

EMPLOYEE GRIEVANCES AND COMPLAINTS

I. PURPOSE

Explains the availability of procedures for college employees to remedy grievances and complaints.

II. BACKGROUND AND LEGAL REFERENCES

A. Background: College Position

Although the college endeavors to maintain harmony, cooperation, and understanding, complaints and misunderstandings may nevertheless occur. WCJC recognizes the need for processes to hear grievances and complaints and has incorporated various formal and informal procedures to address grievances and complaints.

Grievances and complaints are often resolved through an informal review of the problem at the most immediate supervisory level. Free and open discussion frequently results in early resolution of the difficulty. Most problems can be resolved before formal steps in the process are evoked.

Many times grievances and complaints concern valid issues or problems that could result in recommended changes in policy or procedure if the appropriate college officials were made aware of the difficulty. Employees, therefore, should begin as early as possible the informal process with the immediate supervisor and other relevant individuals (such as a division chair).

B. Background: Legal Requirements

According to the Texas Constitution, employees have the right to file for redress of grievances with the college. Further, under Texas law, a grievant or grievants may be represented in a grievance, at any level of the grievance process and at the employee's own expense, by an attorney or by any other person or organization that does not claim the right to strike. The legal right to present a grievance is satisfied at each level when someone in a position of authority hears the concern, but the authority is not required to take action to rectify the matter. Finally, according to the attorney general of Texas, the Board of Trustees "shall consider the petition, address, or remonstrance of grievants and proceed as it deems appropriate."

C. Legal References

TASB Policy Manual, DGBA, Personnel-Management Relations: Employee Complaints, 3-7-94, and other references therein, including the Texas Constitution, Article I, Section 27; the *Gov't Code 617.005*; and the *Gov't Code 551.082*.

III. DEFINITIONS, RESTRICTIONS

A. A *grievance* is an allegation by an employee claiming that the employee has been adversely affected by a violation of one of the following: (1) state or federal law or (2) college policy. An individual employee's wages, hours, or conditions of work may be the subject of a *grievance* only if a violation of law or college policy is alleged. The definition of *grievance* also includes specific allegations of unlawful discrimination in employment on the basis of sex (including sexual harassment), race, age, religion, national origin, color, or handicap, or on the basis of the employee's exercise of constitutional rights.

B. A *complaint* concerns an issue, situation, or action to which an employee objects that does not involve an alleged violation of law or college policy. An employee who contests his or her treatment by the college or contests an action by the college not involving an allegation of violation of college policy or law must seek

redress through the college's chain-of-command. Employees may not invoke the grievance procedure to address them.

- C. The grievance or complaint must establish the individual harm suffered.
- D. In this regulation, all references to "days" refer to calendar days unless otherwise noted.
- E. In all cases, initial notification of the grievance or complaint must be made within the 15-day time limit stated below in sections V.A.4 (5 business days) and V.B.1 (10 business days). However, if notification is made during an extended holiday or during a period outside the employee's or supervisor's/respondent's contract of employment, all other time limits begin with the first day that both the employee and the supervisor or other respondent have returned to work.
 - 1. Notification of a grievance must be filed (a) in writing (b) by the grievant (c) on the college's Grievance Report Form (attached). All parts of the form must be completed and may not be left blank or unspecified including, but not limited to, the following:
 - name of the person (or persons) against whom the grievance is filed,
 - description of the problem or actions giving rise to the grievance,
 - the relief or redress sought by the grievant,
 - identification of the college policy or law alleged to have been violated.
 - 2. Submission of an incomplete or improperly completed form does not constitute adequate notification that a grievance is being filed. The clock for deadlines starts ticking only at the point when the full completed Grievance Report Form is received by the appropriate person (immediate supervisor or other respondent) specified below in Step 1 (section V.B), with a copy to the Director of Human Resources.
 - a. If the intended recipient is out of the office on college business or is away on college-approved leave (such as vacation) or if the grievance form is first filed during a time when the recipient is not on contract, the Director of Human Resources notes that the grievance has been officially filed and assists the grievant in determining when the recipient will be available to receive the grievance form. Until that time, the clock is suspended, with no prejudice against or detriment to the grievant. Once the immediate supervisor or respondent returns to work and receives the grievance report, the clock for deadlines starts ticking again.
 - b. If the matter being grieved is of a nature that requires immediate action, the Director of Human Resources and the grievant consult with the Executive Vice-President to determine what is to be done. If necessary, the Executive Vice-President also consults with the college president.
- F. Actions to challenge or change the rules and regulations of the college are not considered matters for complaint or grievance and must be undertaken through other channels of the college, such as the institution's governance structure.

