

06:07:02:01 Employee Complaint or Grievance

Purpose:

Dyersburg State Community College (DSCC) provides a clear, orderly and expedient process through which all DSCC employees may resolve a bona fide complaint or grievance.

Scope:

This policy deals with two types of employee objections: complaints and grievances.

A **complaint** is a concern expressed by an employee which he/she needs to discuss with supervisory personnel in an effort to resolve the matter. A complaint is resolved without a committee review. Personnel actions such as performance evaluations, rates of pay, position reclassifications or position terminations due to reduction in force do not fall under the definition of complaint.

A **grievance** is a feeling of resentment or injustice expressed by an employee who believes they have been unfairly treated. Grievances are subject to committee review. An employee may only grieve those matters defined below. If the grievance involves or is based on unlawful discrimination or unlawful harassment, the process set out in DSCC Policy 06:07:02:03 – Anti-Discrimination and Harassment and Tennessee Board of Regents (TBR) Guideline P-080 must be utilized. A grievance may result from any action DSCC has taken against the employee which:

1. violates DSCC or TBR policy, or involves an inconsistent application of these same policies;
2. violates any constitutional right. The most likely areas of concern are the First, Fourth or Fourteenth Amendments of the Federal constitution when that action hampers free speech, freedom of religion, the right to association, provides for improper search and seizure, or denies constitutionally required notice or procedures.
3. violates a Federal or State statute not covered by TBR Guideline P-080.

Events not Covered by this Policy: This policy does not apply to the following:

1. A termination procedure initiated against a tenured faculty member (see TBR policy 5:02:03:70 – Academic Tenure), or
2. A demotion, suspension without pay or termination procedure initiated against a support staff employee (see DSCC Policy 06:07:02:02 – Support Staff Grievance and TBR Guideline P-111 – Support Staff Grievance).

Policy:

COMPLAINT PROCEDURE

A. A complaint must be initiated within fifteen (15) work days after the employee receives notice or becomes aware of the action which is the basis for the complaint. If the complaint arises from a repeated or continuing occurrence, the time limit begins from the date of the last such occurrence. Any complaint not presented within the time limit is waived and shall not be considered. Once a final determination is made, the employee may not later present the same complaint in an attempt to gain a more favorable outcome.

B. The complaint must be submitted in writing to the employee's immediate supervisor or the Human Resource Director.

C. After receipt of the complaint, DSCC will:

1. ask the employee to present facts and/or materials if needed,
2. investigate the dispute and
3. attempt to find a solution

D. The President or his/her designee shall be the final decision maker. Complaints do not include a right to any type of hearing, adversarial proceeding, or the right to appeal to the Chancellor.

GRIEVANCE PROCEDURE

A. The grievance procedure should begin at the lowest appropriate supervisory level.

B. A grievance must be initiated within fifteen (15) work days after the employee receives notice or becomes aware of the action which is the basis for the grievance. If the grievance arises from a repeated or continuing occurrence, the time limit begins from the date of the last such occurrence. Any grievance not presented within the time limit is waived and shall not be considered. Once a final determination is made, the grievant may not later present the same grievance again in an attempt to gain a more favorable outcome.

C. The grievance must be submitted in writing to the employee's immediate supervisor or the Human Resource Director. DSCC may allow the grievant to present his/her grievance orally in the first two steps of the grievance procedure.

D. The grievance, whether oral or written, should be stated in reasonable and temperate terms.

E. Grievances should contain, at a minimum, the following information:

1. The employee's name, job title and department,
2. Explanation of the grievance citing the specific policies or statute claimed to have been violated or inconsistently applied, or the constitutional right abridged,
3. Names of persons with whom the grievance has previously been discussed and date on which the grievance was discussed with each,
4. Corrective action desired,
5. Date the grievance is filed, and
6. Signature of the grievant.

