

SECTION: Personnel Policies and Procedures/
Grievance Procedure

NUMBER: F/7.1

SUBJECT: Employee Grievance Procedure

SOURCE REFERENCE: ACCS Policy: 620.01 Employee Grievance

Grievance Policy

EMPLOYEE GRIEVANCE PROCEDURE

Consistent with ACCS Policy 620.01: Employee Grievance Policy, it is the intent of Gadsden State Community College to establish a procedure for resolving employee complaints and grievances in an efficient and effective manner. This internal resolution process is designed for employees who have a complaint or grievance except for complaints of sexual harassment or discrimination. Such complaints should follow the policies and procedures specific to those types of complaints.

A *grievance* is a complaint that justifies an appeal to step three (3), as discussed in this procedure.

Employees may use this procedure without penalty or fear of reprisal in that retaliation for participation in this process is strictly prohibited. Failure to exhaust an available administrative remedy as defined in this procedure may adversely affect an individual's ability to later pursue a remedy. Therefore, aggrieved persons are encouraged to make use of this process in a timely manner.

FILING A COMPLAINT

The College has a four-step staff complaint procedure. Particular attention must be given to the time period shown for each step. All timelines are based on normal work days and working hours of the College (Monday through Friday and does not include weekends or holidays).

STEP 1: Informal Procedure - Discussion

The first step in the procedure is to discuss the complaint with the immediate supervisor (unless the complaint involves the immediate supervisor; if this is the case, discuss the complaint with the next supervisor in the chain of command who is not an alleged offender) within seven (7) working days after the occurrence of the action leading to the complaint or after the complainant knows or should have known of the occurrence of the action. It is anticipated that most problems should be resolved at this point. The supervisor should meet with the employee, investigate the facts, and render a written decision to the employee within seven (7) working days.

If the complaint is not satisfactorily resolved by the immediate supervisor, the complainant may proceed to the next supervisor (department/division chair/director) to resolve the matter. (If the next supervisor is the dean, proceed to Step 2.) The department/division chair/director must render a written decision to the employee on the complaint within seven (7) working days.

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STEP 2: Review by the Dean

If the employee is dissatisfied with the decision of the department/division chair/director, the employee may complete the Employee Complaint Form (Appendix F/7.1-A) and submit a written statement of the complaint to his/her Dean. All prior decisions and documented discussions should be submitted in writing for the Dean's review and deliberation. The Dean may meet with the involved parties to seek additional information or clarify the written documentation before rendering a decision.

The Dean should (1) notify any appropriate personnel of the complaint (e.g., as the Title IX Coordinator, Director of Human Resources, President as applicable); (2) Review the written materials and conduct an investigation; (3) Prepare a written response to the complaint and deliver the response to the employee within fifteen (15) working days of receipt of the complaint; the Dean's response must advise the employee of the ten (10) working day deadline to request a formal hearing by an Employee Grievance Committee.

STEP 3: Formal Procedure: Employee Grievance Committee

A formal grievance may take place only after Steps 1 and 2 are completed without satisfactory resolution of the complaint. The employee should complete an Employee Formal Grievance Form (Appendix F/7.1-A) to the President. This action constitutes a request for a formal hearing by an Employee Grievance Committee.

The Employee Grievance Committee is an administrative process designed to allow both parties to the grievance to be heard. It is not a "legal process" with formal rules of evidence or other practices. Its primary purpose is to resolve disputes in an equitable manner. The investigation and deliberations of the Grievance Committee shall result in findings a decision on the resolution of the grievance.

Membership on the Employee Grievance Committee/Member Responsibilities

The President (or designee) will appoint an Employee Grievance Committee to hear the appeal. The grievant, respondent (the accused), and the President (or designee) may recommend an employee as a member of the Committee. The President (or designee) will appoint the Chairperson of the Committee.

All Committee members are expected to:

- Be fair, unbiased, and impartial. If a person has knowledge of the nature of the grievance or the facts of the case, he/she should recuse from service on the Committee.
- Be available for Committee meetings and hearing date(s).
- Agree to hold all discussions in confidence.
- Participate with the full understanding they do not represent any person or specific outcome.
- Never disclose which party recommended their appointment to the Committee.
- Disclose an actual or potential conflict of interest with an involved party. Such disclosure will result in replacement by an impartial substitute appointed by the President.

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As each committee is constituted based on need, the first meeting will include a discussion of the responsibilities of the committee members in the investigation/deliberation, conduct of the hearing, and documentation requirements for the Committee. ***Confidentiality of all committee discussions must be maintained.***

Submission of Information/Evidence

All evidence other than oral testimony to be presented by the grievant and respondent during the Employee Grievance Hearing must be submitted to the Office of Human Resources and the other party at least five (5) working days prior to the hearing. Also, a list of any witnesses and advisors if applicable must be included in the submission. Any evidence, exhibit or document introduced or offered to the Committee by any person will become the property of the College.