IV. POLICY

- A. The college shall provide opportunities for employees to express grievances and to seek appropriate resolution or redress through established procedures approved by the president and the college attorney.
- B. An employee may lodge a grievance that alleges violation of state or federal law or college policy relating to conditions of employment.

- C. Grievances shall be filed in accordance with rules and regulations reviewed and adopted by the college. All time limits shall be strictly complied with, unless extended by mutual consent. A grievance shall be considered concluded if the employee does not appeal within the stated time limits.
- D. All grievances arising from an event or series of events shall be addressed in one **grievance**.
- E. An employee is precluded from bringing separate or serial grievances concerning events about which the employee has previously filed a grievance.
- F. Costs of any grievance shall be borne by the party incurring them.
- G. Contract and Noncontract Employee Grievances
 - 1. Employees under contract to the college may invoke this regulation to grieve proposed demotions or disciplinary actions involving reprimand, suspension, or dismissal by the college only if they allege violations of law or college policy.
 - 2. No employee on contract is guaranteed employment beyond the term of his or her contract, and the college is under no obligation to provide reasons, explanations, or justifications for allowing an employee's contract to expire without renewing that contract. Nevertheless, the college allows an employee on contract to invoke this regulation if the employee's contract is not renewed, and the employee wishes to contest the nonrenewal if the employee alleges violation of law or college policy.
 - 3. The college may terminate the employment of employees not under contract to the college (that is, at-will employees) at any time—for no reason or any reason—so long as, if there is a reason, that reason is not unlawful. Such terminations of employment are not grievable matters unless an employee claims violation by the college of law or college policy.
 - 4. Noncontract (at-will) employees may invoke this regulation to grieve conditions of employment only if violations of law or college policy are alleged.
- H. *"Whistleblower Provision."* Employees who allege unlawful discrimination in retaliation for reporting a violation of law to an appropriate authority may invoke this policy not later than seven days after the date the alleged violation occurred or was discovered by the employee through the use of reasonable diligence. The complaint shall begin at Step 2. If the complaint is not resolved at that level, time lines may be shortened to insure that the Board's final decision, should the matter reach and be acted upon by the Board, is made within 30 days of the initiation of the complaint.
- I. No employee shall be discriminated against, harassed, intimidated, or suffer any reprisal or retaliation as a result of filing a grievance or participating in the investigation of a grievance.

(POLICY APPROVAL: 7-19-95, rev. 3-17-98, Board of Trustees)

V. PROCEDURES

- A. Informal Resolution
 - 1. Most grievances arise from misunderstandings or disputes that can be settled promptly and satisfactorily on an informal basis at the immediate supervisory level or other face-to-face level.
 - 2. The employee meets with the immediate supervisor or other respondent or, if the employee desires, with the immediate supervisor or other respondent, the supervisor's/respondent's supervisor, and/or the Director of Human Resources (DHR).
 - 3. Any party to the grievance may request a written account of agreements made on this level.

4. This informal conference must occur within seven business days of the cause of the grievance. More specifically, the grievant must request the conference within five business days of the cause of the grievance, and the immediate supervisor must conduct the conference within two business days of receiving the grievant's request.

B. Step 1: Conference with Immediate Supervisor and/or Respondent

1. An employee who files a grievance must request a meeting with his or her immediate supervisor or the respondent if the grievance is against someone other than the immediate supervisor within ten business days of the time the employee first knew, or should have known, of the event or series of events causing the grievance; and the immediate supervisor/respondent must grant the request within five days of receiving the request.
2. Prior to or at this meeting, the employee submits the grievance in writing on a form approved by the college and available from the Office of Human Resources (OHR), as specified above in section III.E. (A copy of the form, entitled Grievance Report Form, is attached hereto.)
3. The immediate supervisor/other respondent must respond in writing to the grievance within five days of the conference with the employee.
4. *Possible Outcomes*
 - a. The grievance is resolved by mutual agreement of the employee and the supervisor/respondent. The resolution is summarized in writing, signed by each party, and each party retains a copy of the signed resolution.
 - b. The employee is not satisfied with the results of the conference at Step 1 and proceeds to Step 2.

C. Step 2: Conference with Cabinet-Level Supervisor

1. Within five days of the completion of Step 1 (the immediate supervisor's or other respondent's written response), and the grievance remains unresolved, the employee requests to meet with his or her Cabinet-level supervisor (a dean or vice-president).
2. Within five business days of this request, the Cabinet officer meets with the employee.
3. Prior to or at this meeting, the employee submits to the Cabinet officer a copy of the original grievance, the supervisor's/respondent's response, and, if either the employee or the dean/vice-president desires, written comments regarding the immediate supervisor's/respondent's response.
4. The dean or vice-president responds in writing to the employee within five business days of the meeting with the employee. Before responding, the dean or vice-president may meet separately with the immediate supervisor/respondent or may meet with both the employee and the immediate supervisor/respondent together. The dean or vice-president may also invite the DHR to attend the meeting.
5. *Possible Outcomes*
 - a. The grievance is resolved by mutual agreement of the employee and the dean/vice-president. The resolution is summarized in writing, signed by each party, and each party

retains a copy of the signed resolution.

