar days of receipt of the formal grievance decision. The executive administrator or designee will take the steps he/she deems necessary to review and investigate the grievance and may meet with the appellant, respondent, and level one supervisor. The executive administrator or designee will document all steps taken in the investigation of the grievance. The executive administrator or designee will complete the review and investigation within fourteen calendar days of receipt of the appeal and will issue a written decision with justification to the participants.

### **4. Formal Grievance – Second Appeal to Review Board**

Within seven calendar days of receipt of the formal grievance appeal decision, the appellant or respondent may appeal the Executive Administrator's decision to the College's Grievance Review Board. The Review Board is contacted through the Office of Dispute Resolution.

The appeal must be in writing and must include the formal grievance paperwork, original decision, appeal decision and the reasons the appeal decision is not considered satisfactory. The appeal must be sent to all participants in the process to date. Any appeal that does not include these essential elements may be considered withdrawn. The appeal must be signed by the appellant or respondent or sent from the appellant's or respondent's PCC email account.

The Review board that is a group that includes the following four voting members who serve staggered two-year terms:

- an administrator selected by the Chancellor or his/her designee,
- a faculty member selected by their employee representative group,
- an exempt staff member selected by their employee representative group, and
- a non-exempt staff selected by their employee representative group.

Selected volunteers do not need to be a member of the employee representative group.

The Chancellor and employee representative groups will identify two alternates for each position to serve if the committee member is not able to serve during the scope of that grievance (e.g., if the member is off contract, away on College business or if he/she needs to recuse him/herself as per Section D: Conflict of Interest.)

Selected volunteers and alternates will agree to not discuss grievances, either specifically or generally, with anyone outside of the Review Board for the duration of their terms. Violations of confidentiality may result in corrective or disciplinary action per Section V: Code of Conduct/Discipline.

The board also will include one non-voting member, the head of Human Resources Employee Relations or his/her designee, to provide policy advice, administrative support, and Review Board requested research.

The Review Board will meet within fourteen calendar days of receiving the appeal. The Review Board will review all submitted materials prior to meeting. Review board members may ask the Office of Dispute Resolution to assist in the review and investigation of the grievance and may meet with the appellant, respondent, level one supervisor, and the reviewing executive administrator. All steps taken by the Review Board in their review and investigation of the grievance will be documented.

The members of the board will issue a written response within fourteen calendar days of the initial Review Board meeting.

If the Review Board members did not reach consensus (i.e., if there were two votes on each side) then the Review Board will forward all of the submitted materials to the Chancellor or designee, who will review the information and make the final decision.

If the decision of the Review Board was unanimous, or if three of the four voting members agree regarding the decision, the decision is final unless the appellant or respondent requests that the Chancellor review the decision.

## **5. Formal Grievance – Final Appeal Request to Chancellor**

Within seven calendar days of receipt of the Review Board's appeal decision, the appellant or respondent may request that the Chancellor review the decision.

The request must be in writing and must include the formal grievance paperwork, decision, all appeal paperwork, and the reasons the Review Board's response is not considered satisfactory. The written appeal request must be sent to all participants in the process to date. Any appeal that does not include these essential elements may be considered withdrawn. The appeal request must be signed by the appellant or respondent or sent from the appellant's or respondent's PCC email account.

The Chancellor, or his/her designee, may accept the decision of the Review Board as final, or agree to review the decision and issue a final decision.

In the latter case, the Chancellor or designee will take the steps he/she deems necessary to review the grievance and appeals. The Chancellor or designee will provide a final written decision to the grievant, respondent, and Review Board within fourteen calendar days. The Chancellor or designee will document all steps taken in the review and investigation of the grievance.

## **G. General**

- 1.** No reprisals shall be taken against any grievant, representative, or other participant in the grievance process because of such participation.
- 2.** It is not considered proper if an employee abuses the process by raising grievances in bad faith or solely for the purpose of delay or harassment or by repeatedly raising grievances that a reasonable person would judge to have no merit.
- 3.** When appropriate, the decision will be retroactive to the date of the employee's original grievance.
- 4.** Upon request to his/her supervisor, the grievant will be provided a reasonable amount of time, to meet with his/her representative and/or to prepare a grievance and/or response.