

## Employee Complaint or Grievance

### I. Purpose

This Dyersburg State Community College (College) policy establishes the process regarding employee grievances and/pr complaints.

### II. 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** Grievances are subject to committee review. An employee may only grieve those matters defined below. 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.

### III. Policy

#### I. Application of Guideline

A. This Guideline applies to employees of the College and has been developed to assist in drafting procedures for addressing grievances and complaints filed.

1. There shall be two types of procedures, which the College shall address through policies developed pursuant to this Guideline.
2. The two types are:
  - a. Grievances, which are subject to committee review; and
  - b. Complaints, which must be resolved without committee review.

3. Standard grievance forms shall be made available to employees at each work site, but no grievance may be denied because a standard form has not been used.

B. This Guideline has no application to a termination procedure initiated against a tenured faculty member under TBR policy No. 5.02.03.70 Section V.I.2.

1. This Guideline is not to be used for support staff employees who are demoted, suspended without pay, or terminated.

2. In accordance with T.C.A. § 49-8-117, Support Staff Grievance Procedure, support staff employees who are demoted, suspended without pay, or terminated must follow the grievance process contained in Guideline P-111.

a. Support staff employees who wish to challenge other employment actions not covered by P-111, however, may utilize the procedures set forth in the guideline, as applicable.

b. If the grievance involves or is based on unlawful discrimination or unlawful harassment, the process set out in Guideline P-080 must be utilized; however if the President's decision includes demotion, suspension without pay, or termination, the employee so disciplined may use this procedure or the procedure described in TBR policy 1.06.00.05.

C. An employee may choose to utilize the procedure for review by the grievance committee established pursuant to this Guideline in actions relating to the suspension of employees for cause or termination in violation of an employment contract which fall under TBR Policy No. 1.06.00.05 (Cases Subject to UAPA), or TBR Policy No. 5.02.03.70 Section V.I.b.(2) (suspension of tenured faculty) or TBR Policy No. 5.02.03.10 Section III (O)(2) (suspension of tenured faculty at TCATs).

D. The College may choose to utilize the procedure for review by the grievance committee (established pursuant to this Guideline) when resolving a complaint initiated pursuant to TBR Policy No. 5.02.02.10 (Faculty Promotion at TCATs), or 5.02.02.30 (Faculty Promotion at Community Colleges).

## II. Complaint Procedure

A. The complaint has fifteen (15) work day which a complaint must be presented after the date the employee received notice or becomes aware of the action which forms the basis of the complaint.

1. If the complaint arises from a repeated or continuing occurrence, the time limit begins from the date of the last such occurrence.
2. Any complaint not presented within the time limit is waived and shall not be considered.
3. 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 should be presented to the President and must be submitted in writing.

C. Resolution of complaints at a minimum requires the College to:

1. Allow the employee to present facts and/or materials;
2. Investigate the dispute; and
3. Attempt to find a solution.
  - a. The President or designee shall be the final decision maker.
  - b. Complaints do not include a right to any type of hearing, adversarial proceeding, nor the right to appeal to the Chancellor.

### III. Grievance Procedure

#### A. Procedure

1. A grievance must be initiated within fifteen (15) workdays after the employee receives notice or becomes aware of the action which is the basis for the grievance.
2. The administrator considering the grievance at each step shall issue a written decision with specific reasons stated for the decision.
3. If the employee is not satisfied with the decision at any step, they must carry the grievance forward to the next step within fifteen (15) workdays after receiving the written decision.
  - a. If the employee does not carry the grievance forward within fifteen (15) workdays, the grievance procedure shall be terminated and the grievance disposed of in accordance with the last written decision.

(1) For purposes of this procedure, the term “workdays” refers to Monday through Friday.

4. Any party involved in the grievance proceeding may request an extension of any deadline set forth in the policy. The College shall establish procedures for consideration of extension requests.

5. Once a grievance is initiated, the grievant may not later present the same grievance again in an attempt to gain a more favorable outcome.

## B. Testimony, Witnesses and Representation

1. At every step, the employee may testify and present witnesses and materials in support of their position.

a. The testimony of an employee, given either on their own behalf or as a witness for another employee, will not subject an employee to retaliatory action.

2. At every step, the employee may be accompanied by a representative as defined by the institution which may also specify the parameters of participation by the representative during the hearing process.

a. At the discretion of the panel chair, additional employees from the unit may be allowed to attend the employee panel hearing conducted as the final step.