- b. The employee is not satisfied with the results of the conference at Step 2 and proceeds to Step 3.

D. Step 3: Review by College Grievance Committee (CGC)

1. Within five business days of the completion of Step 2 (the Cabinet officer's written response), the employee submits a written request to the president a hearing by the CGC, which must begin proceedings within seven business days of receipt of the request for hearing and must conclude its deliberations within seven days of its initiation.
2. This request for hearing is submitted by the grievant in writing to the college president and must be accompanied by the original written grievance and all written documents pertaining to the grievance, including responses from all parties to the grievance.
3. The president makes certain that all materials regarding the grievance are complete and assembled, forwards these to the CGC chair, and directs that the CGC convene to review the case.
4. The CGC is limited to determining if, in the committee's view, a violation of college policy or law occurred. If so, the CGC recommends corrective action. If not, the CGC concludes the grievance is without merit and recommends no action. The CGC does *not* rule on whether it agrees or disagrees with the action (or "likes" or "dislikes" it) if no violation of college policy or law occurred.
5. *Possible Outcomes*
 - a. If the CGC concludes that the grievance is without merit, the chair of the CGC so states this finding in writing, along with its reasons.
 - b. If the CGC concludes that the grievant is well founded, the chair of the CGC states its case in writing and recommends to the president action to be taken to address the situation.
 - c. The CGC's report is presented in writing to the president of the college and to all principals (grievants and respondents) involved in the grievance within three business days of the conclusion of its deliberations.
 - d. Within five business days after receipt of the CGC's report, the president of the college directs that the recommendation of the CGC be carried out unless he or she finds that the recommendation is not. The president presents his or her conclusions in a written statement to all principals involved in the grievance.
 - e. If either the grievant or the person against whom the grievance is filed is dissatisfied with the recommendation of the CGC or the president's response to the CGC's recommendation, he or she may proceed to Step 4.

E. Step 4: Conference with the President

1. Within five days of the completion of Step 3 (the president's action in response to the report of the CGC), the employee (or respondent) may request in writing that the case be heard by the president.

2. Within five business days of receipt of the request, the president of the college meets with the employee. The president may choose to meet with the employee (or respondent) alone or may require that other parties be present (including the DHR).
3. Prior to this meeting, the employee (or respondent) submits a written statement to the president explaining his or her dissatisfaction with the CGC's recommendation or the president's action in response to the CGC's recommendation, along with a statement of the employee's (or respondent's) desired outcome from the meeting with the president.
4. The president renders a written decision within three days after this meeting.
5. *Possible Outcomes*
 - a. The grievance is resolved by mutual agreement between the principals and the president. The resolution is summarized in writing, signed by all parties involved in the grievance, and each party retains a copy of the signed resolution.
 - b. The president affirms his or her prior conclusions or modifies them and provides a written report to the grievant(s) and respondent(s) that:
 - i. sustains the contested action, or
 - ii. modifies the contested action, or
 - iii. rescinds the contested action.
 - c. The employee (or respondent) is not satisfied with the results of the conference at Step 4 and proceeds to Step 5.

F. Step 5: Presentation of Case to Board of Trustees

1. Within five days of the completion of Step 4 (the president's written decision), the employee submits a written request to the president to place the matter on the agenda of the next possible meeting of the Board of Trustees.
2. The president of the college provides the board with all written documentation pertaining to the case thus far. The Board may direct that any additional information pertinent to the case at hand be presented.
3. At the meeting of the Board, the college president presents a summary of the case to the members of the Board. The grievant and respondent each have the right to make brief five-minute presentations of the case, as well.
4. The Board, in its sole discretion, determines if some response is warranted. The Board is not required to respond or take any action on the matter.
5. *Possible Outcomes*
 - a. The Board may decide that no action on its part is required, thus leaving the matter to the college administration to handle.
 - b. The Board may decide that the evidence in the case is such that it requires immediate action by the Board to sustain, modify, or overturn previous decisions or actions.

