

# WESTERN NEBRASKA COMMUNITY COLLEGE

## Administrative Procedure

<b>TITLE:</b>	Employee Grievance
<b>DIVISION:</b>	Human Resources
<b>CATEGORY:</b>	Personnel
<b>REFERENCE:</b>	BP-425 (Employee Grievances)
<b>NUMBER:</b>	AP-425
<b>DATE OF REVIEW:</b>	March 10, 2020
<b>APPROVAL:</b>	Dr. Carmen Simone, President

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### Definitions

*Aggrieved Person:* The employee member(s) making the claim. In the event such a party does not believe such informal communication is possible, then the parties agree to a more formal grievance process as follows.

*Day:* Any calendar day, excluding Saturday, Sunday, and the days when the College is officially closed.

*Grievance:* A claim made by one or more employees that there has been a violation, misinterpretation, or inequitable application of policies, rules, or regulations which adversely affect the welfare of the person or persons making the claim. The term "grievance" shall not apply to any matter which may be resolved by a method of review prescribed by law or over which the Board is without authority to act.

*Grievance Committee:* A committee that shall consist of five members, comprised of the following:

- two peer employees
- two members of administration which will be appointed upon receipt of grievance
- College's Human Resources Executive Director, who shall be an "ex officio" member with no voting rights

The two peer employees are to be drawn from a WNCC employee pool consisting of one member from each department. Employee committee members may not be drawn from the department to which the aggrieved person is posted; nor may they be drawn from the department against which the grievance is claimed. The administration members must be drawn from outside of the department, academic, or functional area against which the grievance is claimed.

*Respondent:* Any employee who might be required to take action, or against whom action might be taken, in order to resolve the claim.

## **Procedure**

Legitimate problems, differences of opinion, or complaints sometimes arise in the relationship between employees and those in decision-making roles. Both the employee and those in decision-making roles benefit from a process that permits these matters to be addressed in a consistent, fair, and timely manner.

Any grievance shall be made pursuant to the following procedure. The process for full-time faculty grievances is covered by the negotiated agreement.

## **Scope**

1. The procedures outlined herein may be employed only for matters which other procedures have not otherwise been established by the department or the College. Specifically excluded are grievances related to salary, reappointment, promotion, evaluation, dismissal, non-renewal, reduction-in-force, suspension, disciplinary action, allegations of protected class discrimination or harassment, or reassignment which results in a reduction of pay or loss of due process rights.
2. These procedures may not be used to challenge, modify, or eliminate any existing policies or established practices.
3. These procedures may not be used to address inter-personal conflicts. Employees affected by inter-personal conflicts are encouraged to visit with their supervisor or Vice President and attempt to resolve conflicts by a mediation process.
4. These procedures may not be used to address allegations of misconduct or unprofessional behavior.

## **Process**

### ***Level One***

If an employee feels that he or she has a grievance, the employee must first discuss the matter with the employee's administrator to whom the employee is directly responsible in an effort to resolve the problem.

Failure of an employee to seek informal resolution of a grievance will be jurisdictional and will prohibit the consideration of a grievance for any further steps in the process.

### ***Level Two***

If the aggrieved person is not satisfied with the response from the informal process or if no resolution has been reached within ten (10) calendar days, the employee may proceed to Level 2 of the process by submitting to the College's Human Resources Executive Director an "Employee Grievance Incident Report Form" (Appendix A) available from the Human Resources Office. The Human Resources Executive Director will disseminate the form and any accompanying documentation to the Grievance Committee.

The grievance shall set forth in detail all the relevant facts upon which it is based and shall identify the policy or provisions which the aggrieved party believes to be violated as well as specifying the relief requested. In the event that the Grievance Committee ends in a 2-2 tie or deadlock, then the grievance shall proceed to Level 3, where the College President or Acting President will render a decision based on the procedures set forth in Level 3.

### ***Level Three***

If the grievance does not involve the College President and the aggrieved party is not satisfied with the disposition of the grievance at Level 2 or if the Grievance Committee is deadlocked or tied, the grievance may be appealed in writing to the President or his/her designee if applicable. The signed letter of appeal and any accompanying documentation shall be forwarded to the President within ten (10) calendar days after the receipt of the written response at Level 2. The appeal documents shall include a copy of the written response to the grievance at Level 2.

The President shall discuss the grievance with the aggrieved party and his or her representative within twenty (20) calendar days after receipt of the written appeal. Within thirty (30) calendar days after receipt of the written appeal, the President shall provide a written response to the aggrieved party and the Grievance Committee. The decision of the President is final.

Only if the grievance involves the College President will the grievance be submitted to the Board of Governors' Chairperson by the Human Resources Executive Director. The Board Chairperson shall discuss the grievance with the aggrieved party and his or her representative within twenty (20) calendar days after receipt of the written Level 2 appeal. Within thirty (30) calendar days after receipt of the written appeal, the Board Chairperson shall provide a written response to the aggrieved party and the Grievance Committee. When the grievance involves the College President, the decision of the Board Chairperson is final.

### **Appropriate Level**

It is understood that there may be situations where the grievance involves the person to whom the aggrieved party would be submitting or appealing a grievance. In such cases, the person who would hear the grievance at the next higher level may agree to accept and review the grievance, provided, however, that the grievance must be submitted within the time frames set forth in Level 2 of the Grievance Procedures and any relevant prior appeal time lines have been met.

### **Time Limits**

Failure of the aggrieved party to take any action within the time limits prescribed herein shall constitute a waiver of any further rights under this provision and shall constitute a final acceptance of the prior decision. Failure of an administrator to take action within the time limits prescribed herein shall permit the aggrieved party to proceed to the next level. The parties may by mutual agreement, in writing, extend any time limits provided herein.

### **Grievance Records**

No documents which are part of any grievance process shall be retained in the aggrieved party's personnel file, but shall be retained by the Human Resources office for the sole purpose of memorializing the grievance process. Neither the Board nor the administration shall take any action against or in any way seek reprisal against any aggrieved or interested party who participated in a grievance, and such aggrieved party may review his or her file at reasonable times upon reasonable notice.

**Right of Representation**

Any aggrieved party shall have the right to assistance from an individual or representative of their choosing at any step of the proceedings. Any cost of representation shall be the responsibility of the employee.

**Revising this Procedure**

This Administrative Procedure supersedes any prior WNCC policy, procedure, guideline, or handbook on this subject matter.

WNCC reserves the right to revise this procedure, as necessary, and for the changes to become effective immediately.

**Original Adoption Date:** March 10, 2020  
**Revision Date:**  
**Sponsoring Division:** Human Resources



6. List any witnesses and/or persons who have knowledge of your grievance and his/her relationship to the issue. (Attach additional sheets if necessary)

7. The College encourages complainants to resolve complaints informally. Have you attempted to resolve the issue prior to reporting the grievance/complaint?

(Circle One)      Yes                  No

8. Please describe your actions to-date to resolve the matter.

9. What remedy to resolve this grievance are you requesting at this time?

**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.

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

*Authorization to disclose identity of Complainant:*

(Circle One)                  Yes                  No

Signature: \_\_\_\_\_

*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 allegations(s) made by me to the Respondent of said allegations(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: \_\_\_\_\_