## C. Steps of Review

1. Step 1-- Supervisor or Administrator Instituting Employment Action:

a. Within fifteen (15) workdays after the employee receives notice or becomes aware of the action which is the basis for the grievance, the employee completes a Grievance Form (which may be obtained from Human Resources), submits it to Human Resources and provides a copy to their supervisor or the administrator instituting employment action. While a particular form is not required to file a grievance, the employee must make it clear that they intend to utilize the grievance procedures for resolution of the employment action.

b. Within fifteen (15) workdays after receipt of the grievance, the supervisor or administrator initiating employment action and the employee meet and discuss the grievance in a face-to-face meeting.

c. If the supervisor or administrator was not the one who recommended the original employment action, or is recommending a change from the original employment action, the supervisor or administrator will make a recommendation to the administrator who made the original employment action.

d. Any changes from the original employment action must be approved by the President or, before being communicated to the employee.

e. Within fifteen (15) workdays after the face-to-face meeting, the supervisor or administrator must communicate the decision in writing to the grievant with specific reasons stated for the decision.

f. If the supervisor or administrator fails to respond or if the decision is not satisfactory to the employee, the employee may carry the grievance forward to Step 2.

## 2. Step 2--Next Higher Level of Management:

a. Within fifteen (15) workdays after receiving the written decision at Step 1, if the employee is not satisfied with the result of Step 1, the employee must notify Human Resources that they want further review.

(1) Human Resources schedules a face-to-face meeting to occur within fifteen (15) workdays after receiving notice that the employee wants further review of the next level administrator.

b. Within fifteen (15) workdays after the face-to-face meeting, the next level administrator issues a written decision that includes specific reasons for the decision.

c. Any changes from the original employment action must be approved by the President or Director, as appropriate, before being communicated to the employee.

## 3. Step 3--Hearing:

a. Within fifteen (15) workdays after receiving the written decision at Step 2, the employee can request a grievance hearing before a panel of employees.

- b. The employee must notify Human Resources in writing whether they want a hearing before an employee panel.
- c. Alternatively, the employee may request a hearing under TBR Policy No. 1.06.00.05 (Cases Subject to UAPA), if applicable.
- d. If the employee requests a hearing before an employee panel, Human Resources or the appropriate institutional person as defined by the institution policy selects the panel members, convenes the hearing and arranges for the grievance to be heard.
- e. The employee grievance panel may include non-exempt staff employees, exempt staff employees, or a combination of both exempt and non-exempt employees.
- f. The panel members representing the unit where the employee works may not serve on the grievance panel.
- g. Every effort should be made to include minorities, i.e. ethnic minorities and women, in the composition of the committee.
- h. The grievance panel shall hear the grievance within fifteen (15) workdays, if practicable, after the date on which the employee submits a written request to Human Resources.
- i. The written recommendation of the institutional panel or commission is subject to review by the President, or in the case of grievances at the TBR System Office, the Chancellor.

#### 4. Step 4—Review by the President:

- a. The written recommendation of the grievance panel will be forwarded to the President.
- b. Within fifteen (15) work days, if practicable, the President, or a designee will notify the grievant of the final decision.

D. Grievances which are processed through the grievance committee and upon which the President has made a decision are appealable to the Chancellor only where the grievance falls within the parameters set out in TBR Policy 1.02.11.00.

#### IV. Non-Retaliation

A. No employee shall retaliate or discriminate against another employee because of the latter employee's filing of a grievance or complaint.

B. 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.

C. 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.

#### V. Responsibility for Implementation

A. The President or designee of the institution has ultimate responsibility for implementation of the grievance and complaint procedures.

B. Administrative, academic, and supervisory personnel are responsible for ensuring 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.

#### VI. Maintenance of Records

A. Copies of written grievances and complaints, and accompanying responses and documentation should be maintained at a specified location(s) at the institution for at least two years after the date of the employment decision.

B. If a finding adverse to the grievant/complainant is made, the finding shall be maintained in the grievant/complainant's personnel file.

## IV. 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.

## V. 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.

## VI. Revision History

Policy created March, 1988. Policy revised February, 1990.

Policy revised September, 2012; approved by Administrative Council on 12/14/12.

Policy Revised April 2024 to reflect changes to TBR Guideline P-110. Approved by Administrative Council on 4/25/2024.