

SECTION: PERSONNEL

SUBJECT: Grievance Procedures for Professional Staff Employees

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**Background** The procedures set forth in this policy are to be used by Professional Staff employees to resolve a dispute regarding a decision or action affecting the employee.

**Point of Contact:** Human Resource Services

**Other LCSC offices directly involved with implementation of this policy, or significantly affected by the policy:** President; Provost & Vice President for Academic Affairs; Vice President for Finance & Administration; Vice President for Student Affairs; Title IX

**Date of approval by LCSC authority:** April 27<sup>th</sup>, 2021

**Date of State Board Approval:** February 2002

**Date of Most Recent Review:** April 2021

**Summary of Major Changes incorporated in this revision to the policy:** Complete revision to this policy after reviewing the other higher ed institutions grievance policies.

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## **SUBJECT: GRIEVANCE PROCEDURE FOR PROFESSIONAL STAFF EMPLOYEES**

### **STATEMENT OF PURPOSE**

#### **Applicability:**

This policy provides a fair, equitable, and efficient procedure for employees covered under this policy to resolve grievances at the earliest date and at the lowest supervisory level possible.

Misunderstandings occasionally occur in the workplace; differences in personalities and viewpoints, communication problems, and work pressures are only a few of them. LC State encourages misunderstandings to be handled at the department level, with assistance from Human Resource Services (HRS), if needed.

The procedures outlined in the policy are to be used by a professional staff employee to resolve a work-related problem, dispute, or disagreement that affects the employee. Professional staff include exempt employees on an annual contract who work at least half time or more.

Grievances on reduction in force due to a declared financial exigency should be handled through the State Board of Education procedures.

#### **1. Definitions:**

- A. Grievant: A person who lodges a formal complaint.
- B. Defendant: A person who is being accused of wrongdoing.
- C. Respective Administrator: The second-level supervisor from the grievant, such as a Division Chair, Dean, Vice President, or President.



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- D. Informal Process: An informal meeting between the employee and the immediate supervisor to identify the complaint, discuss ways to resolve the complaint, and resolve the complaint at the lowest level possible.
- E. Problem-Solving Procedure: A process for a professional staff employee to address non-disciplinary, job-related matters, such as communication issues with a supervisor or co-worker, resistance to policies, performance evaluation rating, and inappropriate conflict with others, etc.
- F. Grievance Procedure:
  - i) Unless excluded below, a grievance is defined to include the following:
    - (1) A violation of a specific provision of college policy that materially affects an employee's terms and conditions of employment; and/or,
    - (2) An employee wishing to challenge the recommendation for his/her dismissal or demotion as defined in [Policy 3.117](#).
  - ii) Excluded from the grievance process are:
    - (1) Issues related to the reassignment of duties.
    - (2) Personality conflicts.
    - (3) Non-renewal of appointments, unless an employee presents bona fide allegations and evidence to the President that the non-renewal of the employment contract was the result of discrimination prohibited by applicable law.
    - (4) Layoffs resulting from the declaration of financial exigency.
- G. Working Days: Monday through Friday, excluding weekends, official College holidays (per the LC State Holiday Schedule), College closures, and employee leave time.
- H. Extension of Time: Either party may ask for an extension at any time during this process due to illness or other approved leave, up to ten (10) working days. This extension must be agreed upon in writing by the grievant and the defendant.

**2. General Provisions**

- A. Discrimination, sexual harassment, sexual misconduct, and other illegal discrimination based on race, color, age, religion, gender, national origin or disability, or any other status protected by law are absolutely prohibited. Allegations of the above will be reviewed and potentially investigated under [Policy 3.110](#), the policy prohibiting discrimination, sexual harassment, and retaliation and corresponding Procedural Guidelines.
- B. All parties shall keep all matters discussed during this process in strict confidence. Only those individuals who are involved in the process will have access to the information.
- C. The administration of this procedure is the responsibility of HRS once they are notified that an employee has initiated a complaint. HRS facilitates the process to ensure compliance with this policy and all other applicable policies. HRS is available to answer questions about this policy. All correspondence must be copied to HRS.