- c. If the grievance concerns termination or demotion of a contract employee alleging violation of college policy or law, and the employee is dissatisfied with the results of the presentation to the Board, the employee may request a formal hearing before the Board (Step 6). The Board may grant or deny, at its sole discretion, the employee's request for a hearing.
 - d. The Board may decide on its own that a hearing on the matter is required to investigate the matter further.
 - 6. The Board reserves the right to suspend from duties immediately, and until charges are proven, any contract employee charged with moral turpitude or nonperformance of duties. Salary continues until the charges are upheld or rejected by the Board or until the charges are dropped. In the event charges are upheld by the Board, the contract employee's contract is terminated immediately. If the charges are not upheld by the Board, the contract employee is reinstated without prejudice.
- G. Step 6: Hearing before the Board
- 1. If a hearing is granted, the hearing is posted as an item on the Board's agenda and occurs no later than the next regular meeting of the Board, so long as proper posting can occur.
 - 2. If the grievance involves the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the employee, it is heard in closed session unless the employee who lodged the grievance requests it to be public. If the grievance involves complaints or charges about another employee, it is heard in closed session unless the employee against whom the complaint has been lodged requests it be heard in public.
 - 3. The Board may make and communicate its decision either at the conclusion of the hearing or no later than the next regularly scheduled meeting of the Board. The decision of the Board is final.
- H. Composition of the College Grievance Committee
- 1. *Chair.* The president of the college appoints a chair from among the members of his or her Cabinet who are not involved in the grievance. The function of the chair is to assure procedural correctness, impartiality, and to pass judgment on the admissibility of evidence. The chair may not vote on any cases except to break a tie, nor may the chair be present during voting.
 - 2. *Members.* The CGC consists of the following categories of members:
 - a. For hearing a grievance filed by a faculty member:
 - 3 full-time members of the faculty,
 - 2 full-time members of the administrative staff,
 - 1 full-time member of the support staff;
 - b. For hearing a grievance filed by an administrator:
 - 3 full-time members of the administrative staff,
 - 2 full-time members of the support staff,
 - 1 full-time member of the faculty;
 - c. For hearing a grievance filed by a member of the support staff:
 - 3 full-time members of the support staff,
 - 2 full-time members of the administrative staff,

1 full-time member of the faculty.

3. The hearing is temporarily postponed if more than one member of the CGC is absent.
4. The CGC is a special committee appointed by the president, with the advice and counsel of the President's Cabinet, to hear individual complaints. The CGC comes into existence for the purpose of reviewing a specific grievance and is dissolved upon completion of its deliberations and recommendations with reference to that specific case.
5. No employee of the college may refuse to serve on the CGC. An employee, however, may petition to be excused by the president.

I. Duties of the CGC Chair

1. Sets the time, location, and any special conditions for the conduct of the hearing; and notifies all participants of same.
2. Provides both grievant(s) and respondent(s) with information about procedures by supplying each with a copy of this regulation.
3. Rules on the admissibility of evidence and the pertinence of documents and witnesses.
4. Assures that hearings are conducted in a timely, efficient, decorous, impartial manner and in procedural compliance with all specifications of this regulation.
5. Creates or causes to be created a complete tape-recording of the hearing and a report of the CGC's findings, as described below in section VI.D.
6. Notifies all relevant parties of the results of hearings.
7. Requests any additional information that may be needed to evaluate the case.

J. Pre-Hearing Procedures

1. CGC members are responsible for reading all written materials that have been part of the grievance up to this point.
2. All principals must file with the chair a written statement of their positions, the names of any witnesses they wish to be called, and the name of their chosen advisor or representative, if any.

K. Conduct of Hearings

1. Hearings are limited to the principals in the case (grievants and respondents), participating members of the CGC, witnesses, representatives of or personal advisors to the principals, and the chair (except during voting, when the chair may not be present). Witnesses may only be present when giving testimony or responding to questions from the committee; at all other times, they must remove themselves from the hearing room.
2. The chair convenes the meeting, introduces all participants, and explains voting privileges.
3. The chair describes the nature of the grievance and explains the CGC's procedures.

4. The grievant presents the basis for his or her case first and is permitted a maximum of 15 minutes in which to do so.
5. The respondent is allowed a maximum of 15 minutes to respond to the grievant's opening statement.
6. The CGC may then ask questions and engage in discussion with the principals, during which time any party wishing to call a witness may do so. Both the grievant and respondent have the right to cross-examine all witnesses. Where the witnesses cannot or will not appear, but the CGC determines that the interests of justice require admission of their statements, the CGC identifies the witnesses, attempts to obtain their statements, and, if necessary, provides for responses to questions put forward during the hearing.
7. Following this period of questioning, discussion, and testimony, the chair asks both the respondent and the grievant if they wish to make any further statements. If so, each is given a maximum of ten minutes to speak.
8. If the CGC has no further questions for the principals, their witnesses, and their advisors or representatives at the end of the closing statements, these persons are excused.
9. The CGC discusses the case until it reaches a point in its deliberation when the members are ready to take a vote. At this point, the chair designates one CGC member to coordinate the voting. The chair then leaves the room.
10. The CGC is not bound by strict rules of legal evidence. The findings and the final decision are based solely on information provided at the hearing and are made as expeditiously as possible.
11. The CGC votes (either by secret ballot or by voice), recalls the chair, and informs him or her of the decision of the CGC and provides for the record an explanation of the bases upon which that decision was made. In the event of deadlock, the chair breaks the tie by casting the deciding vote. Otherwise, the chair is not permitted a vote.
12. Grievant(s) and respondent(s) are then recalled and informed of the CGC's decision and its reasons for that decision. The chair also provides both parties with written notification of the decision and the reasons for the decision. (If the principals are not available to be recalled in person, they are notified in writing only.)

