

- B. Complaints and grievance procedures have no application to a termination procedure initiated against a tenured faculty member under TBR Policy No. 5:02:03:00, Section III 1 6 (d) or when resolving a complaint initiated pursuant to TBR Policy No. 5:02:02:00 (Faculty Promotion).
- C. This procedure has no application to personnel actions that include, but are not limited to:
 - 1. performance evaluation;
 - 1. supervisory counseling;
 - 2. disciplinary warnings;
 - 3. rates of pay;
 - 4. position reclassifications; and
 - 5. position terminations due to reduction in force.
- D. A grievance which is the subject of an action filed with an external body shall not be processed through the institutional grievance/complaint procedures. The term “external body” includes a court or federal or state administrative body such as the Equal Employment Opportunity Commission, Office of Civil Rights, or the Tennessee Human Rights Commission.
- E. A grievance which is the subject of a harassment complaint which is being pursued through the institutional procedure developed pursuant to P-080 shall not be processed through the grievance/complaint procedure.
- F. Employee grievances or complaints are also initiated under TBR Policy No. 1:06:00:05. Uniform Procedures for Cases Subject to Tennessee Uniform Administrative Procedures Act.

IV. Definitions

A. Matters Subject to the Grievance or Complaint Procedures

There shall be two types of matters which may be address pursuant to this policy. The two types are (1) grievances which are subject to committee review and (2) complaints which must be resolved without committee review.

B. Grievances

(Committee review available.) An employee may only grieve those matters defined below. A grievance may result from any action the institution has taken against the employee which:

1. relates to the suspension or termination for cause or other reasons in alleged violation of an employment contract as defined in TBR Policy No. 1:06:00:05 (Cases subject to TUAPA), or TBR Policy No. 5:02:03:00, Section III. 16. 6. (2) suspension of tenured faculty;
2. allegedly violates institution or TBR policy or involves an inconsistent application of these same policies;
3. allegedly violates state or federal discrimination statutes in that the adverse action is based solely on race, sex, religion, national origin, age, handicap, or veteran status
4. allegedly violates any constitutional right. The most likely areas of concern are the First, Fourth, or Fourteenth Amendments 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.

C. Complaints

(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. While any item may be subject to an informal complaint, only those items listed in IV. B. above may be the subject of a grievance.

D. Employees

All references to the term “employee(s)” contained in this policy include only those individuals defined in this paragraph. Employees shall include administrators, faculty (including full-time faculty on term or temporary contracts), professionals, clerical, and support personnel. Probationary employees are also included in this definition. Student workers, graduate assistants, adjunct faculty, and temporary workers are not included in this definition of employees.

V. Responsibility for Implementation

The President of the institution has ultimate responsibility for implementation of the grievance/complaint procedures and provides the final decision, at the institutional level, where a grievance/complaint is involved.

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. Employees shall be free from fear of retaliation, coercion, and/or discrimination arising from the employee's filing of or intent to file a grievance or complaint.

VI. Grievance Committee

A committee will be appointed by the President on those grievances subject to committee review as defined in Section Iv. A. and B. which reach the final decision-making level. The following guidelines govern the use of this committee.

- A. Separate committees may be established for faculty and non-faculty grievances.
- B. The President will appoint a five-member committee to review and hear the grievance and will designate one of the individuals to serve as chairperson of the committee. Any committee member selected who has a particular interest in the outcome of the decision will be replaced with an alternate to avoid a biased decision.
- C. The committee is to conduct an independent and thorough investigation. In order to do so, it will have the power to receive evidence from the grievant, gather evidence from other sources, and call witnesses.
- D. The Grievance Committee will hear each witness, including the grievant, separately. The grievant will be allowed to present any pertinent evidence to the committee and to have the committee call those witnesses who have testimony pertinent to the decision.
- E. The committee will make a written report of its recommendation and reasons to the President. The President may then adopt the committee's recommendations in whole or in part, or may make a decision independent of the committee's findings.
- F. The grievant shall be provided a copy of the committee's report along with the President's decision.

VII. Principles Relating to Grievance Only

- A. The grievance procedures shall begin at the lowest appropriate supervisory level.
- B. The employee shall be informed that he/she 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 as an advisor only.
- C. Employees shall be given the opportunity to pursue grievances pursuant to this policy during regular business hours. All parties shall have access to all persons, places, and official records for information necessary to the determination and processing of a grievance within specified time limits. This access shall not interfere with normal work flow of the institution.
- D. A grievance can be withdrawn at any stage of the process.