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- D. The process described in this policy is an internal process, intended to encourage informal dispute resolution and, when necessary, allow for structured but non-adversarial resolution of disagreements. Accordingly, employees who utilize this process are free to consult with legal counsel at their own expense, but attorneys are not permitted to attend or participate in the process.
- E. Retaliation is prohibited during the Problem-Solving / Grievance Process. No employee may be disciplined or otherwise prejudiced in employment for exercising their rights under these procedures. The College considers such acts of retaliation against any staff member as a result of his/her involvement as unacceptable conduct and may constitute grounds for disciplinary action up to and including dismissal from employment.

**3. Problem Solving Procedures**

- A. LC State has adopted Problem-Solving procedures for professional staff employees. The procedure consists of three (3) tracks:
  - i) The “Informal Track” is a meeting between the employee and the immediate supervisor to resolve the problem at the lowest level possible. This is not a mandatory step in the process, but is strongly encouraged.
  - ii) The “Problem-Solving Track” is for non-disciplinary, job-related matters.
  - iii) The “Grievance Track” is for a violation of a specific provision of college policy that materially affects the employee’s terms and conditions of employment; or an employee wishing to challenge the recommendation for his/her dismissal or demotion as defined in [Policy 3.117](#).

**B. Informal Track: Meeting with immediate supervisor**

- i) The employee and the immediate supervisor are strongly encouraged to engage in an informal meeting to identify the precise complaint, discuss ways to resolve the complaint, and resolve the complaint at the lowest level possible. The supervisor and employee will document the resolution in writing on the [Informal Meeting Resolution Form](#), and both the supervisor and the employee will sign the document.
- ii) If a resolution is reached, the complaint is considered resolved and is not subject to reconsideration at a later date, unless the agreed-upon solution is not implemented. If the complaint is not resolved during the informal meeting with the supervisor, the employee may either file for Problem-Solving or file a Grievance, depending on the nature of the complaint (review definitions in 3A). If the employee does not file for either within ten working days, the issue will be considered resolved.
- iii) If the employee chooses not to participate in the Informal Track and moves directly to one of the other two Tracks, he/she must schedule a time to meet with HR prior to filing.

**C. Problem Solving Track**

- i) A process for professional staff employees to address non-disciplinary, job-related matters.
- ii) If the Informal Track (if applicable) to resolve the complaint is not satisfactory to the grievant, the grievant may initiate the Problem-Solving procedure. The grievant must submit the Problem-Solving Form to HRS and his/her respective administrator no later than ten (10) working days after the informal meeting with the supervisor, if it was used. This must address the following:
  - (1) A concise statement of the facts surrounding the complaint.



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(2) An explanation of previous efforts to resolve the issue.

(3) The remedy the grievant is seeking.

- iii) Within five (5) working days of filing the form, the grievant will meet with the respective administrator. Since the goal of this process is to resolve the problem, the respective administrator may also invite the grievant's supervisor(s) and any additional people who may be helpful in resolving the issue(s).
- iv) If applicable, within five (5) working days of this meeting, the defendant will meet with the respective administrator. Any additional people who may help resolve the issue may be included in this meeting, such as the defendant's supervisor.
- v) No later than three (3) working days after the meeting with the defendant, HRS, the grievant, and the defendant must receive, a suggested resolution from the respective administrator, in writing on the Problem-Solving Form. The grievant must either accept the proposed resolution in writing, file for a review to request a final decision from the President or designee, or choose not to proceed further.
- vi) If a satisfactory resolution is not reached with the respective administrator, the grievant may file for a review by the President or designee no later than five (5) working days after receiving the suggested resolution from the respective administrator. The request for review of the final decision must be filed with HRS using the Problem-Solving Form.
- vii) Within five (5) working days of receiving the review request, the President or designee must complete the review. The President or designee may confer with the direct supervisor; the Division Chair, Dean, or Vice President; the grievant, the defendant, and any others who participated in the Problem-Solving Procedure to determine how to best resolve the complaint and complete the request for review.
- viii) The grievant must receive a final decision from the President or designee, on the Problem-Solving Form, within three (3) working days after the review is completed. The Problem-Solving Procedure ends with the final decision of the President or designee.
- ix) A final Problem-Solving decision is not appealable.

