

SOUTHWEST TENNESSEE COMMUNITY COLLEGE**SUBJECT:** Non-Support Staff Employee Complaints and Grievances**EFFECTIVE DATE:** July 1, 2000; May 5, 2023**Purpose**

The purpose of this policy is to provide guidance for non-support staff employees who would like to express displeasure with specific actions taken by Southwest Tennessee Community College (“Southwest” or “the College”).

Definitions

Grievance (committee review available)- An alleged wrongful act against an employee by the College:

1. Violates Southwest or Tennessee Board of Regents (TBR) policy, or involves an inconsistent application of the same;
2. Violates a constitutional right. The most likely areas of concern are the First, Fourth, and Fourteenth Amendment of the federal constitution when that action hampers free speech, freedom of religion, the right to association, provides for improper search and seizure, or denies constitutionally required notice or procedures; or
3. Violates a federal or state statute not covered by TBR Guideline [P-080](#).

Complaint (committee review not available)- A concern that an employee wants to discuss with supervisory personnel in an effort to resolve the matter. Personnel actions such as performance evaluation, rate of pay, position re-classification, or position termination due to reduction in force are not covered by this policy.

Employee - For purposes of the grievance and complaint procedures, an employee is defined as faculty (though not including faculty on adjunct contracts), executive, administrative, or professional staff. Probationary employees, student workers, and graduate assistants are not included in the definition of employee.

Employment Action- The demotion, suspension without pay, termination, change in work assignments, or change in work conditions for an employee that violates statute or policy.

Workday- Monday, Tuesday, Wednesday, Thursday, or Friday, excluding holidays and other College closures. A virtual workday is included in the definition of workday.

Grievance committee/Employee grievance panel/ Employee panel- Group of employees chosen by the leader of Human Resources or the President to serve as fact finders in step 3 of the grievance process described herein. Every effort shall be made to include minorities in the composition of the group (i.e. ethnic minorities and women).

Scope

- A. Grievance and complaint procedures are available to all employees. The College uses TBR [P-110](#) as guidance for grievance and complaints by employees who are not support staff. TBR [P-111](#) governs complaints by support staff.
- B. A standard reporting form is available as the last page of this policy. An employee will not be denied for failure to use the form but, the complaint must be in writing.
- C. All employees are encouraged to discuss problems with their supervisor or department leader before beginning a formal grievance or complaint procedure.
- D. This policy 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; or
 - 5. position terminations due to reduction in force.
- E. A grievance that is the subject of an action filed with an external body shall not be processed through the College's grievance or complaint procedures. The term "external body" includes a court or administrative body such as the Equal Employment Opportunity Commission, Office of Civil Rights, or the Tennessee Human Rights Commission.
- F. A grievance that is the subject of a harassment complaint that is being pursued pursuant to TBR [P-080](#) shall not be processed through the grievance or complaint procedure.
- G. If the grievance involves or is based on unlawful discrimination or unlawful harassment, the process set out in TBR [P-080](#) must be used. If, however, the President's decision includes demotion, suspension without pay, or termination, the employee so disciplined may use this procedure or the procedure described in TBR policy [1.06.00.05](#).
- H. An employee may choose to utilize the procedure for review by the grievance committee established pursuant to this policy in actions relating to the suspension of employees for cause or termination in violation of an employment contract that fall under TBR Policy No. [1:06:00:05](#) (Cases Subject to UAPA) or TBR Policy No. [5.02.03.70](#) Section V.I.b.(2) (suspension of tenured faculty).
- I. The College may choose to utilize the procedure for review by the grievance committee (established pursuant to this policy) when resolving a complaint initiated pursuant to TBR Policy No. [5.02.02.30](#) Faculty Promotion at Community Colleges.

Policy

I. Responsibility for Implementation

The President or designee is responsible for implementation of grievance and complaint procedures. The policy informs and makes available to employees information concerning their right to file a grievance or complaint and their right to be protected from retaliation.

