# X. Grievance Policies, Contract Renewals/Non-renewals, Discipline or Dismissal

## **EMPLOYEE GRIEVANCES OTHER THAN CONTRACTUAL MATTERS**

(For Contractual Matters, see below in this section.) (For Harassment Matters, see Section IX.)

College employees should make every attempt to resolve problems they encounter at work informally, through discussion with the other persons involved, and in a spirit of goodwill and cooperation. If college employees address potential problems early, they are less likely to escalate into grievances. An employee's supervisor or department head may be able to help you resolve complaints and other problems informally and with as little disruption and distress as possible.

In the event that a problem cannot be resolved informally, the following grievance procedure is available to college employees.

## Definitions:

Day: A regularly scheduled workday, excluding holidays.

Grievance: Unless excluded below, a grievance is a complaint of a college employee against the college concerning:

the interpretation, application, or claimed violation of a specific term or provision of College policy, or other matters which affect the employment relationship of the college employee to the college.

Excluded from the procedure are complaints relating to:

- wages and salaries;
- matters involving reappointment, performance evaluation, and promotion which do not concern a claimed failure by the College to follow established policy; or termination

Grievance committee: The President shall select three employees to serve as a grievance committee for any grievance appealed to the grievance committee pursuant to this policy. The grievance committee shall hear all evidence relevant to the grievance, make findings, and make recommendations to the President based on its findings. The Committee shall not be bound by official rules of evidence and shall have no subpoena power.

Grievance officer: The grievance officer is the individual responsible for assisting all college employees during the grievance process and for overseeing all procedural matters and paperwork pertaining thereto. The grievance officers shall be designated by the President.

## **Rights and Responsibilities**

Each grievance shall be handled promptly and impartially, without fear of coercion, discrimination, or reprisal. Each participant in a grievance shall do his or her part to protect this right.

At the end of the procedure for each grievance, the grievance officer shall a) close the grievance record for permanent retention by the Human Resources Office, and b) submit a written summary of the grievance to the Director of Human Resources.

## Informal Resolution Procedure

**Grievant's responsibility:** The grievant shall first attempt to resolve the grievance informally with his or her immediate supervisor and, as necessary, with the immediate supervisor of her or his immediate supervisor.

**Supervisor's responsibility:** All supervisors, to the best of their ability, are required to inform, listen to, and counsel with employees on all matters affecting them and to resolve informally, if possible, all grievances. In the event the informal attempts to resolve the grievance are not successful and the grievant wishes to pursue the matter, s/he shall initiate a meeting with the grievance officer.

**Grievance officer's responsibility:** The grievance officer shall work with appropriate parties in an attempt to resolve the grievance informally. If the process fails to bring about a satisfactory resolution, the grievant may initiate the following formal grievance procedure.

#### **Formal Grievance Procedure**

**Step I** – The grievant must contact the grievance officer to initiate the formal grievance procedure. The grievant shall submit to the grievance officer a written statement of the facts and the resolution sought. The statement must be signed and dated by the grievant. The grievance officer shall:

- determine if there is a grievance as defined herein;
- advise the grievant of the steps to be followed in the formal grievance procedure; and
- advise the grievant of his or her right to:
- use the grievance procedure:
- receive copies of all documentation, regardless of form, during all steps of the grievance procedure.

If the grievance officer determines that there is no grievance as defined herein, the Director of Human Resources shall make a final determination on that issue. If the final determination is that there is no grievance as defined herein, the staff employee will be encouraged to pursue further informal discussion of the problem.

Within five days of receipt of the grievance statement, the grievance officer shall transmit a copy of the grievance to the grievant's immediate supervisor.

Within five days of receipt of the grievance statement, the supervisor shall either (1) set a date for a formal meeting or (2) respond to the grievant in writing.

#### **Meeting Option**

The supervisor shall contact the grievance officer and arrange a time and a place for a meeting. The grievance officer shall inform the grievant.

The supervisor, the grievant, and the grievance officer and any other person(s) deemed appropriate shall meet at the time and place arranged and discuss the grievance with the goal of agreeing upon a resolution of the grievance.