Timeline	Action
10 working days after informal meeting with supervisor	The grievant must submit the Problem-Solving Form to Human Resource Services and the respective administrator.
Within 5 working days after filing Problem Solving form	The grievant will meet with the respective administrator.
Within 5 working days after the above meeting	Defendant will meet with the respective administrator (if applicable).
No later than 3 working days after the meeting with the defendant	HRS, grievant, and the defendant must receive a suggested resolution from the respective administrator in writing on the <a href="#">Problem-Solving Form</a> .



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No later than 5 working days after receiving suggested solution	If a satisfactory resolution is not reached, the grievant may file for a review by the President or designee.
Within 5 working days of receiving the review request	President or designee must complete the review.
Within 3 working days after review is complete	The grievant must receive a final decision from the President or designee on the <a href="#">Problem-Solving Form</a> . This decision is not appealable.

**D. Grievance Track**

- i) A grievance includes the following:
  - (1) A violation of a specific provision of college policy that materially affects the employee's terms and conditions of employment; and/or,
  - (2) An employee wishing to challenge the recommendation for their dismissal or demotion as defined in [Policy 3.117](#).
- ii) Preliminary Procedures
  - (1) If the informal process with the supervisor to resolve the complaint is not satisfactory to the grievant, the grievant may initiate the Grievance Track. The grievant should do so by submitting the [Professional Staff Employee Grievance Report](#) to HRS no later than ten (10) working days after the informal meeting with his/her supervisor. The employee must clearly state (a) the facts surrounding the grievance, (b) an explanation of previous efforts to resolve the issue, and (c) the remedy the employee is seeking.
  - (2) Within three (3) working days of receiving the Grievance Report, HRS will distribute a copy of this report to the grievant, the defendant, the respective administrator, and the Professional Staff Hearing Board (PSHB) as comprised and described in Section 7 of this policy.
  - (3) Within five (5) working days of receipt of the formal grievance, the PSHB shall meet to review the case to determine if the matter is grievable under this procedure and will issue a written notice to HRS of whether or not a hearing will take place, and if so, set forth the time and place for the hearing. Within three (3) working days, HRS will distribute this written notice to the grievant, the defendant, and the respective administrator. There is no further internal appeal process if the PSHB rules that the matter is not grievable.
  - (4) The authority to review the recommendations from the PSHB and make the final institutional decision shall reside with the VP of Finance and Administration (VPFA) or his/her designee for policy violations, or the President to review recommendations to dismiss or demote an employee.
- iii) Hearing and Findings
  - (1) The hearing shall be conducted subject to procedures set forth by the PSHB.
  - (2) The hearing is not intended to be overly formal or in the nature of a court proceeding.



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**4. The Professional Staff Hearing Board (PSHB)**

- A. The Professional Staff Hearing Board shall consist of five (5) members (all of whom are professional staff at LC State). The Professional Staff Organization (PSO) will elect a pool of seven (7) members to serve a two-year term. As the need arises, three (3) members of the pool will be selected by the PSO to serve on the Hearing Board, and one of the three (3) selected members will be designated by the Chair of the PSO to serve as Chair of the Hearing Board. The final two (2) members of the hearing board will be appointed by the President.
- B. PSHB members shall not include individuals who have an interest in the case, or who have supervisory authority over the grievant or defendant or in some other way, have a conflict of interest or bias in the case. In the event a member must excuse him or herself due to a conflict, a replacement will be identified by the same entity that appointed that member.
- C. Three (3) of the five (5) members of the PSHB shall constitute a quorum for the purpose of hearing a grievance and rendering a decision by majority vote of those present. No member of the PSHB who has not attended the evidentiary hearing shall participate in the decision.

