

COLORADO COMMUNITY COLLEGE SYSTEM
SYSTEM PRESIDENT'S PROCEDURE
EMPLOYEE GRIEVANCES

SP 3-50a

EFFECTIVE: December 19, 1991
RETITLED: September 14, 2000
RETITLED: August 25, 2001
REVISED: May 9, 2012
REVISED: July 11, 2013
REVISED: January 20, 2015

REFERENCE: Employee Grievances, BP 3-50

APPROVED:

Nancy J. McCallin, Ph.D.
System President

Application

This procedure applies to Administrator/Professional Technical employee(s), Faculty Adjunct Instructor(s), hourly employee(s), which would include student hourlys and workstudys. This procedure shall not apply to College Presidents or Classified employee(s). Classified employee(s) should follow the Department of Personnel Board Rules to file a grievance.

Basis

The System president shall establish grievance procedures for when a CCCS Employee(s) feels an action(s) violates or inequitably applies Board Policies (BP), System President's Procedures (SP), or College Procedures and which adversely affects the employee's working conditions.

If the basis of the claim is discrimination and/ or harassment based on federal or state civil rights laws, the Complainant must file a grievance under the Civil Rights Grievance and Investigation Process. If the accused (Respondent) is a student, please refer to SP 4-31a. If the Respondent is a CCCS Administrator/Professional Technical employee(s), Faculty or Adjunct Instructor(s), Classified employee(s), hourly employee(s), which would include student hourlys and workstudys (CCCS employee(s)), authorized volunteer(s), guest(s) or visitor(s), please refer to SP 3-50b.

The System President delegates to each College President the responsibility to ensure the grievance procedures are implemented at their college. The System President will be responsible to ensure this procedure is implemented at the CCCS central office for central staff employees.

Definitions

Complainant(s) is a person who is subject to alleged inequity as it applies to Board Policies, System President's Procedures, or College Procedures.

Disciplinary Authority, also known as "Appointing Authority", is the individual with the authority, or delegated authority, to make personnel decisions concerning a particular employee.

Grievable Offenses

Except as noted herein, an employee may grieve any action which violates or inequitably applies Board Policies, System President's Procedures, or College Procedures and which adversely affects the employee's working conditions.

Claims of discrimination and/or harassment based on federal or state civil rights laws are not covered under this procedure. Such claims are processed pursuant to either SP 3-50b or SP 4-31a.

Nongrievable Matters

The following matters are not grievable under this policy except as noted:

- Matters over which the employer is without authority to act.
- Evaluations (See Board Policy on Evaluations).
- Dismissals, nonrenewals, reductions-in-force, suspensions, disciplinary actions (See Board Policy on Due Process).
- Reassignments except that a reassignment of a Regular Faculty member which results in a reduction in pay or a loss of Due Process rights shall be grievable.

Notices which are required to be given by this procedure shall be considered served when given by personal delivery, mailing by certified mail, or emailing the parties to their official college email address requesting a delivery receipt notification. If notice is mailed, parties shall be given three (3) additional days to respond.

Respondent(s) is a person whose alleged conduct is the subject of a complaint. For purposes of this procedure, a Respondent can be a CCCS employee(s), student(s) who was enrolled at the time of the alleged incident, authorized volunteer(s), guest(s), visitor(s), System Office or College.

Filing a Complaint

All complaints shall be made as promptly as possible after the occurrence. A delay in reporting may be reasonable under some circumstances; however, an unreasonable delay in reporting is an appropriate consideration in evaluating the merits of a complaint or report.

Procedure

Employees must timely submit all grievances in writing (See Appendix) to the Human Resources (HR) Department. All grievances shall be assessed by the preponderance of evidence standard. HR shall designate an individual(s) to be the investigator(s) over the complaint.

The investigator(s) shall initially determine whether the complaint is grievable or non-grievable.

- If grievable, the investigator(s) shall inform the Complainant and Respondent of the grievance.
- If the investigator(s) determines the complaint is not grievable, s/he shall inform the Complainant of this decision in writing. This decision is final.

Informal Process

Before pursuing a formal complaint process, every reasonable effort should be made to constructively resolve the issues with CCCS employees at the informal level. The investigator(s) shall be the facilitator over the informal resolution process. If informal resolution is not successful, the investigator(s) shall open a formal grievance case.

Formal Process

Participation in the Grievance Process

The investigator(s) will contact or request a meeting with both the Complainant and Respondent. Both parties will be given the opportunity to discuss the allegations of the grievance and may offer any documentation, witnesses, or other materials in support of the complaint.

The investigator(s) may also contact or request a meeting with relevant college staff, students, or others as part of the investigation.

At the investigator's discretion, the investigator(s) may discontinue meetings with anyone that is causing disruption, and will proceed to make a determination based on the information known at that time.

The Complainant(s) and the Respondent(s) have the opportunity to be advised by a personal advisor of their choice, at their expense, at any stage of the process and to be accompanied by that advisor at any meeting or hearing.