Whether a resolution was agreed upon at the meeting or not, the grievance officer shall write a summary of the meeting and submit copies to the supervisor and the grievant.

The supervisor shall prepare a written statement addressed to the grievant and containing items agreed upon in the meeting and the supervisor's proposal for resolution of the grievance. The written statement shall be submitted to the grievance officer, who shall transmit it to the grievant.

## **Written Response Option**

The supervisor shall prepare a written response addressed to the grievant and containing the supervisor's proposal for resolution of the grievance and the reasons for the course of action proposed. The written statement shall be submitted to the grievance officer, who shall transmit it to the grievant.

**Step II** – If the grievant is not satisfied with the written statement prepared by the supervisor, the grievant will have five days in which to provide the grievance officer with a written request for a review of the grievance by the grievant's director or department head. (If the immediate supervisor is a director or department head, the grievance will move to Step III in the process.)

Within five days of receipt of the written request for review of the grievance, the grievance officer shall transmit the grievance statement and all pertinent documentation to the grievant's director or department head.

Within five days of receipt of the grievance statement, the director or department head shall either (1) set a formal meeting or (2) respond to the grievant in writing.

## **Meeting Option**

The director or department head shall contact the grievance officer and arrange a time and a place for a meeting. The grievance officer shall inform the grievant.

The director or department head, the grievant, and the grievance officer and any other person(s) deemed appropriate shall meet at the time and place arranged and discuss the grievance with the goal of agreeing upon a resolution of the grievance.

Whether a resolution was agreed upon at the meeting or not, the grievance officer shall write a summary of the meeting and submit copies to the director or department head and the grievant.

The director or department head shall prepare a written statement addressed to the grievant and containing items agreed upon in the meeting and the director or department head's proposal for resolution of the grievance. The written statement shall be submitted to the grievance officer, who shall transmit it to the grievant.

## Written Response Option

The director or department head shall prepare a written response addressed to the grievant and containing the director or department head's proposal for resolution of the grievance and the reasons for the course of action proposed. The written statement shall be submitted to the grievance officer, who shall transmit it to the grievant within five days.

**Step III** – If the grievant is not satisfied with the written statement prepared by the director or department head, the grievant will have five days in which to provide the grievance officer with a written request for a review of the grievance by a grievance committee.

Within five days of receipt of the written request for review of the grievance, the grievance officer shall initiate formation of a grievance committee pursuant to the procedure described in the Definitions section above.

Within five days of the formation of the grievance committee, the grievance officer shall:

- call the grievance committee members together to:
- advise the committee members of their responsibility to select a committee chairperson; and
- provide the grievance record to the grievance committee.

Establish a mutually agreeable time and place for the hearing; and Notify all parties of the time and place of the hearing

Within ten days of its meeting with the grievance officer, the grievance committee shall:

- hear all evidence relevant to the grievance; and
- determine whether, in the opinion of the committee, College policies and procedures were followed.

The grievant, grievance committee, and the College representative may request the presence at the hearing of anyone having information pertinent to the grievance.

Within two days of the conclusion of the hearing, the grievance officer shall transmit the grievance record to the President. The President shall review the committee's findings as provided below or designate a Vice President of the College to perform the review.

Within five days of the conclusion of the hearing, the grievance committee shall submit in writing to the President or Vice President the committee's proposal for resolution of the grievance and the reasons for the course of action proposed.

The President or Vice President shall prepare a written statement addressed to the grievant containing the decision for resolution of the grievance and the reasons for the decision. The President's or Vice President's decision shall be considered final, and no further administrative review shall be available to the grievant.

A copy of the grievance committee's proposal for resolution of the grievance shall be attached to the written statement. The written statement shall be submitted to the grievant, with a copy to the grievance officer.

The grievance officer shall inform the grievant's immediate supervisor, dean, director or department head, of the action required to carry out the decision of the President or Vice President.

