

COMMUNITY COLLEGE OF DENVER

Title: Employee Grievances

Guideline #: HR – 10

Approved: June 12, 2012
August 19, 2013
July 13, 2015
August 9, 2017

References: BP 3-50 Employee Grievances
SP 3-50a Employee Grievances

Approved By: Dr. Everette J. Freeman, President

1. Application

This guideline applies to all Community College of Denver (College or CCD) employees including, administrator/professional technical, faculty, and adjunct instructors and hourly employee which would include student hourly and work-study (Employee or Employees). These guidelines do not apply to the College President or classified employee(s) of the College. Classified employee(s) should follow the Colorado State Personnel Rules and Regulations to file a grievance.

2. Basis

- a. The Colorado Community College System (CCCS or System) President shall establish grievance procedures for when an employee(s) of the System feels an action(s) violates or inequitably applies Board Policies (BP), System President's

Procedures (SP), or College Guidelines and which adversely affects the employee's working conditions.

- b. If the basis of the claim is discrimination and/ or harassment based on federal or state civil rights laws, the employee must file a grievance under the Civil Rights Grievance and Investigation Process. If the accused (respondent) is a student, please refer to SP 4-50b, Civil Rights Grievance and Investigation Process. If the respondent is a CCCS Administrator/Professional Technical employee(s), Faculty or Adjunct Instructor(s), Classified employee(s), hourly employee(s), which would include student hourly's and work-study's (CCCS employee(s)), authorized volunteer(s), guest(s) or visitor(s), please refer to SP 3-50a, Employee Grievance.
- c. The System President has delegated to each College President the responsibility to ensure this procedure is implemented at their College.

3. Definitions

- a. Complainant – Person who is subject to alleged inequity as it applies to any BP, SP, or College procedures/guidelines. For purposes of these guidelines, a complainant is an Employee, with the exception to classified employees. Classified employees shall follow the grievance procedure established under the Colorado State Personnel Rules and Regulations.
- b. Respondent – Person whose alleged conduct is the subject of a complaint. For purposes of these guidelines, a respondent can be an Employee(s), authorized volunteer(s), guest(s), visitor(s) or the College.

- c. Appointing Authority – The individual designated by the College President to make ultimate personnel decisions concerning a particular Employee.
- d. Disciplinary Authority – The individual designated by the College President with the authority or delegated authority to make ultimate personnel decisions to impose discipline upon a particular Employee.
- e. Investigator – The individual(s) designated by the Director of Human Resources to investigate an employee grievance.
- f. Appeals Officer or Committee – The individual(s) designated by the College President to review the appeal of a grievance decision by the Investigator.

4. Grievable Offenses

- a. Except as noted herein, an Employee may grieve any action which violates or inequitably applies any BP, SP, or College procedures/guidelines and which adversely affects the Employee's working conditions.
- b. Claims of discrimination and/or harassment based on federal or state civil rights laws are not covered under these guidelines. Such claims are processed pursuant to either [SP 3-50b, Civil Rights Grievance and Investigation Process](#) or [SP 4-31a, Civil Rights Grievance and Investigation Process](#), as adopted in CCD Human Resources Guidelines [HR – 8, Civil Rights Grievance and Investigation Process for Students](#) and [HR – 9, Civil Rights Grievance and Investigation Process for Employees](#).

5. Nongrievable Matters

- a. The following matters are not grievable under these guidelines except as noted:
 - i. Matters over which the employer is without authority to act.
 - ii. Evaluations (See BP 3-31, Evaluation of Job Performance).
 - iii. Dismissals, nonrenewals, reductions-in-force, suspensions, disciplinary actions (See BP 3-20, Due Process for Faculty).
 - iv. Reassignments except that a reassignment of a regular faculty member which results in a reduction in pay or a loss of due process rights shall be grievable.

6. Filing a Complaint

All complaints shall be made as promptly as possible after the occurrence. A delay in reporting may be reasonable under some circumstances; however, an unreasonable delay in reporting is an appropriate consideration in evaluating the merits of a complaint or report.

7. Guidelines

- a. Employees must timely submit all grievances in writing by completing an Employee Grievance Incident Report Form (HR-43) to the College's Director of Human Resources. All grievances shall be assessed by the preponderance of evidence standard. The Director of Human Resources shall designate an individual(s) to be the investigator(s) over the complaint.

- b. The investigator(s) shall initially determine whether the complaint is grievable or non-grievable.
 - i. If grievable, the investigator(s) shall inform the complainant and respondent of the grievance.
 - ii. If the investigator(s) determines the complaint is not grievable, s/he shall inform the complainant of this decision in writing. This decision is final.