An advisor may only consult and advise his or her advisee, but not speak for the advisee at any meeting or hearing. These procedures are entirely administrative in nature and are not considered legal proceedings. The System or College may remove or dismiss an advisor who becomes disruptive or who does not abide by the restrictions on their participation.

Audio and/or Video Recording

The System and the Colleges, at its discretion, may audio or video record any meeting throughout the process. No other audio or video recording will be allowed.

Decision

Based on the preponderance of evidence, the investigator shall issue a decision, in writing, to both the Complainant and Respondent. The decision shall reject or grant the grievance and make recommendation(s) to resolve the issue(s). The Complainant and Respondent shall be advised of his/her right to appeal the decision, subject to the grounds below, by filing a written appeal with the investigator within seven (7) days of service of the decision.

Appeal

In the event of an appeal, the investigator shall give written notice to the other party to allow him/her the opportunity to submit a response in writing. The investigator will also draft a response memorandum (also shared with all parties). All appeals and responses are then forwarded to the appeals officer or committee for initial review to determine if the appeal meets the limited grounds and is timely. The original finding will stand if the appeal is not timely or substantively eligible, and the decision is final. The party requesting the appeal must show error as the original finding is presumed to have been decided reasonably and appropriately. The ONLY grounds for appeal are as follows:

1. A procedural or substantive error occurred that significantly impacted the outcome of the decision (e.g. substantiated bias, material deviation from established procedures); or
2. To consider new evidence, unavailable during the original complaint or investigation, that could substantially impact the original finding. A summary of this new evidence and its potential impact must be included in the written appeal.

If the appeals officer or committee determines that new evidence should be considered, it will return the complaint to the investigator to reconsider in light of the new evidence, only.

If the appeals officer or committee determines that a material procedural or substantive error occurred, it may return the complaint to the investigator with instructions to reconvene the hearing to cure the error. In rare cases, where the procedural or substantive error cannot be cured by the investigator in cases of bias, the appeals officer or committee may order a new grievance hearing be held by a different individual acting in the place of the designated investigator. The results of a reconvened hearing cannot be appealed. The results of a new hearing can be appealed, once, on the two applicable grounds for appeals.

Special Grievance Process Provisions

- College as Complainant
As necessary, college reserves the right to initiate a complaint, to serve as Complainant, and to initiate conduct proceedings without a formal complaint by the victim of misconduct.

- **Standard of proof**
The college will use the preponderance of evidence standard in the grievance proceedings, meaning, the college will determine whether it is more likely than not the incident occurred.
- **False Reports**
College will not tolerate intentional false reporting of incidents. False reporting could lead to disciplinary action, up to and including termination for employees. For CCCS employees, false reports will be considered a violation of BP 3-70, Code of Ethics. False reporting may also be a violation of state criminal statutes and civil defamation laws.

Retaliatory Acts

If any person who files a grievance, or any person who testifies, assists or participates in a proceeding, investigation or hearing relating to such grievance, feels they are being subjected to retaliatory acts may report such incidences to the HR Department.

It is a violation of this procedure to engage in retaliatory acts against any person or who files a grievance or any person who testifies, assists or participates in a grievance proceeding, investigation or hearing relating to such grievance. Such act will be subject to discipline, up to and including expulsion for students, termination for CCCS employees, and dismissal for authorized volunteers, guests or visitors.

Revising this Procedure

CCCS reserves the right to change any provision or requirement of this procedure at any time and the change shall become effective immediately.

Identify all individuals with knowledge of the conduct about which you are complaining.

We highly encourage attempting to resolve complaints informally. Would you be interested in attempting this process? *Check one:* Yes____ No____

Please describe your requested remedy for this grievance.

Disclosure

To investigate your grievance, it will be necessary to interview you, the alleged Respondent, and any witnesses with knowledge of the allegations or defenses. The statements and the information that you are providing may be attributed to you and could be included in any grievance reports that are prepared.

Authorization to disclose identity of Complainant: Yes No

**Please note limiting the college's ability to disclose will affect the college's ability to respond to the grievance.*

Please provide your contact information

Phone Number _____ Alternate Phone Number _____

Email _____

Acknowledgement

I, _____, am willing to cooperate fully in the investigation of my grievance and provide whatever evidence the College deems relevant. I affirm that the information I am providing is true and correct to the best of my knowledge. I understand that my statements and the information that I am providing may be attributed to me and could be included in any investigation reports that are prepared. I also understand that this investigation is confidential and for me to disclose any information that I have obtained during the course of this investigation could interfere with the investigation. Further, I understand that discussing this investigation with Non-College Officials could expose me to civil liability under current defamation law. I also understand that if I do not fully cooperate, decisions will be made based on the best information available to the College.

Signature

Date

Witness

Date

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)
AUTHORIZATION

I, _____, understand that my complaint constitutes an “educational record” as defined by the Family Educational Rights and Privacy Act of 1974 (FERPA). As such I authorize the College to disclose my name and/or the specific allegation(s) made by me to the Respondent of said allegation(s) and to others identified as material witnesses during the course of this investigation. Other than the aforementioned, I understand that I retain all other rights afforded to me under FERPA.

Signature

Date

Witness

Date