VIII. Maintenance of Grievance-Related Records

- A. All copies of written grievances, committee recommendations, and supporting documentation will be retained in the Office of Human Resources but separate from the employee's individual personnel record.
- B. It is the responsibility of the Chair of the Grievance Committee to submit all relevant materials to the President when submitting the committee report. The President shall then have the full dossier, including the committee report as well as of the final decision, forwarded to the Office of Human Resources.
- C. The Office of Human Resources shall provide the employee with a full copy of the dossier and shall retain these documents for at least three (3) years.

IX. Initiating the Grievance or Complaint Process

Any employee with any concern which may be a potential grievance or complaint should initiate either process by a discussion with his/her immediate supervisor. The supervisor will attempt to resolve the matter. If resolution is possible, the supervisor will provide input to the employee about the nature of the concern (grievance or complaint) and the appropriate course of action. The Director of Human Resources may be consulted if additional clarification is needed. Grievance and complaint procedures are described in the sections that follow.

GRIEVANCE PROCEDURE

An employee with a grievance (See definition) should begin by discussing it with his/her immediate supervisor within five (5) working days of the date of the grievance or the employee's knowledge of the occurrence on which the grievance is based. This discussion should resolve most matters and every attempt should be made to resolve each grievance at the lowest level possible. However, if resolution is not possible, the employee may present the grievance or problem in writing on the attached form, following the progression outlined below. (It should be noted that the next higher level of authority will differ depending on the staff level of the grievant.)

I. Step 1: Discussion with Immediate supervisor

A grievance must be brought to the attention of the employee's immediate supervisor within five (5) working days after the employee becomes aware of the problem. The employee may present the grievance or problem in writing on the attached form available from the Office of Human Resources. The employee must state the basis for the grievance and the corrective action desired in temperate and reasonable terms. The employee and the supervisor shall discuss the grievance in an attempt to resolve the matter in a mutually satisfactory manner. The supervisor shall conduct any necessary or appropriate investigation and inform the employee of a decision based upon full and fair consideration of all the facts within five (5) working days of the initial discussion. The immediate supervisor will assure that the decision is clearly communicated to the employee. If the employee is not satisfied, the employee may proceed to Step 2.

If no decision is communicated to the employee within five (5) working days of the initial discussion, the employee may proceed directly to Step 2.

IMPORTANT: The employee shall return his/her signed acceptance or rejection of each official's answer to the official who last responded to the grievance. This official shall:

-forward resolved grievances to the Office of Human Resources for retention or

-forward unresolved grievances to the next higher of authority for his/her response.

By utilizing this method of paper transfer, each individual involved in the grievance process will be kept apprised of the status of the grievance.

II. Step 2: Discussion with Higher-Level Supervisor

If the employee and the immediate supervisor are not able to reach a mutually satisfactory resolution to the grievant, the employee may proceed to discuss the matter with the next-higher-level supervisor within five (5) working days of the date of the decision of the immediate supervisor. Failure to comply with Step 2 in a timely shall be deemed a waiver by the employee and the grievance may not be raised again. The next-higher-level supervisor and the employee shall then follow the same procedure as required in Step 1.

If the employee is satisfied with the decision reached by the next-higher-level supervisor, no additional action is required. Failing resolution, the employee may pursue the grievance further throughout the entire administrative chain within the area. All supervisors and the employee shall then follow the same procedure as required in Step 1. Upon request from the grievant, each supervisor should inform the next level of supervision of the grievance and his/her response. Each level of supervision through the appropriate member of the President's Staff must respond to the grievance within five (5) working days of the initial discussion. If the employee is satisfied with the decision, no additional action is required.

Failing resolution, the employee may present the grievance to the President within five (5) working days of the decision of the President's staff member. The President shall be the final decision-maker and shall provide the employee with a written decision based upon full and fair consideration of all the facts within ten (10) working days. (If no decision is communicated to the employee within five (5) working days of the initial discussion between the employee and the next-higher-level supervisor(s), the employee may proceed to Step 3.)

III. Step 3: Written Grievance Statement and Request for Hearing by the Grievance Committee

If the employee and the highest-level supervisor are not able to reach a mutually satisfactory resolution to the grievance, the employee may request a hearing to be reviewed by the Grievance Committee by filing a written grievance with the Director of Human Resources on a grievance form that is available in the Office of Human Resources. The grievance must be filed within five (5) working days

of the date of the decision of the highest-level supervisor. Failure to comply with Step 3 in a timely manner shall be deemed a waiver by the grievant and the grievance may not be raised again. (The Director of Human Resources may request the employee to restate the grievance for additional clarity if necessary, but such request shall not prejudice the employee in regard to the applicable time limit.)

