

WESTERN NEBRASKA COMMUNITY COLLEGE

President's Procedure

TITLE:	Student Complaints and Grievances
DIVISION:	Student Services
CATEGORY:	Student Rights and Responsibilities
REFERENCE:	BP-562 Student Complaints and Grievances Policy WCCA Policy 500.3801.14 Sexual Misconduct, Dating/Domestic Violence, Sexual Assault, and Stalking
NUMBER:	PP-562
DATE OF REVIEW:	November 25, 2019
APPROVAL:	John Harms, Interim President

Purpose

- To establish procedures for acceptance and processing of student complaints (informal and formal), and grievances.
- To ensure complaints and grievances are reviewed to:
 - Improve processes.
 - Evaluate and deliver applicable trainings to faculty and staff.

Scope

This policy applies to all Western Nebraska Community College (WNCC) students regardless of department, division, status, classification, type, or location. No retaliation shall be taken against a student who articulates a complaint/grievance.

Procedure

Procedures regarding student complaints and grievances are governed by the Western Community College Area Board of Governors Student Complaints and Grievances Policy. The procedural process is the responsibility of the office of the Dean of Students/Student Life Office and is published in the College's catalog, Student Handbook and posted on the College's website.

WNCC designates its individual departments and operational units to direct the Complainant to the Dean of Students for receiving, investigating, and resolution of student complaints/grievances and to the Chief Student Services Officer (CSSO) for appeals. Depending upon the nature of the complaint/grievance, there are specific policies and procedures.

Definitions

Appellate Officer: Designated College official responsible for hearing an appeal.

CAO: Chief Academic Officer/Executive Vice President

CSSO: Chief Student Services Officer/Vice President for Student Services

Complaint: A written dissatisfaction concerning a college employee, department, service, or administrative action that affects a current student of the College.

Complainant(s): Person(s) who is subject to alleged inequity as it applies to Board Policies, President's Procedures, or College guidelines and practices. For purposes of this procedure, a Complainant(s) is a student who was enrolled at the time of the alleged incident.

Grievance: A wrong or hardship suffered, real or supposed, which forms legitimate grounds of a complaint. A grievable offense is any alleged action, which violates or inequitably applies Board Policies, President's Procedures, and College guidelines and practices. The Complainant must be personally affected by such violation or inequitable action.

Non-Grievable Matters: The following matters are not grievable under this procedure except as noted:

- Matters over which the college is without authority to act;
- Grades and other academic decisions should be filed under the appropriate academic complaints procedure unless there is an allegation that the decision was motivated by discrimination and/or harassment which should be filed under the appropriate anti-discrimination procedure.

Retaliation: To return like for like; repay, in some cases to exact revenge.

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

Violations of the Student Code of Conduct or Nondiscrimination and Sexual Misconduct Policy

The WNCC *Student Handbook* describes in detail information regarding judicial affairs, student complaints, conduct hearings, appeals, and related procedures.

- If the basis of the claim is discrimination and/or harassment based on federal or state civil rights laws, the student's complaint follows the grievance procedure found in the Discrimination, Harassment, or Retaliation Complaint Procedure.
- If the basis of the student's claim is sexual misconduct in nature, the complaint must be referred to the Title IX Coordinator. The WCCA Policy 500.3801.14 (Sexual Misconduct Dating/Domestic Violence, Sexual Assault, and Stalking) shall be utilized. The Chief Student Services Officer is required to consult and address the situation with the College's Chief Human Resources Officer.
- If the Respondent is an Administrator/Professional/ Support staff, Faculty or Adjunct Instructor(s), hourly employee(s), which would include student hourly and work-study students, authorized volunteer(s), guest(s) or visitor(s), the grievance should be reported to the Chief Human Resources Officer and the Employee Grievance Policy will be adhered to.

Any complaint or grievance pertaining to discrimination against persons of a protected class or pertaining to sexual misconduct will be referred to the College's Equal Opportunity and Title IX Coordinator (Chief Human Resources Officer) for investigation. The Equal Opportunity and Title IX

Coordinator (Chief Human Resources Officer) shall maintain records of the appeals and of the disposition thereof. Information will be posted on the WNCC website.

Academic Complaints

Most academic concerns can be resolved informally by speaking directly with the individual; this approach is encouraged. If the issue is not resolved, students who have a complaint against a faculty member or academic administrator regarding an academic concern are expected to pursue the complaint resolution process. College-specific complaint processes are published in the *College Catalog*, the *Student Handbook*, and the College's website.

Grade Appeals

Every student has the right to appeal the final grade in a course in accordance with the stipulations outlined below. The student must initiate such an appeal using the form provided in Appendix A no later than three (3) weeks after the day final grades are posted. A student who questions the final course grade must adhere to the following steps in the order presented:

- Step 1: Discuss the matter with the instructor. Clerical errors are usually handled in this manner, with the instructor signing the correction of official records. If the student believes the problem is not resolved, the student shall then go to Step 2.
- Step 2: Visit with the appropriate Associate Dean of Instruction to discuss the issue. If the concern still remains unresolved, the student may continue to Step 3.
- Step 3: Elect to file a written grade appeal to the appropriate Dean of Instruction in the Educational Services Office for referral to the Peer Review Committee. A formal grade appeal may not be filed until Steps 1 and 2 above have been completed.