Attendance at Grievance Hearing

Because of the sensitive nature of the information involved, the hearing is closed to the public. The following persons may be present: the grievant, the respondent(s), an advisor/representative for each party and the committee, a Human Resources representative, and witnesses. The Chairperson will instruct all other persons to leave the hearing room.

If the grievant or respondent(s) chooses to bring an advisor/representative to the hearing, **it will be at no expense** to the College. The advisor/representative may be an attorney-at-law, a faculty member, another staff member, a relative, or a citizen-at-large. If the parties involved wish to have an advisor/representative at the hearing(s), they must inform the Office of Human Resources at least five (5) working days prior to the hearing. Advisors/representatives may advise the grievant/respondents(s), but cannot address the committee panel, question witnesses, or otherwise speak during the hearing.

Employee Grievance Committee Conduct and Responsibilities

1. The Employee Grievance Committee shall conduct a hearing, investigation, and all other activities necessary to reach resolution of the issue.
2. The Committee may request additional information to clarify, verify, amplify, or address issues related to the grievance at any point in their deliberations.
3. The Committee will ensure a complete, fair, and impartial hearing for the benefit of all parties concerned.
4. The Committee will meet in executive session after completion of the hearing and investigation to deliberate the findings and submit a written decision within thirty (30) working days following the appointment of the committee. If circumstances with College work schedules or individual schedules justify a need to extend the decision deadline, the Chairperson may request an extension of the timeline provided there is sufficient justification to the President.

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5. The Chairperson of the Employee Grievance Committee is given discretion in the conduct of the hearing to ensure order and fairness. The Chairperson shall describe the intended sequence and format of the hearing to the respective parties at the beginning of a hearing.
 - a. The Chairperson will read the specific elements of the grievance and confirm the issues to be determined by the committee.
 - b. Opening statements are optional and if allowed, the Chairperson will notify the grievant and respondent prior to the hearing date. Such statements will be limited to 5 minutes for the grievant and 5 minutes for each respondent.
 - c. The Committee members, the grievant, and the respondent(s) may direct pertinent questions to the witnesses. The Chairperson may disallow a question based on relevance to the grievance.
 - d. Closing statements are optional and if allowed, the Chairperson will notify the grievant and respondent(s) prior to the hearing date. Such statements will be limited to 5 minutes for the grievant and 5 minutes for the respondent(s).
5. The majority vote carries and each committee member's vote is to remain confidential.
6. Retaliation against the person who seeks relief, the complainant, respondent(s), witnesses, or any advisor is forbidden.
7. The Director of Human Resources shall serve as an advisor to the Employee Grievance Committee unless a conflict of interest exists. An alternate advisor for the committee may be appointed by the President if appropriate.
8. Each party is responsible for securing the attendance of their respective witnesses. The list of witnesses must be submitted to the Office of Human Resources at least five (5) working days prior to the hearing.
9. Witnesses should appear in person to present evidence; however, if approved by the Committee Chairperson, signed written statements may be obtained and used as evidence. The Committee may reserve the right to question the witness after the hearing to clarify elements of the written statement.
10. Witnesses appearing at the hearing shall present testimony and be questioned regarding their direct knowledge of relevant facts. Each witness is instructed not to discuss the hearing or the identity of the person(s) making the complaint or the accused with anyone. **All aspects of the proceedings must be kept confidential** to the extent permitted by Alabama law.
11. Hearings are to take place on normal workdays during working hours (Monday through Friday).
13. Any written records of the hearing, together with the findings of the Committee (See Appendix F/7.1-B), and a record of the findings and decision for resolution are placed in the confidential files in the Office of the Director of Human Resources.

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Within ten (10) working days after having been informed of the Employee Grievance Committee's decision, either party to the hearing may appeal the matter to the President. All materials will be forwarded, with the Committee's findings and decision, to the President. If not appealed, the Committee response is considered to have resolved the matter.

STEP 4: Appeal to the President

The grievant or respondent(s) may request an appeal of the Employee Grievance Committee's findings and decision to the President in writing within 10 working days of the Grievance Committee's decision. The party initiating the request for an appeal must provide a written summary of the grievance submitted to the Committee, justification for further consideration, present evidence to support further consideration, and a statement of the proposed resolution. The President has thirty (30) working days from the receipt of the request for an appeal to render a decision on the grievance. Additional information may be required during the President's deliberations. The decision of the President is final.