A copy of the grievance, along with any supporting documentation shall be given to the immediate supervisor and all higher-level supervisors. The Director of Human Resources may request either or all supervisors to respond in writing to the grievance statement. The Director of Human Resources will then forward the grievance, the supporting documentation, and the responses of the supervisors to the President.

Upon receipt of the written grievance and request for hearing, the President shall appoint a committee to hear the grievance. Within ten (10) working days of the filing of the request for review, the Grievance Committee shall conduct an impartial hearing on the grievance, at which time it will accept and review all pertinent information presented by the employee and the Director of Human Resources as well as any other information it deems appropriate. The Grievance Committee shall conduct a thorough and independent investigation. The Committee may call before it any other personnel whom it feels may have information pertinent to the grievance. Within three (3) working days of the hearing, the Chairperson of the Committee shall prepare a written report of the Committee's recommendation and forward to the President. The recommendation shall be based on full and fair consideration of all the facts and circumstances. The report shall also contain a summary of the Committee's investigation and findings. Copies of the report shall be submitted to all the parties involved.

Upon receipt of the recommendation, the President may accept the recommendation of the Committee or select an appropriate alternate resolution. The President's decision shall be directed to the employee and copies shall be provided to the Chairperson of the Committee and all other parties involved. The President's decision shall be final and binding as to all parties concerned.

Grievances which are processed through the Grievance Committee are appealable to the Chancellor only where they fall within the parameters set out in TBR Policy No. 1:02:11:00. This generally includes all grievances defined in Section I except those where the grievant has filed a lawsuit or appeal with a state or federal administrative body.

COMPLAINT PROCEDURE

I. Step 1: Discussion with Immediate Supervisor

A complaint must be brought to the attention of the employee's immediate supervisor within five (5) working days after the employee becomes aware of the problem. The employee should state the basis for the complaint and the corrective action desired in temperate and reasonable terms. The employee and the supervisor shall discuss the complaint in an attempt to resolve the matter in a mutually satisfactory manner. The supervisor shall conduct any necessary or appropriate investigation and inform the employee of a decision based upon full and fair consideration of all the facts within five (5) working days of the initial discussion. The immediate supervisor will assure that the decision is clearly communicated to, and understood by, the employee. If the employee is satisfied with the decision, no additional action is required. If the employee is not satisfied, the employee may proceed to Step 2. (If no decision is communicated to the employee within five (5) working days of the initial discussion, the employee may proceed directly to Step 2.)

II. Step 2: Discussion with Higher-Level Supervisor

If the employee and the immediate supervisor are not able to reach a mutually satisfactory resolution to the complaint, the employee may proceed to discuss the matter with the next-higher-level supervisor within five (5) working days of the date of the decision of the immediate supervisor. Failure to comply with Step 2 in a timely manner shall be deemed a waiver by the employee and the complaint may not be raised again. The next-higher-level supervisor and the employee shall then follow the same procedure as required in Step 1.

If the employee is satisfied with the decision reached by the next-higher-level supervisor, no additional action is required. Failing resolution, the employee may pursue the complaint further throughout the entire administrative chain within the area. All supervisors and the employee shall then follow the same procedure as required in Step 1. Upon request from the complainant, each supervisor should inform the next level of supervision of the complaint and his/her response. Each level of supervision through the appropriate member of the President's Staff must respond to the complaint within five (5) working days of the initial discussion. If the employee is satisfied with the decision, no additional action is required.

Failing resolution, the employee may present the complaint to the President within five (5) working days of the decision of the President's Staff member. The President shall be the final decision-maker and shall provide the employee with a written decision based upon full and fair consideration of all the facts within ten (10) working days.

Complaints do not include a right to any type of hearing, adversarial proceeding, nor the right to appeal to the Chancellor.

SOUTHWEST TENNESSEE COMMUNITY COLLEGE
EMPLOYEE GRIEVANCE FORM AND REQUEST FOR HEARING

Name: _____

Position: _____

Department: _____

Names of person(s) whom the grievance has previously been presented and date on which the grievance was presented to each:

Name	Date
_____	_____
_____	_____
_____	_____
_____	_____

Explanation of Grievance. Include identification of any College policy violated. (If additional space is required, please attach.)

Employee Signature

Date