

COLLEGE of CHARLESTON

OFFICIAL POLICY

9.4.1

Staff Grievance Policy and Procedure

3/8/2016

Policy Statement

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN EMPLOYEES AND THE COLLEGE OF CHARLESTON. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHT OR ENTITLEMENTS. THE COLLEGE OF CHARLESTON RESERVES THE RIGHT TO REVISE THE CONTENTS OF THIS POLICY IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

Policy Manager and Responsible Department or Office

Manager: The Vice President of Human Resources;

Department: The Office of Human Resources is responsible for the administration and implementation of the Policy.

Policy

I. Grievance Policy

A. Purpose of Policy

This policy sets forth the grievance procedures for covered classified and unclassified employees in FTE positions at the College of Charleston as required by the State Employee Grievance Procedure Act (Act). This policy ensures a fair review of specific

employment-related issues for covered employees.

B. Covered Employees

A covered employee is a full-time or part-time employee occupying a part or all of an FTE position who has completed the probationary period and has a “meets” or higher overall rating on the employee’s performance evaluation and who has grievance rights. If a probationary employee does not receive an evaluation before the performance review date, the employee must be considered to have performed in a satisfactory manner and be a covered employee. This policy does not apply to non-covered employees (e.g. probationary employees, temporary employees, temporary grant employees, time-limited project employees, research grant employees, athletic coaches and unclassified employees in the Athletics Department, and other employees specifically exempted by the State Employee Grievance Procedure Act). Refer to the Faculty Administration/Manual for grievance procedures for Faculty, Professional Librarians, Academic Administrators and others holding faculty appointments.

Failure by the covered employee to comply with the internal time periods in the College Staff Grievance Policy and Procedure constitutes a failure to exhaust administrative remedies and waives the covered employee’s right to further continue the grievance. The internal time periods of the College grievance procedure, and the forty-five (45) day calendar period for action by the college, may not be waived, except by mutual written agreement of both parties.

C. Non-Reprisal

Employees who choose to file a grievance or appeal and those who are asked to participate in the grievance process will not be disciplined or otherwise prejudiced for exercising rights or testifying under the provisions of this policy.

D. Actions That May Be Grieved or Appealed in Accordance with the State Employee Grievance Procedure Act

1. Grievable or appealable actions shall include terminations, suspensions, involuntary reassignments in excess of thirty (30) miles from the prior work station, and demotions.
2. Reclassifications, reassignments and transfers within the same state salary range are not considered grievable or appealable. However, reclassifications are considered grievable only if the College, or the State Human Resources Director, if appealed, determines that there is a material issue of fact that the action is a punitive reclassification.
3. Promotions are not adverse employment actions and are not considered grievable or appealable except in instances where the College, or in the case of appeal, the State Human Resources Director, determines that there is a material issue of fact as to whether or not the College has considered a qualified covered employee for a position for which the employee formally applied or would have applied if the

employee had known of the promotional opportunity. However, when the College promotes an employee one organizational level above the promoted employee's former level, that action is not a grievable or appealable action for any other qualified covered employee. Failure to be selected for a promotion is not considered an adverse employment action which can be grievable or appealable.

4. A salary decrease based on performance is an adverse employment action that may be considered grievable or appealable.
5. A reduction in force is an adverse employment action considered grievable, only if the College, or the State Human Resources Director, if appealed, determines that there is a material issue of fact that the College inconsistently or improperly applied its reduction in force policy or plan.

E. Informal Efforts to Resolve Matter

Prior to filing a formal grievance, the covered employee may first attempt to resolve the matter informally with his or her immediate supervisor. If the employee attempts to resolve the matter informally, the employee may present information to his or her immediate supervisor orally or in writing. However, this is merely an informal attempt to resolve the matter and cannot be substituted for the requirements of Step One in the College's grievance procedure.

II. Grievance Procedure

- A. During the College grievance process, the grievant will bear the burden of proving that the grievable act is in violation of College and/or departmental policy or is not supported by the evidence available. If the grievant chooses to have a representative or legal counsel, it is at his/her own expense.

B. Step One:

1. If the matter is not resolved informally with the grievant's immediate supervisor, the grievant must notify the College's Vice President of Human Resources (or any successor to this office), or his/her designee, in writing using the College of Charleston Staff Employee Grievance Form, including all relevant materials and documents, to initiate a formal Step One grievance. The form should state specifically what action is being grieved, the facts supporting the grievance and what relief is being sought. The grievant must initiate the grievance with the College's Vice President of Human Resources, or his/her designee, within fourteen (14) calendar days of the effective date of the action being grieved, or fourteen (14) calendar days from the date the employee is notified of the action, whichever occurs later.
2. The College's Vice President of Human Resources, or his/her designee, shall

initially review the grievance to determine whether the matter involves a grievance as defined by the State Employee Grievance Procedure Act. The Vice President for Human Resources, or his/her designee, may review any information and records or take such other action as is considered necessary to make this determination.