#### STUDENT GRIEVANCE POLICY

Recognizing that both students and faculty have rights regarding academic matters, NorthWest Arkansas Community College sets forth the following grievance procedure. This procedure serves the purpose of providing the student with redress and due process, protecting faculty rights to freedom of instruction, providing a mechanism for problem solving and achieving an equitable resolution to academic grievances as quickly as possible. An academic grievance will be accepted only during the semester the alleged incident occurred or the regular academic semester (Fall or Spring) following the alleged incident. This procedure also allows for grievances concerning equal access issues or the provision of educational accommodations for students with disabilities.

The following steps are to be followed for appeals related to academic matters, such as differences of opinions on grades, assignments, attendance, or classroom procedures:

1. The student meets with the faculty member regarding any classroom problem. The student and faculty member should discuss the problem thoroughly and attempt to reach an agreement.

- 2. If an agreement cannot be reached between the student and faculty member, the appropriate lead faculty, department head, or division chair is contacted to mediate the problem within ten working days after the request for mediation. The student, faculty member, and lead faculty/department head/division chair are to meet together to thoroughly discuss the problem and attempt to reach a solution.
- 3. If a resolution has not been reached as a result of the mediation conference, the student may formalize the appeal by putting it in writing, including conditions giving rise to the appeal, the names of the parties involved, and the remedy requested. The written appeal must then be submitted to the Executive Vice President for Learning within 24 hours (exclusive of weekends and holidays) after the conclusion of the mediation conference. The Executive Vice President first determines if previous steps in the process have been followed and explains the next part of the procedure.

The Executive Vice President then notifies the significant parties that an academic appeal has been filed and supplies a copy of the appeal to all parties. The Executive Vice President arranges a meeting with the student, faculty member, and division chair/department head/lead faculty. At this meeting, the issues of appeal are thoroughly discussed in an attempt to find resolution.

4. If resolution is not achieved, the Executive Vice President for Learning will make a decision and inform all parties in writing within ten (10) working days. The decision of the Executive Vice President for Learning on academic appeals is final.

## CONTRACT RENEWAL/NONRENEWAL

All employees of the College, except the President, shall be employed for a period of not more than one year each running from July to June 30 of each year. A faculty employee of the College shall be notified of the non-renewal or his or her contract by February 1 of the year for which the faculty employee is under contract Other employees of the College may be notified of non-renewal at any time.

#### A. Non-renewal

The college may choose not to continue an employee's employment after the end of the employment term. While the normal practice has been to give reasons for non-renewal, the notice for non-continuation may or may not contain any reason.

## B. Notice of Appeal

If an employee feels that the non-renewal of his/her appointed position is for a discriminatory reason(s), the employee may appeal the non-renewal decision through the appropriate administrative channels to the College President. The written notice must be submitted within two weeks of the employee's receipt of the notice of non-renewal. The written notice of appeal must state the reason(s) that the employee believes the non-renewal is discriminatory. If the notice of appeal does not state any reason(s) for the non-renewal being discriminatory, there will be no appeal.

## C. Response to Appeal Notice

At least three (3) days before any hearing on the appeal, the College President shall provide notice to the employee of the reason(s) for his/her non-renewal, if there are specific reasons.

## D. Appeal Hearing

The appeal shall be heard by the College President. The employee shall be entitled to at least five (5) days written notice of the date, time, and place of the meeting at which the appeal will be heard. To the extent possible, the hearing will be held within thirty (30) days of the time that the employee files the notice of appeal with the College President.

## E. Hearing Procedure

The appeal hearing shall be held at a meeting moderated by the College attorney. An attorney may represent the employee. The employee shall first present his/her case, and then the College's case shall be presented. Witnesses may be present for each side at the hearing and if called by either side, may be examined by the other side.

## **Appeal Decision**

On appeal, the President shall decide on discriminatory issues relating to the case. Discriminatory shall refer to the non-renewal decision being made in violation of the employee's rights under some state or federal statute, law, or constitutional provision. If the College President determines that the decision was discriminatory, then the employee's position appointment shall be renewed. Otherwise, the decision not to renew the employee's employment shall be affirmed. The College President's decision is final unless the employee feels that the President has a conflict of interest in the matter. Then the matter may be appealed to the Board of Trustees. However, any appeal to the Board of Trustees must contain specific evidence, not just opinion, of said conflict of interest in the specific non-renewal matter.