L. Complaints

1. Complaints, in contradistinction to grievances, are brought by an employee through supervisory channels (i.e., chain-of-command) beginning with the immediate supervisor and proceeding through all levels, up to and including the Board of Trustees if the complaint remains unresolved and either party to the complaint wishes to proceed to the Board.
2. All timelines specified above for grievances apply as well to complaints.
3. Complaints and allegations within or related to complaints must be supported and documented by evidence that is submitted at the time the complaint is filed. However, the written recording of proceedings specified above for each subsequent step in the grievance procedure is not required for the complaint procedure; but all parties to a complaint and all persons involved in the complaint proceedings are advised to maintain such written records.

4. If a complaint proceeds to the level of the Board of Trustees, the same procedures described above in V.F and V.G for grievances apply to the handling of the complaint.

VI. GUIDELINES

- A. Grievances lodged by an employee may not be referred to the employee's official personnel file unless requested by the employee.
- B. Hearing officers and all other officials involved in a grievance are expected to keep memos of record concerning any meeting.
- C. If an employee feels that he or she has been subjected to reprisal for having filed a grievance or for having participated in the investigation of a grievance, he or she may invoke this regulation to file a separate grievance.
- D. The CGC makes a tape recording of the proceedings other than the closed deliberations and voting of the committee. Both parties to the grievance have access to the tape and all records and testimony presented at the hearing by the committee.
- E. If the college president or designée determines that two or more individual grievances are sufficiently similar in nature and remedy to permit their resolution through one proceeding, he or she may consolidate the grievances.
- F. Tape recordings or verbatim transcripts of a CGC hearing may be made by any party to the grievance at any time during the open portion of the hearing. However, the college is not responsible for making tape recordings or transcripts for these other parties.
- G. All information is kept in strict confidence throughout all steps in a grievance, with only those college personnel having a right or a reason to know being advised or consulted about a grievance or being allowed to attend a hearing, subject to the application of the Texas Public Information Act and the Texas Open Meetings Act. Any person who violates the strict confidentiality of the CGC proceedings is subject to immediate dismissal from the college.
- H. The president of the college or his/her designée is responsible for insuring that this regulation is administered properly and for resolving any procedural issues that may arise.
- I. *Burden of Proof*
 1. When the college proposes to dismiss a contract employee during the term of his or her contract, the burden of proof rests with the college to give adequate and reasonable cause for such action.
 2. In all other cases, the burden of proof rests with the employee.
- J. In CGC grievance hearings, the president of the college may designate an administrator to orally present the college's position.
- K. The proceedings of the CGC should be confined to the principals, their advisors, and witnesses. Except for such brief announcements as may be required to set the time of the hearing and related matters, public statements about the case by either the employee or by other college personnel should be avoided. Public announcements of a final decision, if such are to be made, are the prerogative of the Board of Trustees.
- L. This regulation is designed to provide an internal process to allow for discussion and conciliation between

the grievant and the college or other respondent, resulting in immediate assistance or redress without the necessity for recourse to external agencies by the employee. The college intends that employees avail themselves of these internal procedures before seeking external assistance.

M. Addendum to Reg 877 (August 14, 1997)

1. If a grievance is filed against the president of the college, the grievant and the president meet to effect informal resolution (see section V.A). If informal resolution is not achieved, the grievance may proceed directly to Step 3, Review by College Grievance Committee (CGC).
2. In such an instance, the president appoints the highest-ranking member of President's Cabinet (who is not involved with, or connected to, the case) to assume the duties of the president in a grievance, as described in the body of this regulation. The first duty of this Cabinet-level administrator is to appoint the members, and serve as chair, of the CGC.