3. If it is determined that the matter is not grievable, the grievant shall be so advised in writing by the College's Vice President of Human Resources, or his/her designee, normally within five (5) calendar days of receipt of the grievance. Such determination shall be the final decision within the College which may be appealed to the State Human Resources Director.
4. If it is determined that the matter is grievable, the College's Vice President of Human Resources, or his/her designee, will notify the grievant and the appropriate Vice President, Dean or other College representative, normally within five (5) calendar days of receipt of the grievance. An initial determination that the matter may be grieved shall only entitle the grievant to have the matter considered in accordance with this grievance procedure and shall in no way be construed to be an adjudication of the merits of the grievance. In the notice that the matter is grievable, the grievant will be informed that any additional materials or documents not previously submitted should be provided for consideration by the appropriate Vice President, Dean or other College representative. The grievance, along with any supporting materials and documents received, will be forwarded to the appropriate Vice President, Dean or other College representative within five (5) calendar days of receipt of the grievance.
5. Upon notice that the matter is grievable, the appropriate Vice President, Dean, or other College representative designated by the College's Vice President of Human Resources, or his/her designee, will review the relevant information and records, and meet with the grievant. At such meeting, the covered employee will have the opportunity to present his/her position regarding the grievance. After such meeting, the appropriate supervising authority, as referenced above, shall take such other action as considered necessary to investigate and determine whether to render a decision to uphold, reject, or modify the grievable action taken against the employee. The Step One decision must be submitted to the grievant in writing within seven (7) calendar days from the date of the receipt of the grievance by the Vice President, Dean, or other College representative designated by the Vice President for Human Resources, or his/her designee.

C. Step Two:

1. If the grievant wishes to continue the grievance to Step Two, the grievant must submit written notification to the College's Vice President of Human Resources, or his/her designee, within five (5) calendar days after receiving the Step One

- decision. If mailed, the written notification must be postmarked within five (5) calendar days of receipt of the step one decision. The grievant must enclose any additional materials or documents not previously submitted that he or she believes are relevant to the grievance with the written notification to the College's Vice President of Human Resources, or his/her designee.
2. Upon timely receipt of the Step Two grievance request, the College's Vice President of Human Resources, or his/her designee, will within five (5) calendar days appoint a five (5) person ad hoc Grievance Committee (and appoint the Chairperson) to hear the grievance. All accumulated materials related to the grievance shall be forwarded to the committee members by the College's Vice President of Human Resources, or his/her designee. The Grievance Committee may investigate and secure whatever further information and documentation it deems necessary to make a decision, to include questioning individuals with knowledge of the facts and circumstances.
 3. The Grievance Committee will inform the grievant of the date, time, and place of the conference and conduct a conference as soon as practicable.
 4. Each party (the grievant and the College's representative) shall present its position to the Grievance Committee. Either party is permitted to have a representative or counsel present on his/her behalf. However, this is not a legal proceeding and the presentation is limited to the facts and circumstances of the grievance only and may not involve any legal arguments or motions.
 5. If either party does not appear at the conference and a postponement has not been approved by mutual written agreement, the conference shall be held at the scheduled time, and the Grievance Committee members shall base their recommendation on a review of the record and the presentation of the case by the party present.
 6. Neither party is permitted to present witnesses, beyond themselves, or to question the other party.
 7. All deliberations of the Grievance Committee shall be conducted in closed session.
 8. The Grievance Committee will conclude its conference and submit its recommendation to the President of the College within fifteen (15) calendar days of the date of appointment of the Grievance Committee by the College's Vice President of Human Resources, or his/her designee. The Committee's recommendation to the President shall be detailed and set forth specific findings of fact made by the Committee, based upon the documentation and other relevant information before it.

9. Within eight (8) calendar days of receipt of the Grievance Committee's recommendation, the President of the College, or his/her designee, will issue the final decision in writing to the grievant, the appropriate employing department administrator, and the College's Vice President of Human Resources. The President's decision will be the final administrative decision for the College.

10. The President, or his/her designee, will normally issue a final decision on a grievance within forty-five (45) calendar days of the filing of the grievance. The forty-five (45) calendar day period for action by the College may not be waived except by mutual written agreement by both parties.

D. Appeals to the State Human Resources Director

The State Employee Grievance Procedure Act provides for an appeal of a grievance beyond the College to the State Human Resources Director after ALL administrative remedies to secure relief within the College have been exhausted. A covered employee has not exhausted ALL administrative remedies to secure relief within the College until the College's internal grievance process is completed OR the forty-five (45) calendar days for the College to issue a decision has elapsed, whichever event occurs sooner.

1. A grievant may appeal the decision of the President of the College, or his/her designee. Such appeal must be in writing and submitted to the State Human Resources Director within ten (10) calendar days of receipt of the College's final decision or fifty-five (55) calendar days from the initial date the grievance was filed within the College, whichever occurs later.
2. The fifty-five (55) calendar day deadline allows a grievant to appeal directly to the State Human Resources Director in the event the College does not complete its entire internal grievance procedure within forty-five (45) calendar days from the time the grievance is initially filed within the College.
3. Failure by the College to issue a final decision within this forty-five (45)-calendar-day period is considered an adverse decision. The failure to issue a final decision within the forty-five (45) day time limit allows the grievant to proceed directly with an appeal to the State Human Resources Director after forty-five (45) calendar days, but no later than fifty-five (55) calendar days from the initial date the grievance was filed within the College. The time periods related to filing an appeal with the State Human Resources Director may NOT be waived for any reason. Failure by the grievant to file an appeal within the time periods referenced within this policy shall constitute a waiver of the right to appeal.

Departments/Offices Affected by the Policy

All departments and offices of the College of Charleston are affected by this Policy.

Procedures Related to the Policy

This policy sets forth the grievance procedures for covered classified and unclassified employees at the College of Charleston as required by the State Employee Grievance Procedure Act (Act). This policy ensures fair review of specific employment-related issues for covered employees.

Related Policies, Documents or Forms

Staff Employee Grievance Form
Grievance Committee Recommendation to the President Form
Employee Performance Management System (EPMS) Policy
Code of Conduct and Disciplinary Actions Policy
Faculty/Administration Manual

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POLICY APPROVAL

(For use by the Office of the Board of Trustees or the Office of the President)

Policy Number: 9.4.1

President or
Chairman, Board of Trustees


President

Date: 3/8/16