

Procedure 3-19: Employee Concerns and Grievances

1. INTRODUCTION

This procedure specifies the process for bringing forth an employee concern or grievance in accordance with Policy IV-I: Policy on Employee Concerns and Grievances.

A concern and a grievance are different in terms of the nature and severity of the circumstances. Generally:

- A. A concern is generally characterized by behaviors and actions that while not unlawful, are of concern to an employee because they are not consistent with the College values or with reasonable standards of behavior.
- B. A grievance is a more serious claim than a concern; a grievance is typically brought forth as the result of unlawful actions or failure to comply with federal or state statutes or regulations.

Because of the differences between a concern and a grievance, different procedures will be used for each.

Any employee, whether full-time or part-time, may submit a concern or grievance. An employee presenting a complaint about the terms or conditions of work may represent himself or herself or proceed through a representative.

Employees are expected to participate in good faith during an on-going investigation. Employees should not make false statements or fail to disclose information to a leader that a reasonable employee would have disclosed.

2. PROCEDURE FOR EMPLOYEE CONCERN

A **“concern”** is an employee complaint as defined in Board Policy IV-I Policy on Employee Concerns and Grievances.

The College expects all leaders to maintain an "open door" policy to provide an opportunity for employees to share their concerns, problems, or suggestions and to obtain, when possible, resolution of those concerns. Concerns should be resolved at the lowest possible level; therefore, employees will follow the leadership chain in presenting their concerns.

- A. A concern is a complaint or problem regarding behaviors, social interactions, and leadership issues that occur in the workplace. Examples of concerns include, but are not limited to:
 - 1. Disagreements with or concerns about office procedures, work assignments and directives, or work allocation within a group.
 - 2. Disagreements with or concerns about the application of a policy or regulation.
 - 3. Disagreements with or concerns about an employee's corrective action regarding performance or behavior expectations.

4. Disagreements with or objections to employee discipline or an investigatory finding of employee wrongdoing.
5. Allegations of bullying against another employee.
 - a. Bullying may be verbal (i.e. derogatory comments, insults, threats), physical (i.e. repeated or persistent instances of physical contact that a reasonable person would view as offensive, undesirable, or uncomfortable), or demonstrative (i.e. repeated or persistent use of threatening or offensive gestures, repeatedly trying to embarrass or humiliate an individual, or persistently engaging in behavior or activity to prevent an individual from being successful in his or her position).
 - i. Not all confrontation, disagreement, or behavior perceived as unfriendly or rude will constitute bullying under the Board's policy.

Investigation into a concern is a serious and time-consuming endeavor. The College recognizes that the expenditure of time and resources is necessary to ensure the fair and equitable resolution of employee concerns. The College further recognizes that, in rare instances, an employee may misuse the concerns process to disrupt College operations or to humiliate or harass others. Employees who demonstrate a pattern of filing complaints without a good faith basis may be subject to disciplinary action up to and including termination. Before determining that an employee has acted in bad faith, the appropriate leader, in conjunction with the Human Resources Department, shall carefully evaluate the evidence and shall provide the employee an opportunity to respond to the allegation that the employee has acted in bad faith.

B. Procedure to submit a concern:

1. Within ten (10) working days of the date the employee knew or should have known of the event which is the basis of the concern, the employee shall present the problem, concern, or suggestion to his or her immediate leader.
2. Because some concerns are capable of immediate resolution when brought to the attention of a leader, employees are not required to put their concerns in writing as this may unnecessarily delay immediate resolution; however, when necessary to assist the administration in understanding and defining the concern, the employee may be requested to put the matter in writing.
3. If the concern is of such a nature that conferring with the leader would cause the employee undue embarrassment or discomfort, if previous discussions with the leader on the issue have been unproductive, or if the cause of concern involves the employee's immediate leader, the employee may direct his or her concern to the next level leader. Additionally, if the employee's concern is urgent and the leader is unavailable for an extended period of time, the employee may direct his or her concern to the next level leader.
4. Most concerns should be resolved within fifteen (15) working days from the time in which the concern was brought to the attention of the leader; however, if the leader needs more than fifteen (15) working days to consider the concern or to gather information related to the concern, he or she shall notify the employee in writing of how much time reasonably will be needed to provide a response.
5. If the employee is dissatisfied with the decision at any level of review, or if the leader has failed to provide a response, the employee may present the concern to the next level leader. The

request for further review shall be submitted in writing within five (5) working days of when a response was or should have been received. The request for further review shall be submitted in writing to the appropriate level of leadership up to the respective the Strategic Leadership Team (SLT) member.

6. The respective SLT member will respond in writing within fifteen (15) working days of the request for review.
7. The decision of the respective SLT member will be in writing and shall be final; however, the employee may bring his or her concern to the Board of Trustees at the next regular meeting in accordance with the provision for hearing of citizens.

3. PROCEDURE FOR EMPLOYEE GRIEVANCE

A “***grievance***” is an employee complaint as defined in Board Policy IV-I Policy on Employee Concerns and Grievances.