A formal grade appeal may be filed only if:

- There is a dispute over the numerical calculation of the grade; or
- The grade assigned appears arbitrary and not indicative of the student's performance. Students who question an instructor's personal treatment of the student may discuss the matter with the Vice President of Student Services as described in the Western Nebraska Community College Judicial Codes and Appeals – Article VII – Student Rights Grievances.

Complaints Regarding Non-Academic Services

Students with a complaint/grievance regarding non-academic services must notify the person or head of the office responsible for the service to seek to resolve the situation by discussing the concern directly with the party involved within thirty (30) calendar days of the incident and otherwise follow the procedures for appealing a decision within the unit. For example, concerns or appeals related to disability services, financial aid, parking, or residence life should first be directed to the appropriate department supervisor.

Most concerns can be resolved by speaking directly with the individual. Therefore, a student with a complaint must first notify the person or office responsible to seek a resolution. Such notification should be in writing and should be submitted within thirty (30) days of becoming aware of the grievance. The *Student Handbook* shall detail the steps a student must take to file a complaint, both formal and informal.

a) Step One: Informal Complaint Process

Western Nebraska Community College requires that a student first make every effort to informally resolve a complaint or concern. It is important that the student talk directly with the staff, faculty, or administrator with whom there is a complaint in order for the staff, faculty, or administrator to have an opportunity to hear and work to resolve the issue.

If a complaint or concern is not resolved to a student's satisfaction, he or she may move into the Formal Complaint process listed below.

b) Step Two: Formal Complaints

Students may utilize the formal complaint process after exhausting the informal complaint process directly with the person with whom there is a complaint or concern. To submit a formal complaint, a student must use the reporting form as described in Appendix B or via the Maxient online reporting tool.

After the form has been submitted, the student will receive notification via his or her WNCC email account that the complaint has been received; this notification will occur within five (5) business days. The student will be provided information regarding next steps in the process and may be asked for additional information, if necessary. Normally, complaints will be investigated and resolved within fourteen (14) calendar days.

Within this step of the process, complaints involve the faculty or staff member's administrative supervisor.

The administrator in receipt of the complaint will advise the Complainant if the fourteen (14) day timeline will not be met. Both the Complainant and the Respondent will be contacted regarding the complaint and both parties will be given the opportunity to discuss the allegations of the grievance and may offer documentation, witnesses, or other materials in support of their respective position.

The Complainant and Respondent have the opportunity to be advised by a personal advisor of their choice, and 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. Advisors who become disruptive or who do not abide by the restrictions on their participation may be removed or dismissed from the process.

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

The decision will be based on the preponderance of the evidence. The office in receipt of the complaint will issue a written determination of the complaint, which will be provided to the student and the affected unit or other individual.

If it is evident the complaint has not been previously addressed by the appropriate department for investigation and proposed resolution, the complaint may be referred to the correct level for a

decision. The office that receives the complaint may overturn, modify, or uphold the previous decision made by the department supervisor.

The Complainant and Respondent shall be advised of his/her right to appeal the decision subject to the grounds set forth in Step Three listed below by filing a written appeal within seven (7) days of service of the decision. Questions can be directed to the Dean of Students or studentcomplaints@wncc.edu.

c) *Step Three: Appeal Process*

In the event of an appeal, written notice shall be provided to the other party to allow him or her the opportunity to submit a response in writing. The Appellate Officer shall draft a response memorandum, which shall be shared with all parties. 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 hearing (e.g. substantiated bias, material deviation from established procedures); or
2. New evidence (defined as evidence that was unavailable during the original hearing or investigation and that could substantially impact the original finding). A summary of the new evidence and its potential impact must be included with the written appeal.

To appeal a decision made by the Supervisor of the staff, faculty member, or administrator involved, a student should submit an email to studentcomplaints@wncc.edu stating the intent to appeal the current decision and provide the following information:

- Student's name, I.D. number, mailing address, email address, and telephone number
- Grounds for the appeal
- A detailed description of the specific actions that constitute the basis for the complaint/grievance and the names and titles of those involved
- Outline of the steps taken toward resolving the issue prior to this point
- The date(s) of the alleged actions
- A list of witnesses, if any, including their contact information and the facts known by each
- Documentation that supports the complaint
- Decision given by the Supervisor
- Reason for appealing this decision
- Possible resolution/s to the issue
- Evidence that the student has already attempted to resolve the concern through the informal dialogue and unit-level resolution, as described above.