N. Addendum to Reg 877 (June 28, 2000)

1. If a grievance is filed against the college's board of trustees, the grievant submits the Grievance Report Form directly to the college president, who forwards copies to the trustees and to the DHR.
2. The grievant and the president meet within five business days of the receipt of the grievance form by the president. The president may choose to have other persons (such as the DHR or Cabinet officers) present during this meeting. The purpose of the meeting is to discuss with the grievant the nature and merit of the grievance, to advise the grievant of his or her rights, and to determine the parameters of a meeting involving the grievant and the members of the board that will parallel the attempt at informal resolution described in section V.A of this regulation.
3. If the grievant declines the opportunity for informal resolution or if a meeting between the grievant and the board fails to effect informal resolution, the grievance moves to Step 5 (section V.F) and is placed on the agenda for the next possible meeting of the board of trustees.
4. Following the completion of Step 5, the board determines what, if any, further steps are to be taken with reference to the grievance.

X. *Summary of Deadlines*

<u>ACTION</u>	<u>DEADLINE</u>
Informal Step	Within 7 business days of cause of grievance.
Step One	Meet with immediate supervisor within 10 calendar days of cause of grievance. (Response from immediate supervisor within 5 calendar days of meeting.)
Step Two	Meet with Cabinet supervisor within 5 calendar days of response from immediate supervisor. (Response from Cabinet officer within 5 business days of meeting.) <i>Note:</i> See different timeline under section IV.H, Whistleblower Provision.
Step Three	Request CGC hearing within 5 business days of response from Cabinet supervisor. (CGC begins hearing within 7 business days of request, concludes its deliberations within 7 calendar days after hearing begins, and presents its written report within 3 business days after the hearing concludes.)

- Step Four Request meeting with president within 5 calendar days of president's action in response to CGC recommendation. (Meeting with president occurs within 5 business days of request, and president renders decision with 3 calendar days after meeting.)

- Step Five Request presentation to Board within 5 calendar days of president's decision. (Presentation occurs at next regular Board meeting.)

- Step Six Following presentation, if a hearing is granted, the hearing occurs at next possible Board meeting.

Note: The above deadlines may be adjusted and expanded to account for summer, winter, and spring breaks when some employees are absent from campus. In doing so, the president or designée will attempt to clear changes with all principals; but the president or designée has the authority to act independently to adjust deadlines without consultation if, in his or her judgment, adjustments are warranted. All principals, however, must be notified of any adjustments or changes in deadlines.

FRV/FRV
7-19-95
Rev. 6-25-97
Rev. 2-27-98
Rev. 3-28-98
Rev. 6-28-00

**Instructions to the College Grievance Committee
(Attachment to College Regulation 877)**

When hearing a grievance, the College Grievance Committee has one, and only one, objective, namely:

To determine if substantial evidence exists indicating that either or both of the following occurred:

- (a) a violation of college policy, and/or
- (b) a violation of state or federal law.

Accordingly, all testimony or evidence presented to the committee must relate to the topic of violation of college policy or law. (To reach a decision concerning violation of law may require that the committee seek an opinion, through appropriate channels, from the college attorney. Assertions of violation from college employees constitute an insufficient basis for the committee's determination.)

If the committee concludes that such violation(s) did not occur, then whether it agrees with or likes the decision or action in question is irrelevant and plays no part in the committee's deliberations.



**Wharton County
Junior College**

**Grievance Report Form
College Regulation 877**

When an employee fails to reach an informal agreement with his or her supervisor regarding a grievance, he or she has the right to file a formal grievance according to Regulation 877.

Name of grievant: _____ Date: _____

Position/Title: _____

Supervisor: _____

Person against whom grievance is directed: _____

This grievance alleges the following:

- a violation of college policy a violation of state or federal law neither

Brief description of the problem and relief sought (a detailed account may be appended to this form):

I first reported this problem to _____ on _____

Last date the informal resolution of the problem was attempted: _____

Employee's signature

Date

I received this grievance report on (date) _____.

Immediate supervisor's signature

Date



**Wharton County
Junior College**

**College Grievance Committee
Report Form (Reg 877)**

The CGC chair provides a copy of this form, once completed, to the college president and all grievants and respondents. The original is filed with the official record of the grievance.

Name of grievant(s): _____

Name of respondent(s): _____

Title or description of grievance: _____

Date(s) of committee hearing: _____

Name of committee chair: _____

Names of committee members: _____

REPORT

In the judgment of the committee, did a violation of college policy and/or of law or protected rights occur?
 Yes No

If "no," the committee's obligations are at an end. The chair signs this form and forwards it as indicated above.

If "yes," was the violation of [check all that apply]:

- college policy law legally or constitutionally protected right

Append an explanation of the committee's finding, citing which policy, law, or right was violated, along with a description of the nature of the violation (including how, when, and by whom the violation occurred). Be sure that the committee chair properly identifies the case in the title of the attachment, dates and signs the document, and paginates it if it consists of more than a single sheet.

