

## **PURPOSE**

The purpose of this guideline is to establish the process for employee grievances and/or complaints at Nashville State Community College.

## **DEFINITIONS**

- Grievance (Committee review available) – An employee may only grieve actions the institution has taken against the employee which:
  - Violates institution or TBR policy, or involves an inconsistent application of these same policies;
  - Violates any constitutional right. The most likely areas of concern are the First, Fourth or Fourteenth Amendment 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; or
  - Violates a federal or state statute not covered by TBR Guideline P-080.
- Complaint (Committee review not available) – A complaint is a concern which an employee wants to discuss with supervisory personnel in an effort to resolve the matter. Personnel actions such as performance evaluations, rates of pay, position re-classifications or position terminations due to reduction in force do not fall under the definition of complaint.
- Employee - For purposes of the grievance and complaint procedures, an employee is defined as faculty (though not including faculty on adjunct contracts), executive, administrative or professional staff. Probationary employees, student workers and graduate assistants are not included in the definition of employee.
- Employment Action – Employment action is the demotion, suspension without pay, termination of an employee, or work assignments or conditions of work which violate statute or policy.
- Workdays – for purposes of this procedure, the term “workdays” refers to Monday through Friday.

## **POLICY/GUIDELINE**

- I. Application of Policy
  - A. The following procedures are to be used for employees who wish to file a complaint or a grievance as defined above.
  - B. Grievances shall be subject to committee review at the employee’s request. Complaints are not subject to committee review.
  - C. Employees who wish to file a complaint or grievance under this policy may request a standard complaint/grievance form from the Office of Human Resources, but not grievance will be denied because a standard form has not been used.
  - D. This policy 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.
  - E. This policy is not to be used for support staff employees who are demoted, suspended without pay, or terminated.
    1. 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 Nashville State Policy 05-03-02.

- a. Support staff employees who wish to challenge other employment actions not covered by Policy 05-03-02, however, may utilize the procedures set forth in the policy, as applicable.
    - b. If the grievance involves or is based on unlawful discrimination or unlawful harassment, the process set out in Nashville State Policy 06-00-04 must be utilized; however, if the President's/Chancellor's, as appropriate, 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.
  - F. An employee may choose to utilize the procedure for review by the grievance committee established pursuant to this Policy in actions relating to the suspension of employees for cause or termination in violation of an employment contract which fall under TBR Policy 1.06.00.05 (Cases Subject to UAPA) or TBR Policy 5.02.03.70 Section V.I.b.(2) (suspension of tenured faculty).
  - G. The College may choose to utilize the procedure for review by the grievance committee, as established pursuant to this Policy, when resolving a complaint initiated pursuant to TBR Policy 5.02.02.30 (Faculty Promotion at Community Colleges).
- II. Complaint Procedure
  - A. A complaint must be filed within fifteen (15) workdays of 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. Complaints should be submitted to the Director of Human Resources, or designee. All complaints must be submitted in writing.
  - C. The College will endeavor to resolve complaints by:
    - 1. Allowing the employee to present facts and/or materials;
    - 2. Investigating the dispute; and
    - 3. Attempting 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, and do not carry any right to a committee review.
- 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 in the review process shall issue a written decision, stating specific reasons for the decision.
    - 3. If the employee is not satisfied with the decision at any step, he/she 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.
    - 4. Any party involved in the grievance proceeding may request an extension of any deadline set forth in the policy. Requests for extension must be in writing, submitted to the Director of Human Resources, or designee, prior to the deadline expiring and establish good cause.
    - 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 his/her position.

- a. The testimony of an employee, given either on his/her 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, if desired.
  3. A representative may be any colleague of the employee who is not in the employee's work unit. A representative cannot act in a legal capacity or actively participate in any proceedings by speaking on the employee's behalf, testifying, offering evidence, etc.
    - a. At the discretion of the panel chair, additional employees from the grievant's 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, obtained from the Office of Human Resources, submits it to the Director of Human Resources, or designee, and provides a copy to his/her 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 he/she intends 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 will 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 regarding an appropriate resolution/decision.
    - d. Any changes from the original employment action must be approved by the President, in consultation with the Director of Human Resources, 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, stating specific reasons 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 the Director of Human Resources, or designee, that he/she wants further review.
      1. The Director of Human Resources, or designee, will schedule a face-to-face meeting to occur between the parties within fifteen (15) workdays after receiving notice that the employee wants further review by 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, in consultation with the Director of Human Resources, 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 the Director of Human Resources, or designee, in writing whether he/she wants a hearing before an employee panel.
    - c. Alternatively, the employee may request a hearing under TBR Policy 1.06.00.05 (Cases Subject to UAPA), if applicable.

- d. If the employee requests a hearing before an employee panel, the Director of Human Resources, or designee, will select the panel members, convene the hearing and arrange 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 will be made to select a diverse panel to hear the grievance.
  - h. The grievance panel shall hear the grievance within fifteen (15) workdays, if practicable, after the date on which the employee submitted the written request for a hearing to the Director of Human Resources, or designee.
  - i. The written recommendation of the institutional panel or commission is subject to review by the President.
4. Step 4–Review by the President:
- a. The written recommendation of the grievance panel will be forwarded to the President for consideration.
  - 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 rendered 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 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, has ultimate responsibility for implementation of the grievance and complaint procedures.
  - B. 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.
- VI. Maintenance of Records
- A. Copies of written grievances and complaints, and accompanying responses and documentation will be maintained by the Office of Human Resources for at least two (2) 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.

**SOURCES**

T.C.A. §§ 49-8-203; 49-8-117

**RELATED POLICIES**

TBR Policies 1.02.11.00, 1.06.00.05, 5.02.02.03, 5.02.03.70, 5.02.03.30, TBR Guidelines P-080 and P-111 and Nashville State Policies 02-06-00, 02-07-00, 02-09-00, 05-03-02 and 06-00-04

*Approved by President’s Cabinet 11-14/22*