II. Non-Retaliation

- A. No employee shall retaliate or discriminate against another employee because of the latter employee's filing of a grievance or complaint.
- B. 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.
- C. Administrative, academic, and supervisory personnel should also be informed that they are responsible for ensuring that the employee is free from retaliation, coercion, and discrimination arising from the employee's filing of or intent to file a grievance or complaint.

III. Maintenance of Records

- A. Copies of written grievances and complaints, along with accompanying responses and documentation, will be maintained in the Human Resources Office for at least two (2) years after the date of an employment decision.
- B. If a finding adverse to the grievant or complainant is made, the finding shall be maintained in the individual's personnel file.

IV. Complaints by Non-Support Staff Employees

- A. A complaint must be brought to the attention of the employee's immediate supervisor, in writing, within five (5) workdays after the employee becomes aware of the problem.
 - 1. If the complaint arises from a repeated or continuing occurrence, the time limit begins from the date of the last such occurrence.
 - 2. Any complaint not presented within the time limit is waived and shall not be considered.
 - 3. Once a final determination is made, the employee may not later present the same complaint in an attempt to gain a more favorable outcome.
- B. The employee should state the basis for the complaint and the corrective action desired in temperate and reasonable terms.
- C. The employee and the supervisor shall discuss the complaint in an attempt to resolve the matter in a mutually satisfactory manner.

D. As a part of the complaint process the College will:

1. Allow the employee to present facts and material;
2. Investigate the dispute; and
3. Attempt to find a solution.

E. If a satisfactory resolution is not reached with the immediate supervisor, the employee may appeal to the next level supervisor within five (5) workdays of receipt of the decision. Failure to submit within five (5) workdays will be deemed a waiver by the employee and the complaint may not be raised again.

F. If the appeal is submitted in a timely manner, the next level supervisor shall follow the process followed by the immediate supervisor.

G. Failing resolution, the employee may pursue the complaint further throughout the entire supervisory chain within the area. All supervisors and the employee shall then follow the same procedure as the procedure set forth for the immediate supervisor. Each supervisor through the chain must respond to the complaint within five (5) workdays of the initial discussion.

H. Failing resolution, the employee may present the complaint to the President within five (5) workdays of the last decision. The President shall be the final decision-maker and will provide the employee with a written decision within ten (10) workdays or as soon as possible thereafter.

I. Complaints do not include a right to a hearing, adversarial proceeding, or appeal to the Chancellor.

V. Grievances by Non-Support Staff Employees

A. Procedure

1. A grievance must be initiated within fifteen (15) workdays after the employee receives notice or becomes aware of the action that is the basis for the grievance.
2. The administrator considering the grievance at each step will issue a written decision with specific reasons stated for the decision.
3. If the employee is not satisfied with the decision at any step, the employee must carry the grievance forward to the next step within fifteen (15) workdays after receiving the written decision.
4. If the employee does not carry the grievance forward within fifteen (15) workdays, the grievance procedure is terminated and the grievance disposed of in accordance with the last written decision.
5. Any party involved in the grievance proceeding may request an extension of any deadline set forth in the policy. The request shall be made to the leader of Human Resources who shall consider: 1) the number of extension requests made by the party during the process; 2) whether circumstances exist that make the extension reasonably necessary for a fair resolution; 3) whether the delay will adversely affect the employee or College; and 4) other relevant factors. The decision maker must be able to articulate the reason why the extension request was granted or denied.
6. Once a grievance is initiated, the grievant may not later present the same grievance again in an attempt to gain a more favorable outcome.

B. Testimony, Witnesses, and Representation

1. At every step, the employee may testify and present witnesses and material in support of the employee's position.
2. The employee may be accompanied by a representative at the hearing. The full name and contact information of the representative must be disclosed to Human Resources in writing at least two (2) days prior to the hearing.
3. During the hearing, the employee's representative may confer privately with the employee for a very brief time but, the representative may not interrupt, speak on behalf of the employee, or otherwise actively participate in the hearing. A representative's failure to comply might result in exclusion from the remainder of the hearing or termination of the hearing.