A. A grievance is a complaint or problem regarding policy, administrative procedure, or law that adversely and materially impacts the employee’s wages, hours, or conditions of work. Examples of a grievance include, but are not limited to:

1. A dispute or disagreement regarding a specific administrative procedure which is related to wages, hours or conditions of work. “Conditions of work” are defined as work conditions that negatively impact the health or safety of employees.
2. Factual allegations of discrimination in employment based upon race, creed, color, national origin, citizenship status, age, disability, pregnancy, religion, gender, sexual orientation, gender identity, genetic information, marital status, or veteran status. Additionally, the College shall not discriminate or retaliate against employees who exercise rights guaranteed by the Constitution or rights conferred by statute, including, but not limited to, the Family Medical Leave Act, Uniformed Services Employment and Reemployment Rights Act, and the Texas Whistleblower Act.
3. Factual allegations of harassment as defined in Title VII of the Civil Rights Act 1964.

B. Investigation into a grievance allegation is a serious and time-consuming endeavor. The College recognizes that the expenditure of time and resources is necessary to ensure the fair and equitable resolution of employee grievances. The College further recognizes that, in rare instances, an employee may misuse the grievance process to disrupt College operations or to humiliate or harass others. Employees who demonstrate a pattern of filing complaints without a good faith basis may be subject to disciplinary action up to and including termination. Before determining that an employee has acted in bad faith, the appropriate leader in conjunction with the Human Resources Department shall carefully evaluate the evidence and shall provide the employee an opportunity to respond to the allegation that the employee has acted in bad faith.

C. Procedure to submit a grievance:

1. Any employee who has a grievance shall first discuss the matter with his or her immediate leader. The employee then has ten (10) working days from the time of the discussion to present the problem in writing to his or her immediate leader.
2. Employees are required to put the grievance in writing. The statement must contain sufficient detail and facts to clarify the basis of the grievance, date(s) of the occurrence, individuals involved, and the proposed remedy. When appropriate, the employee shall include copies of documents relevant to the issues in the grievance.
3. If the grievance is of such a nature that conferring with the leader would cause the employee undue embarrassment or discomfort, if previous discussions with the leader on the issue have been unproductive, or if the leader is the subject of the grievance, the employee may direct his or her grievance to the next level leader. Additionally, if the employee's grievance is urgent and the leader is unavailable for an extended period of time, the employee may direct his or her grievance to the next level leader.
4. An employee with a claim of harassment or discrimination based on a protected class is not required to present a grievance to the individual who allegedly engaged in the harassment or discrimination. Employees with such claims may proceed directly to the next level of leadership. If the allegation involves a Strategic Leadership Team member, the employee may proceed directly to the Chancellor.
5. Within three (3) working days of receipt of the written grievance, the leader will notify Human Resources and successive levels of the leadership chain of the grievance.
6. Human Resources will facilitate an investigation of the grievance in conjunction with the appropriate leaders.
7. The individual who is named in the grievance shall receive a copy of the grievance and have a chance to submit a written response and/or to be interviewed about the allegations.
8. Upon receipt in Human Resources, most grievances should be resolved within fifteen (15) working days; however, if more than fifteen (15) working days is required to consider the grievance or to gather information related to the grievance, the respective SLT member or Human Resources shall notify the employee in writing of how much time reasonably will be needed to provide a response.
9. At the conclusion of the investigation, the findings shall be communicated in writing to the grievant and to the individual(s) identified in the grievance as having engaged in alleged wrongful or improper conduct toward the grievant.
10. If the findings of the inquiry are not satisfactory to (1) the employee who brought forth the grievance or (2) an employee named in the grievance, the employee(s) may appeal the decision to the respective SLT member by providing a signed letter of appeal within ten (10) working days. The statement of appeal must:
 - a. Identify all points of disagreement with the report.
 - b. Contain sufficient detail to clarify the basis of the appeal.
 - c. Explain the reasons why the appeal should be granted.
11. The respective SLT member will review the statement of appeal and at his/her discretion:
 - a. May request additional information from the grievant or the employee named in the grievance.

b. May schedule a meeting to discuss the appeal.

12. The respective SLT member will provide a written response to the appeal within fifteen (15) working days. If more than fifteen (15) working days will be required to consider the appeal, the administrator hearing the appeal shall notify the employee in writing how much time likely will be needed to provide a response.

13. The decision of the respective SLT member is final; however, the employee may present the facts to the Board of Trustee at the next regular meeting in accordance with the provision for hearing of citizens.

D. If multiple grievances are filed that relate to a common question or circumstance, the College may process the grievances as a Group Grievance. A Group Grievance will be investigated in accordance with the standards and procedures established in this guideline.

E. The College strives to resolve any grievance fairly and equitably and encourages employees to seek remedy through the grievance process; however, the Grievance Procedure shall not be construed to limit, terminate, or waive any right of an employee to seek relief in a court of proper jurisdiction regarding an employee grievance for which a remedy is provided under state or federal laws.

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