
Responsibility: Director of Human Resources
Responsible Executive Officer: Vice President for Financial and Administrative Services

Source/Reference: [TBR Guideline P-110](#)
[TBR Guideline P-111](#)
[TBR Policy 1:02:11:00](#)
[TBR Policy 5:01:00:00](#)
TCA § 49-8-117

PURPOSE

To define policy and procedures for addressing employee grievances and complaints that cannot be resolved using informal processes.

POLICY

I. General

All employees and supervisors should attempt to resolve employee problems through informal processes to the extent possible. This policy should only be used when informal problem resolution processes have been unsuccessful.

II. Application of Policy

- A. This guideline has no application to a termination procedure initiated against a tenured faculty member under TBR Policy 5:02:03:70 Section VI (G) (2) (termination of a faculty member with a tenure appointment or with a tenure-track of temporary appointment prior to the annual specified term of the appointment). This guideline is not to be used for support staff employees who are demoted, suspended without pay, or terminated. In accordance with Tennessee Code Annotated § 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 [TBR Guideline P-111](#).
- B. An employee may choose to utilize the procedure for review by the grievance committee established pursuant to this policy in the following situations:
1. 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 TUAPA), or TBR Policy No. 5:02:03:60 Section V (I) 2 or 5:02:03:70 Section VI (G) (2) (b) (suspension of tenured faculty); or,
 2. Actions involving hearings requested pursuant to TBR Guideline P-080 (Discrimination and Harassment- Complaint and Investigation Procedure) Section IV (D).

- C. 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. 5:02:02:30 (Faculty Promotion at Community Colleges).

III. Definitions

A. Grievance - (Committee review available)

An employee may only grieve those matters defined in 1 - 3 below. If the grievance involves or is based on unlawful discrimination or unlawful harassment, the process set out in TBR Guideline P-080 must be utilized. A grievance may result from any actions the institution/center has taken against the employee which:

1. Violates College 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 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;
3. Violates a federal or state statute not covered by TBR Guideline P-080.

B. 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.

C. Employee

For purposes of the grievance and complaint procedures, an employee is defined as an administrator, faculty member (though not including faculty on adjunct contracts), professional, clerical and support staff personnel. Probationary employees are also included in this definition. Student workers and graduate assistants are not included in the definition of employee.

IV. Applicability of Procedures

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

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

V. Responsibility for Implementation

- A. The president of the College has ultimate responsibility for implementation of the grievance and complaint procedures, and provides the final decision at the institutional level.
- 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.
- C. 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.

PROCEDURES

I. Complaint Procedure

- A. A complaint must be presented in writing within 15 workdays after the date the employee received notice or becomes aware of the action. 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.
- B. The complainant should present facts and information to his or her immediate supervisor.
- C. The immediate supervisor will inform the director of human resources of receipt of the complaint, will investigate the complaint and attempt to resolve the complaint within fifteen working days.
- D. The supervisor will notify the director of human resources in writing of the resolution of the complaint.

- E. If the complaint is with the immediate supervisor, the complainant shall contact the next higher-level supervisor to resolve the complaint.
 - F. If the complaint is with a vice president, the director of human resources will address the complaint.
 - G. The President or his/her designee shall make the final decision regarding resolution of the complaint.
 - H. Once a final determination is made, the employee may not later present the same complaint in an attempt to gain a more favorable outcome.
 - I. Complaints do not include a right to any type of hearing, adversarial proceeding nor the right to appeal to the Chancellor.
- II. Grievance Procedure
- A. Employees must file grievances using the "Employee Grievance" form (Appendix A) with the director of human resources within fifteen working days after the date the employee received notice or becomes aware of the action which forms the basis of the grievance. 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.
 - B. The grievance should be stated in reasonable and temperate terms.
 - C. The director of human resources may request additional information or restatement of the grievance in clearer terms.
 - D. The director of human resources will inform the grievant that she/he is entitled to be accompanied by an advisor at each step of the grievance procedure; however the advisor may not act as an advocate but may act as an advisor only. The advisor must be an employee of the College.
 - E. The director of human resources will forward a copy of the grievance to the appropriate supervisor for action.
 - F. The supervisor will discuss the grievance with the employee, review the circumstances giving rise to the grievance and make a decision within fifteen working days concerning what corrective action, if any, is required. The supervisor will provide a written response to the grievance to the employee and to the director of human resources.
 - G. If the grievant does not accept the decision of the supervisor, he or she has fifteen working days to request a review by the next highest-level supervisor.

- H. At each level, the grievant has fifteen working days to request the next level of review, and each reviewer has fifteen working days to notify the grievant of his or her decision, unless the president approves an extension of the timeframe.
- I. At each level the respondent (supervisor/administrator) has fifteen days to respond. All responses must be time stamped and delivered to the grievant in a manner that requires dates of delivery of response to grievant.
- J. Failure of a reviewer to provide a decision within the fifteen-day timeframe allows the grievant to go automatically to the next level.
- K. The person charged with making the decision at each step must conduct a thorough and independent investigation. Consideration may be given to information and materials gathered at previous steps.
- L. The decision should be based on full and fair consideration of all pertinent facts and circumstances.
- M. If the grievant does not accept the decision of the appropriate vice president, she or he has fifteen working days to request a hearing by the grievance committee.

III. Grievance Committee

- A. Upon the request of a grievant for a hearing by a grievance committee, the president will appoint a grievance committee to advise the president concerning the resolution of the grievance. The following guidelines will be considered by the president in appointing the grievance committee:
 - 1. The committee will consist of not less than three or more than seven members.
 - 2. The president will appoint one of the committee members as the chairperson.
 - 3. The committee appointment process will allow for peer representation, taking into account the distinctions between tenured faculty and non-faculty.
 - 4. The president will seek to make appointments that will ensure that committee members will be disinterested in the outcome. Any committee member selected who has a particular interest in the outcome of the decision should be replaced with an alternate to avoid a biased decision. Every effort should be made to include ethnic minorities and women in the composition of the committee.
- B. While the committee may review the material and decisions of previous decision-makers in the process, it should conduct a review of the relevant facts. In order to do so, it will have the power to receive evidence from the grievant, gather evidence from other sources and call witnesses.

- C. The burden of proof necessary to establish the validity of a grievance (a violation of law, policy or constitutional right) is on the grievant and must meet a preponderance of evidence standard.
- D. The committee may allow all witnesses to be present at one time; or in the alternative, may allow the committee to hear each witness, including the grievant, separately. In any event, the grievant should be allowed to present any pertinent evidence to the committee and have the committee call those witnesses who have testimony pertinent to the decision.
- E. The grievance committee has fifteen working days to conduct its fact-finding process, hold the formal hearing, and make a written report of its recommendation to the president, unless the president approves an extension of the timeframe.
- F. The president may adopt the committee's recommendation, in whole or in part, or make her or his decision independent of the committee's findings.
- G. The grievant should be provided a copy of the committee's report along with the president's recommendation.
- H. 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](#).
- I. A grievance may be withdrawn by written request of the grievant at any stage of the grievance process.
- J. Once a final determination is made, the employee may not later present the same grievance again in an attempt to gain a more favorable outcome.
- K. The College will maintain grievance records for three years in the office of human resources.

III. Maintenance of Records

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

August 1, 1989; Revised: January 9, 2003 (new policy format); Revised: January 12, 2012 (Expanded "Application of Policy, inserted "Scope" verbiage, "Definitions," expanded "Grievance Committee" verbiage. Inserted reference to TBR Guideline P-111 – Support Staff Grievance, new policy format and updated titles)