## DISCIPLINE AND DISMISSAL OF FACULTY AND STAFF MEMBERS

## **Grounds for Discipline or Dismissal**

Grounds for discipline or dismissal of faculty and staff employees of the College shall include, but not be limited to, incompetence in performing the employee's duties, refusal to comply with College policies, procedures, and administrative directives, insubordination, willful neglect of duty, drunkenness which detrimentally affects job performance or the image of the College, use or possession of illegal drugs, conviction of any crime involving moral turpitude, or any act or statement which would be detrimental to the welfare, objectives, or philosophy of the College.

Discipline of an employee of the College may include, but not be limited to, verbal warnings, written warnings, probation, and suspension, with or without pay. The discipline of an employee shall be set by the employee's immediate supervisor; however, all discipline shall be reported to the President of the College within five (5) working days, and no employee shall be suspended without the advance approval of the President of the College or his/her designee.

## **Appeal of Discipline**

An employee of the College may appeal the imposition of discipline upon him/her to the supervisor of his/her supervisor. Until the appeal is resolved to the satisfaction of all parties, the appeal may continue up the supervisory ladder to the President of the College. Nothing herein shall prevent the President of the College from imposing discipline on an employee over whom the President is not the immediate supervisor.

#### **Dismissal**

Only the President of the College may initiate dismissal proceedings against any employee of the College.

## A. Report of Cause

Any person within the College community who believes that reasonable cause for dismissal of a College employee exists shall state in writing the specific reasons therefore and deliver such writing to the President of the College.

## B. Investigation and Resolution

The President shall investigate whether cause for dismissal exists. If appropriate, the President shall attempt to resolve the problem through preliminary conferences, discussions, confidential mediation, and/or the appointment of an advisory committee. Only the Resident may decide to create an advisory committee. The committee, if established, shall be composed of three (3) members, one of whom shall be appointed by the President, one of whom shall be appointed by the individual whose dismissal is being considered, and one of whom shall be appointed by the other two members; provided that no members of the committee shall be connected to the department of the employee whose dismissal is being considered. The committee shall act informally and attempt to affect a resolution between the employee and the College administration

If a resolution is not achieved or if the President, after an investigation, determines that there is no need to attempt to achieve a resolution, the President shall formulate a statement of the grounds for dismissal after consulting with the College's attorney. The statement shall be sent to the employee involved by personal delivery or by registered or certified mail.

If the employee or faculty member feels that the President has a conflict of interest in the matter of dismissal, the President's decision may be appealed to the Board of Trustees. However, any appeal to

the Board of Trustees must contain specific evidence, not just opinion, of said conflict in the specific matter of dismissal.

#### NAME CLEARING HEARING

If an employee of the College otherwise acquiesces in a dismissal decision but feels that the reason for his or her termination is a stigmatizing charge, which is critical of his or her character and, thus, may hamper his or her ability to obtain future employment, then the employee may request a name clearing hearing before the President. In order to obtain a name clearing hearing the employee must request such a hearing in writing to the President of the College within ten (10) days of the effective date of his or her termination. If a name clearing hearing is not requested in writing within such time, the right to such name clearing hearing shall be waived. The name clearing hearing shall be held before the Board of Trustees at a time for which the employee shall have received at least ten (10) days notice unless such is waived.

The purpose of the name clearing hearing will be for the employee to present facts which dispute the stigmatizing charge. Neither the President nor any other official of the College shall be required to present any opposing evidence but may do so at his or her election. The President will not be called upon to make any decision following the name clearing hearing as the purpose of the hearing will be simply to allow the employee to provide evidence to clear his or her name.

The name clearing hearing shall be held in compliance with the requirement of the Arkansas Freedom of Information Act. In the event the employee contests his or her termination before the Board of Trustees, he or she shall have no right to a name clearing hearing as he or she will be expected to present all evidence against the stigmatizing charge at the dismissal hearing.