Steps of Review

1. Step 1- Supervisor or Administrator Instituting Employment Action

- a. Within fifteen (15) workdays after the employee receives notice or becomes aware of the action that is the basis for the grievance, the employee must complete a grievance form (a copy is attached as the last page of this policy), submit it to Human Resources, and provide a copy to the employee's supervisor or the administrator instituting employment action.
 - While a particular form is not required to file a grievance, the employee must make it clear that the intention is to utilize the grievance procedures for resolution of the employment action.
- b. Within fifteen (15) workdays after receipt of the grievance, the supervisor or administrator initiating the employment action and the employee must meet and discuss the grievance in a face-to-face meeting.
- c. If the supervisor or administrator is not the person who recommended the original employment action, or is recommending a change from the original employment action, the supervisor or administrator will make a recommendation to the administrator who made the original employment action.
- d. Any changes from the original employment action must be approved by the President or Senior Staff member over the area before being communicated to the employee.
- e. Within fifteen (15) workdays after the face-to-face meeting, the supervisor or administrator must communicate the decision in writing to the grievant with specific reasons stated for the decision.
- f. If the supervisor or administrator fails to respond or if the decision is not satisfactory to the employee, the employee may carry the grievance forward to step 2.

2. Step 2- Next Higher Level of Management

- a. Within fifteen (15) workdays after receiving the written decision in step 1, if the employee is not satisfied with the result of step 1, the employee must notify Human Resources of the desire for further review.
- b. Human Resources will schedule a face-to-face meeting to occur within fifteen (15) workdays after receiving notice that the employee desires further review by the next level administrator.

- c. Within fifteen (15) workdays after the step 2 face-to-face meeting, the next level administrator will issue a written decision that includes specific reasons for the decision.
- d. Any change from the original employment action must be approved by the President or Senior Staff member over the area before being communicated to the employee.

3. Step 3- Hearing

- a. Within fifteen (15) workdays after receiving the written decision at step 2, the employee can request a grievance hearing before a panel of employees.
- b. The employee must notify Human Resources in writing of the desire for a hearing before an employee panel.
- c. Alternatively, the employee may request a hearing under TBR Policy No. [1.06.00.05](#) (cases subject to UAPA), if applicable.
- d. If the employee requests a hearing before an employee panel, Human Resources or the President will select the panel members, convene the hearing, and arrange for the grievance to be heard.
- e. The employee grievance panel can include non-exempt staff employees, exempt staff employees, or a combination of both exempt and non-exempt employees.
- f. The panel members representing the unit where the employee works may not serve on the grievance panel.
- g. Every effort should be made to include minorities, i.e. ethnic minorities and women, in the composition of the committee.
- h. The grievance panel shall hear the grievance within fifteen (15) workdays, if practicable, after the date on which the employee submits a written request to Human Resources.
- i. The written recommendation of the panel is subject to review by the President.

4. Step 4- Review by the President:

- a. The written recommendation of the grievance panel will be forwarded to the President by Human Resources.
- b. Within fifteen (15) workdays, if practicable, the President will notify the grievant of the final decision.
- c. Grievances that are processed through the grievance committee and upon which the President has made a decision are appealable to the Chancellor only where the grievance falls within the parameters set forth in TBR Policy [1.02.11.00](#).

Responsible Source of Policy: N/A

Administrator: AVP of HR

TBR Procedure Reference: P-110

Related Policy: 5:01:00:00/0

TBR Policy Reference: 5.01.00.00



President

Date: May 5, 2023

SOUTHWEST TENNESSEE COMMUNITY COLLEGE

CHECK NEXT TO THE PURPOSE FOR WHICH THE FORM IS TO BE USED:

_____ **AS AN EMPLOYEE COMPLAINT FORM**

_____ **AS AN EMPLOYEE GRIEVANCE WITH REQUEST FOR HEARING FORM**

Name: _____

Position: _____

Department: _____

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

Name	Date
_____	_____
_____	_____
_____	_____
_____	_____

Explanation of complaint or grievance. Include identification of any College policy violated. (If additional space is needed, please attach paper used.)

Employee Signature

Date