- This report is complete on this page An attachment accompanies this report

Signature of Committee Chair

Date

Information Sheet
Grievance Procedure
Step 5: Presentation to Board
Date: _____

Name of Grievant:

Named Respondent(s):

Job Title:

Classification: at-will employee contract employee

Action:

Basis (the only basis for a grievance is an allegation of a violation of either college policy or law):

Redress Sought:

SUMMARY



Office of the President
911 Boling Highway
Wharton TX 77488
(979) 532-6400

TO:

FROM:

DATE:

SUBJ: College Grievance Committee for [NAME OF GRIEVANT]

[NAME OF GRIEVANT] has invoked Step 3 in the college grievance procedure, which consists of the following (Reg 877, Employee Grievances and Complaints, section V.D):

D. Step 3: Review by College Grievance Committee (CGC)

1. Within five business days of the completion of Step 2 (the Cabinet officer's written response), the employee requests a hearing by the CGC, which must begin proceedings within seven business days of receipt of the request for hearing and must conclude its deliberations within seven days of its initiation.
2. The request for hearing is submitted in writing to the college president and must be accompanied by the original written grievance and all written documents pertaining to the grievance, including responses from all parties to the grievance.
3. The president makes certain that all materials regarding the grievance are complete and assembled, forwards these to the CGC chair, and directs that the CGC convene to review the case.
4. The CGC is limited to determining if, in the committee's view, a violation of college policy or law occurred. If so, the CGC recommends corrective action. If not, the CGC concludes the grievance is without merit and recommends no action. The CGC does *not* rule on whether it agrees or disagrees with the action (or "likes" or "dislikes" it) if no violation of college policy or law occurred.
5. *Possible Outcomes*
 - a. If the CGC concludes that the grievant is without merit, the chair of the CGC so states this finding in writing, along with its reasons.
 - b. If the CGC concludes that the grievant is well founded, the chair of the CGC states its case in writing and recommends to the president action to be taken to address the situation.
 - c. The CGC's report is presented in writing to the president of the college and to all principals (grievants and respondents) involved in the grievance within three business days of the conclusion of its deliberations.
 - d. Within five business days after receipt of the CGC's report, the president of the college directs that the recommendation of the CGC be carried out unless he or she finds that the recommendation is not sustainable on substantive grounds. The president presents his or her conclusions in a written statement to all principals involved in the grievance.

-
- e. If either the grievant or the person against whom the grievance is filed is dissatisfied with the recommendation of the CGC or the president's response to the CGC's recommendation, he or she may proceed to Step 4.

In the case of a grievance filed by a [INSERT faculty member, administrator, or support staff], section H of Reg 877 specifies that composition of the CGC be as follows: [INSERT APPROPRIATE MEMBERS]:

In accordance with the provisions of Reg 877, I am appointing the following to the CGC to hear this case:

Chair:

[INSERT OTHER MEMBERS, BY CATEGORY]

Finally, please note the following from Reg 877 (section V.H.5.): "No employee of the college may refuse to serve on the CGC. An employee, however, may petition to be excused by the president."

I understand that serving on a grievance committee is a serious and sometimes uncomfortable responsibility, but a hearing by a committee is an essential step in guaranteeing that an employee who disputes an action or decision has an adequate opportunity to air his or her concerns to disinterested parties.

I therefore thank you for your cooperation.



Wharton County Junior College

*Recommended Procedures for
Conducting Board Hearings*

Addendum to Regulation 877

I. *Grievance versus Complaint: Definitions and Restrictions*

- A. A *grievance* is an allegation by an employee claiming that the employee has been adversely affected by a violation of one of the following: (1) state or federal law or (2) college policy.

An individual employee's wages, hours, or conditions of work may be the subject of a *grievance* only if a violation of law or college policy is alleged.

The definition of *grievance* also includes specific allegations of unlawful discrimination in employment on the basis of sex (including sexual harassment), race, age, religion, national origin, color, or handicap, or on the basis of the employee's exercise of constitutional rights.

- B. A *complaint* concerns an issue, situation, or action to which an employee objects that does not involve an alleged violation of law or college policy. An employee who contests his or her treatment by the college or contests an action by the college not involving an allegation of violation of college policy or law must seek redress through the college's chain-of-command, up through an including the board of trustees. Employees may not invoke the grievance procedure to address them.
- C. The grievance or complaint must establish the individual harm suffered.
- D. Actions to challenge or change the rules and regulations of the college are not considered matters for complaint or grievance and must be undertaken through other channels of the college, such as the institution's governance structure.