F. A grievance may be returned to the grievant for additional information or to restate in clearer terms.

G. DSCC will inform the grievant that they are entitled to be accompanied by an advisor at each step of the grievance procedure. The advisor may act as an advisor only and may not act as an advocate. The advisor must be a DSCC employee.

H. The person charged with making the decision at each step of the grievance process is given the responsibility and authority for conducting a thorough and independent investigation. Consideration may be given to information and materials gathered at previous steps.

I. The decision will be based on full and fair consideration of all pertinent facts and circumstances and the grievant will be notified of the decision within 30 days from the receipt of the grievance.

J. A grievant dissatisfied with a decision has 15 days to take the grievance to the next highest step. The President is authorized to grant reasonable extensions of the time limits upon a showing of good cause.

K. Employees may pursue grievances pursuant to this policy during regular business hours and will have access to all persons, places, and official records for information necessary to the determination and processing of a grievance within specified time limits. However, this access shall not interfere with normal work-flow of the institution.

L. A grievance can be withdrawn in writing at any stage of the process.

M. If a grievance cannot be resolved, a grievant may request an additional review of the grievance by a grievance committee (DSCC Policy 06:07:02:04: Grievance Committee).

MAINTENANCE OF RECORDS

Copies of written grievances and complaints, accompanying responses and all grievance documentation will be maintained in the Human Resources office for at least three (3) years. If a finding adverse to the grievant/complainant is made, the finding shall also be maintained in the grievant/complainant's personnel file.

APPLICABILITY OF PROCEDURES

All employees shall have access to the grievance/complaint procedure as long as the process was initiated within the timeframe set out in the procedure.

All employees are encouraged to discuss any problem with their supervisor or unit head prior to utilizing any grievance/complaint procedure. The institution should attempt to resolve each grievance/complaint at the lowest possible level.

Compliance:

All Dyersburg State Community College employees are expected to adhere to this policy. The President has the final decision-making authority in any action subject to these procedures.

RESPONSIBILITY FOR IMPLEMENTATION

- The President has ultimate responsibility for implementation of the grievance and complaint procedures and provides the final decision for DSCC.

- Administrative, academic, and supervisory personnel are responsible for insuring that they inform and make available to all employees information concerning their right to file a grievance or complaint and their right to be protected from retaliation.
- Retaliation: No employee shall retaliate or discriminate against another employee because of the latter employee's filing of a grievance or complaint. In addition, no employee shall coerce another employee or interfere with the action of another employee in the latter employee's attempt to file a grievance or complaint. Administrative, academic and supervisory personnel should also be informed that they are responsible for ensuring that the employee is free from retaliation, coercion and/or discrimination arising from the employee's filing of or intent to file a grievance or complaint.

Definitions:

Complaint – A concern which an employee wants to discuss with supervisory personnel in an effort to resolve the matter. Committee review is not available.

Grievance – A feeling of resentment or injustice expressed by an employee who believes they have been unfairly treated. Committee review is available.

Employee – For purposes of the grievance and complaint procedures, an employee is defined as administrators, faculty members, and professional, clerical and support staff personnel. Probationary employees are also included in this definition. Student workers, adjunct faculty, and temporary workers are **not** included in the definition of employee for the purposes of this policy.

Immediate supervisor – That person who is directly responsible for the supervision of the employee's activities.

Next-higher-level supervisor – That person who is directly responsible for the supervision of the immediate supervisor's activities.

Working days – Days on which the business offices of the institution are officially open.

Date of the decision – Date the decision is communicated to the employee if communicated in person; three (3) days after mailing of the decision if communicated by mail.

Grievance Review Committee – Committee of at least three (3) employees, none of whom has a direct interest in the grievance to be considered. The President selects the members and chairperson.

Impartial Hearing – Forum in which all pertinent evidence will be given consideration. Generally, the procedure should allow for presentation by the grievant, gathering of information relevant to the grievance, and review of relevant facts by an impartial individual or committee.

Revision History:

Policy created March, 1988. Policy revised February, 1990. Policy revised September, 2012; approved by Administrative Council on 12/14/12.

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