**5. Responsibility of the Professional Staff Hearing Board**

- A. The PSHB has the following responsibilities:
  - i) To hear each grievance promptly and in no event more than thirty (30) calendar days after the grievance has been filed.
  - ii) To review all evidence presented to it.
  - iii) To grant extensions of time when circumstances warrant.
  - iv) To determine whether there has been any (a) failure to comply with prescribed procedures, (b) application of inappropriate considerations, (c) gross abuse of discretion or confidentiality, or (d) abuse of the grievant's rights and privileges.
  - v) To make written findings and recommendations to the VPFA or President.
- B. Each party to a grievance is permitted a peer advisor (non-attorney) and witnesses and is responsible for any compensation or related expenses to them.
- C. At the request of either party or at the direction of the PSHB, the proceedings of the Hearing (other than the Hearing Board's deliberations) shall be recorded. Records of all grievance proceedings shall be subject to the provisions of Idaho Code Section 74-106.
- D. The PSHB shall summon the grievant, the defendant, and a mutually acceptable procedural observer who will be present during the entire hearing, to appear before the PSHB.
- E. Each party to a grievance has the responsibility and right to present its case in writing or in person. Should both parties submit the grievance in writing, no hearing will be necessary. If the hearing is conducted, each party has the right to question witnesses and to be present for the full hearing. The hearing shall be closed except that both parties and their representatives are entitled to be present during the entire hearing. The deliberations of the PSHB shall be conducted in private.



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- F. The findings and recommendations of the PSHB shall be promptly reported in writing, and in no event more than five (5) working days after the close of the hearing, to the grievant, the grievant's respective administrator, the defendant, the defendant's supervisor, the Director of HRS, and the VPFA or the President.

**6. Final Decision**

- A. Within five (5) working days after receiving the recommendations from the PSHB, the VPFA, or, depending on the nature of the grievance, the President, will review the PSHB recommendations and provide a written response to the grievant, the defendant, and the respective administrator of which shall include a statement of rationale for his/her decision.
- B. The record of the hearing shall include at a minimum:
- i) The [Informal Meeting Resolution Form](#).
  - ii) The [Professional Staff Employee Grievance Report](#).
  - iii) The findings and recommendations of the Professional Staff Hearing Board.
  - iv) The VPFA or President's decision.
- C. If the grievance was filed to dispute a recommendation for dismissal or demotion, after receiving the findings and recommendations from the hearing board, the President will review the hearing board's findings and recommendations and the record of the grievance hearing and will issue a written notice of final decision to the grievant, setting forth the President's reasons for his/her final decision. Notice of the decision shall be given in the same manner as the notice of a recommendation for dismissal or demotion was given by the President under [Policy 3.117](#), F.3 (a) - (d).
- D. The decision of the President shall be the final institutional decision.
- E. Such record shall be retained by Human Resource Services for a period of not less than five (5) years after the date of the VPFA or President's decision. LC States's decision at the conclusion of the grievance process is final per [SBOE Policy II.M.2](#)

Timeline	Action
No later than ten (10) working days after the informal meeting with their supervisor	Employee who wishes to file a grievance should submit the <a href="#">Professional Staff Employee Grievance Report</a> to HRS.
Within three (3) working days of receiving the Grievance Report	HRS will distribute a copy of this report to the defendant, the respective administrator, and the PSHB.
Within five (5) working days of receipt of the grievance	PSHB shall meet to determine if the matter is grievable under this procedure, and will issue a written notice to HRS.
Within three (3) working days	HRS will distribute this written notice to the grievant, the defendant, and the respective administrator.



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No more than thirty (30) calendars days after the grievance was filed	PSHB must convene and hear the grievance.
No more than five (5) working days after the close of the hearing	The recommendations of the PSHB shall be reported in writing.
Within five (5) working days	The VPFA or President will review the PSHB recommendations and provide a written response to the grievant, defendant and the respective administrator.