II. *General Provisions*

- A. A grievance hearing is posted as an item on the Board's agenda
- B. The board chair should announce to the public that the board is convening in closed session, cite the sections of the Texas Open Meetings Act that permit the board to convene in closed session, and read the agenda items to be considered in closed session. The college attorney suggests that the following wording be used to announce grievance hearings:

Grievance hearing of _____ [insert employee's name]

This matter will be considered in closed session under Section 551.074 of the Government Code unless the employee bringing the grievance requests that it be held in open session—provided, however, that if the employee bringing the grievance complains about other employees or board

members, the board will conduct the hearing in closed session unless the employee or board member complained of requests that the matter be heard in open session.

- B. College Regulation 877 (section V.G.2) also states: "If the grievance involves the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the employee, it is heard in closed session unless the employee who lodged the grievance requests it to be public. If the grievance involves complaints or charges about another employee, it is heard in closed session unless the employee against whom the complaint has been lodged requests it be heard in public."
- C. The Board may make and communicate its decision either at the conclusion of the hearing or no later than the next regularly scheduled meeting of the Board. The decision of the Board is final.

III. Conduct of Board Hearings: Grievances

- A. The chair of the board of trustees serves as chair of the hearing.
- B. Hearings are limited to the principals in the case (grievants and respondents), members of the board of trustees, the president of the college, witnesses, and representatives of or personal advisors to the principals. Witnesses may only be present when giving testimony or responding to questions from the committee; at all other times, they must remove themselves from the hearing room.
- C. The chair convenes the meeting and directs the president to introduce all participants.
- D. The president describes the nature and focus of the grievance and explains the board's hearing procedures.
- E. The grievant presents the basis for his or her case first and is permitted a maximum of 15 minutes in which to do so.
- F. The respondent is allowed a maximum of 15 minutes to respond to the grievant's opening statement. If the case involves more than one respondent, each respondent is allowed to make a statement.
- G. The board may then ask questions and engage in discussion with the principals, during which time any party wishing to call a witness may do so. Both the grievant and respondent have the right to cross-examine all witnesses. Where the witnesses cannot or will not appear, but the board determines that the interests of justice require admission of their statements, the board identifies the witnesses and attempts to obtain their statements or directs others to attempt to obtain their statements.
- H. Following this period of questioning, discussion, and testimony, the chair asks both the respondent and the grievant if they wish to make any further statements. If so, each is given a maximum of ten minutes to speak.
- I. If the board has no further questions for the principals, their witnesses, and their advisors or representatives at the end of the closing statements, these persons are excused.
- J. The board discusses the case until it reaches a point in its deliberation when the members are ready to take a vote or have come to general consensus on the matter. (Since law prohibits voting or final action in closed session, the board delays any voting until it reconvenes in open session.)
- K. The board is not bound by strict rules of legal evidence. The findings and the final decision are based solely on information provided at the hearing and are made as expeditiously as possible.

- L. After reconvening in open session, the board takes one of two actions:
- a. The board may vote on the case. If so, one of the trustees makes a motion for board action (which requires a second); for example:

I move that, in the case of the grievance by [insert name of employee], the board render a decision [FOR or AGAINST] the grievant.

Discussion may then occur if the board desires, after which a vote is taken.

If the board's decision is against the grievant, no further comment is required. The matter is at an end. If, however, the board's decision is for the grievant, then it should specify what sort of redress or corrective action it desires for the grievant and direct the college president to take the necessary administrative action to provide that redress.
 - b. If the board reached consensus in closed session and does not feel a formal vote is necessary, the board chair may be directed by the board simply to speak for the board after reconvening in open session and announce the board's position on the matter.
- M. The board's action is noted in the official minutes of the meeting.
- N. According to Regulation 877, the board may delay its decision to no later than the next regularly scheduled meeting of the board. But such a delay is not recommended except in extraordinary cases.

IV. Conduct of Board Hearings: Complaints

The procedure for conducting board hearings of complaints is the same as that described above for grievances.

The primary difference between the two resides in the nature of the employee's allegations. To be sustained by the board, a grievance must establish to the board's satisfaction that a *violation of law or college policy* occurred in the treatment of the employee. A complaint, however, may be sustained by the board on any grounds, as long as the employee can establish to the board's satisfaction that the complainant suffered individual harm in his or her treatment.

A related difference between a grievance and complaint concerns the board's role and the basis on which it makes a decision in the case.

A board may not always *like* a given action or may not always *agree* with the action; but if that action is the subject of a grievance, the board should sustain the action unless it is convinced that a violation of law or college policy occurred in the treatment of the employee. (If the board finds no such violation and, therefore, upholds the administrative action but does not like or agree with that action on other bases, the board should communicate its displeasure to the president and direct that modification in management procedures or disciplinary action be effected to satisfy the board's preferences.)

In the matter of a complaint, however, the board need not restrict itself to violation of law or policy to find in favor of the complainant.