8. Informal Process

Before pursuing a formal complaint process, every reasonable effort should be made to constructively resolve the issues with the affected parties at an informal level. The investigator(s) shall be the facilitator over the informal resolution process. If informal resolution is not successful, the investigator(s) shall open a formal grievance case.

9. Formal Process

The investigator(s) will contact or request a meeting with both the complainant and respondent. Both parties will be given the opportunity to discuss the allegations of the grievance and may offer any documentation, witnesses, or other materials in support of the complaint. During this meeting, neither party may have a representative, including attorneys or law students (legal counsel). The only exception to this rule is if there is civil or criminal action(s) pending specifically related to this grievance, both parties may be represented by legal counsel during these proceedings. Under those limited exceptions, the legal counsel's role shall be advisory only. The party represented by legal counsel must notify the investigator(s) forty-eight (48) hours in advance of any scheduled meeting so that the

investigator(s) can notify the other party. These guidelines are entirely administrative in nature and are not considered legal proceedings.

10. No audio or video recording of any kind other than as required by the College is permitted.
11. The investigator(s) may also contact or request a meeting with relevant College staff, students, or others as part of the investigation.
12. At the investigator's discretion, the investigator(s) may discontinue meetings with anyone that is causing disruption, and will proceed to make a determination based on the information known at that time.
13. Based on the preponderance of evidence, the investigator shall issue a decision, in writing, to both the complainant and respondent. The decision shall reject or grant the grievance and make recommendation(s) to resolve the issue(s). The complainant and respondent shall be advised of his/her right to appeal the decision, subject to the grounds below, by filing a written appeal with the investigator within seven (7) days of service of their decision.
14. In the event of an appeal, the investigator shall give written notice to the other party to allow him/her the opportunity to submit a response in writing. The investigator will also draft a response memorandum (also shared with all parties). All appeals and responses are then forwarded to the appeals officer or committee for initial review to determine if the appeal meets the limited grounds and is timely. The original finding will stand if the appeal is not timely or substantively eligible, and the decision is final. If the appeal has standing, the documentation is forwarded for consideration. The party requesting appeal must show error as the original finding is presumed to have been decided reasonably and appropriately. The ONLY grounds for

appeal are as follows:

- a. A procedural or substantive error occurred that significantly impacted the outcome of the decision (e.g. substantiated bias, material deviation from established guidelines); or,
 - b. To consider new evidence, unavailable during the original complaint or investigation, that could substantially impact the original finding. A summary of this new evidence and its potential impact must be included in the written appeal.
15. If the appeals officer or committee determines that new evidence should be considered, it will return the complaint to the investigator to reconsider in light of the new evidence, only.
16. If the appeals officer or committee determines that a material procedural or substantive error occurred, it may return the complaint to the investigator with instructions to reconvene the hearing to cure the error. In rare cases, where the procedural or substantive error cannot be cured by the investigator in cases of bias, the appeals officer or committee may order a new grievance hearing be held by a different individual acting in the place of the designated investigator. The results of a reconvened hearing cannot be appealed. The results of a new hearing can be appealed, once, on the two applicable grounds for appeals.
17. Special Grievance Process Provisions
- a. College as Complainant
- As necessary, the College reserves the right to initiate a complaint, to serve as complainant, and to initiate conduct

proceedings without a formal complaint by the victim of misconduct.

- b. Standard of proof-the College will use the preponderance of evidence standard in the grievance proceedings, meaning, the College will determine whether it is more likely than not the incident occurred.
- c. False Reports

The College will not tolerate intentional false reporting of incidents. False reporting could lead to disciplinary action, up to and including termination for employees, and expulsion for students.

- i. For CCD employees, false reports will be considered a violation of BP 3-70, Colorado Community College System Code of Ethics.
- ii. For students, false reports will be considered a violation of the College's Student Code of Conduct.

False reporting may also be a violation of state criminal statutes and civil defamation laws.

- d. The Parties do not have the right to be represented by legal counsel during these proceedings except in the case where civil or criminal actions concerning the grievance are pending and in that case the legal counsel's role shall be advisory only. The party represented by legal counsel must notify the investigator(s) forty- eight (48) hours in advance of any scheduled meeting so that the investigator(s) can notify the other party.

18. Retaliatory Acts

If any person who files a grievance, or any person who testifies, assists or participates in a proceeding, investigation or hearing relating to such grievance, feels they are being subjected to retaliatory acts may report such incidences to the College's Human Resources Department.

It is a violation of these guidelines to engage in retaliatory acts against any person who files a grievance or any person who testifies, assists or participates in a grievance proceeding, investigation or hearing relating to such grievance. Such act will be subject to discipline, up to and including expulsion for students, termination for CCD employees, and dismissal for authorized volunteers, guests or visitors.

19. Revising these Guidelines

CCD reserves the right to change any provision or requirement of these guidelines at any time and the change shall become effective immediately.