After the email requesting an appeal has been submitted, the student will receive notification via his or her WNCC email account that it has been received; this notification will occur within five (5) business days. The student will be notified of the next steps in the process and be given information as to who will contact him or her and the timeframe of when that will take place.

Within this step of the process, complaints will be directed to appropriate Dean (Dean of Instruction, Dean of Instruction and Workforce Development, or Dean of Students) and/or Vice President (Executive Vice President/CAO, Vice President of Student Services/CSSO, Vice President of Administrative Services) or their Designee.

The decision of the Dean/Vice President/Designee about the appeal, shall be final and cannot be appealed.

If a student has have any questions or needs assistance with any portion of this process, he or she should contact the Dean of Students.

Complaint/Grievance Process Provisions

- The student is responsible for presenting his or her own case, and therefore, advisors are not permitted to speak or to participate directly in any hearing except when the student is under the age of eighteen or incapacitated.
- The student shall have the right to identify documents, witnesses, and other material he or she would like reviewed before a final decision is made.
- Any hearing held shall be conducted in private unless all parties agree otherwise.
- A record of the hearing should be maintained by the College.
- If student has a disability and would like to request an accommodation to assist him or her through the grievance process, they may do so by informing the CSSO. The CSSO will then work with Disability Support Services to accommodate the request.
- If the grievance is against the CSSO, the Dean of Instruction or other person designated by the President shall perform the duties of the CSSO.
- Proceedings under this procedure may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus.
- *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 Complainant was subjected to inequity as it applies to Board policies, President's Procedures, or College guidelines.
- *False reports:* College will not tolerate intentional false reporting of incidents. False reporting could lead to disciplinary action, up to and including expulsion for students.
- The procedural rights afforded to students above may be waived by the student.

Complaints/Grievances Beyond WNCC

It is the expectation of WNCC that students will find a fair and equitable resolution to complaints when following the complaint process as outlined above; however, if a student desires to take further action and in accordance with federal law (see 34 C.F.R 668.43 (b)), information for filing complaints with the institution's accreditor or with the state agency that governs educational activity is found below.

Nebraska's Coordinating Commission for Postsecondary Education

Students may file complaints with the Nebraska's Coordinating Commission for Postsecondary Education, P.O. Box 95005, Lincoln, NE 68509-5005. Phone: 402-471-2847. Email available at: ccpe.nebraska.gov/

Higher Learning Commission

WNCC is accredited by the Higher Learning Commission (HLC), one of six regional higher education institutional accreditors in the United States. Students may file complaints via the web at www.hlcommission.org or by mail at 230 South LaSalle Street, Suite 7-500 Chicago, IL 60604 Phone: 800.621.7440

The HLC complaint process is described at

www.hlcommission.org/HLC-Institutions/complaints.html.

Retaliatory Acts

If any person who files a complaint/grievance or any person who testifies, assists, or participates in a proceeding, investigation, or hearing relating to such complaint/grievance, feels he or she is being subjected to retaliatory acts, he or she may report such incidences to the CSSO.

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

Revising this Procedure

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

WNCC reserves the right to revise this procedure, as necessary, or as new laws require attention.



APPENDIX A

ACADEMIC (FINAL GRADE) APPEAL FORM

*This must be submitted to the Dean of Instruction in the Educational Services office no later than three (3) weeks after the day final grades are posted

Date:

Student Name:

ID Number:

Student Phone Number:

Student Email:

Instructor's Name:

Course (including section number):

Is this being submitted no later than three (3) weeks after the day final grades are posted? YES or

Have you discussed this matter with your instructor? YES or NO

If no, you must do that before submitting this appeal.

If yes, what was the outcome?

Have you visited with the Associate Dean of Instruction? YES or NO

If no, you must do that before submitting this appeal.

If yes, what was the outcome?

Explanation for Appeal (to be completed by student)

Describe in detail the situation and resulting grade(s) about which you are appealing.

May attach additional information or documentation as needed.

I certify that the information presented in my appeal is accurate, to the best of my knowledge. I understand that providing false information is a violation of the Student Code of Conduct and subject to disciplinary charges.

Student signature and Date:

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Associate Dean of Instruction's Notes

Resolution (to be completed by Peer Review Committee)



APPENDIX B

Western Nebraska Community College Incident Complaint/Grievance Report Form

Directions

If you believe that you have been subjected to alleged inequity as it applies to Board Policies, President's Procedures, or College guidelines and practices, you are required to fill out this incident report form. The College can only base its decision and take actions based on the information provided by you. If more space is necessary, please continue your comments on the back of this form, or on a separate sheet of paper.

Date of Incident: _____

Name (Complainant): _____ Student Number: _____

Name(s) of who you believe committed the alleged act(s) (Respondent): _____

Is person an employee, student, authorized volunteer, guest/visitor, or college?

Check One: Employee Student Authorized Volunteer Guest/Visitor College

Please describe the alleged incident(s), and when and where it occurred. Also, please attach any supporting documentation and evidence.

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: Check one: 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 complaint/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: _____