



Santa Fe College Rules Manual

Title: **Grievance Resolution
Process for College
Employees** **Procedure 3.23P**

Based on: Rule 3.23

Effective Date: May 13, 2024

Informal Resolution and Formal Hearing Procedures

Purpose: To establish procedures that will provide Santa Fe College employees with the opportunity to bring forth and resolve grievances and disputes in accordance with Rule 3.23.

I. Introduction

These procedures are intended to assure employees fair consideration and due process and to provide, if needed, a formal hearing. It is the right of every employee to express a grievance and have it considered without fear of reprisal.

II. Definitions

- A. **Business Day:** Includes Monday through Friday and excludes College holidays and other official College closures.
- B. **Employee:** Includes currently appointed full and part time Santa Fe College employees.
- C. **Complainant:** An individual who pursues the Informal Resolution or Formal Hearing Procedure to resolve an issue.
- D. **HR:** The Director of Human Resources or their designee.
- E. **President:** The President of Santa Fe College or their designee.

- F. Respondent: An individual responding to a complaint in the Informal resolution or Formal Hearing Procedure where the complainant alleges that the respondent is a source of the grievance.
- G. Retaliation: Adverse employment action taken by an employer against an employee for engaging in a legally protected activity.
- H. Notice in Writing: includes email, US mail certified-return receipt requested, or hand delivery with a receipt signed by the recipient.

III. Matters Outside the Scope of this Rule

The following matters are not eligible for informal or formal processes under this rule:

- i. Allegations of conduct prohibited under College Rule 2.8 and 2.8P on Prohibition Against Discrimination and Harassment;
- ii. Allegations of conduct prohibited under College Rule 2.12 on Prohibition Against Fraudulent, Dishonest or Improper Acts;
- iii. Disputes related to College Rule 2.13 on Intellectual Property;
- iv. Allegations relating to violations of Rule 3.17 on Conflicts of Interest;
- v. Allegations relating to Rule 3.9 on Employment Contracts, including but not limited to termination of employment or decisions pertaining to the award of continuing contracts, provided, however, that faculty members who elect to utilize the internal process pursuant to Procedure 3.9P (G) and (H) will use the Formal Hearing Procedure set forth in Section VI herein;
- vi. Allegations of improper activities or retaliation involving one or more whistleblowers under Florida's Whistle-blower's Act (§§112.3187 – 112.31895, Florida Statutes);
- vii. Remedies requested as part of a grievance that are outside the College's scope of authority, ability, or control;
- viii. College determination to close a program or remove a course;
- ix. Allegations of Family and Medical Leave Act (FMLA) retaliation or violations of FMLA rights.

IV. Retaliation Prohibited

Retaliation against an employee because they engaged the Informal Resolution Procedure or the Formal Hearing Procedure in good faith is prohibited. Reports of retaliation should be made promptly to HR.

Disciplinary action may, however, be taken against an employee who makes intentionally false, misleading, or malicious allegations or who engages the Informal Resolution Procedure and Formal Hearing Procedure in bad faith.

V. Informal Resolution Procedure

- A. The College encourages collegial communications to resolve disputes, complaints, and grievances. Employees seeking resolution of an issue are encouraged to use this Informal Resolution Procedure. The objective is for parties to reach a mutually acceptable and voluntary agreement without the need for intervention by the President or the Board of Trustees.
- B. Informal resolution can be accomplished by utilizing the following options:
1. Interpersonal discussions – Informal, open, good faith discussions are encouraged between employees. Such discussions can lead to meaningful resolutions. Addressing disagreements and differences directly with the individual with whom a conflict is occurring can be one of the most effective approaches to solving a problem.
 2. Facilitated discussions – Employees may request assistance from a neutral party such as an HR representative. This neutral party can assist by facilitating dialogue to ensure both parties have the opportunity to share their perspective, listen, and work towards a mutual understanding.
 3. Discussions with Supervisor – If the individual with a dispute or grievance does not feel comfortable engaging in interpersonal or facilitated discussions or such discussions have not been successful, they may bring the concern to the attention of their supervisor or the next level of supervision. Supervisors may assist by providing additional information, listening to concerns, acquiring feedback from other employees, providing an alternate perspective, or assisting with resolving disputes and working towards possible solutions. It is the supervisor's responsibility to make a reasonable effort to resolve the dispute or grievance. Each supervisor should actively respond to requests for discussions of a dispute or grievance. If a satisfactory solution is not reached through discussion with a Supervisor, then the issue may be discussed with the next higher supervisory level or levels.
- C. It may be appropriate to try one or any combination of the informal resolution options listed above. The College encourages use of the Informal Resolution Procedure before moving forward with the Formal Hearing Procedure for eligible issues.
- D. The Informal Resolution Procedure may be stopped at any time, even if a resolution is not reached. A Respondent may choose not to participate in the Informal Resolution Procedure, and a Complainant may withdraw an informal complaint. In the event that the employee wishes to pursue Formal Hearing Procedures for an eligible issue, the complainant must follow the process set forth below.

VI. Formal Hearing Procedure

A. Introduction to Formal Hearing Procedure

The Formal Hearing Procedure is available as an avenue for resolving Formal Hearing Issues. It is also available to serve as the procedural internal process for other rules, such as Rule 3.9, so as to provide a consistent framework for formal hearings.

- B. Advisory Meeting with the Appropriate College Vice President Prior to Requesting Formal Hearing: If a person elects to use the Formal Hearing Procedure set forth herein, the complainant must first contact HR to schedule an Advisory Meeting with the appropriate College Vice President (unless proceeding under Procedure 3.9P(G) Dismissal or Return to Annual Contract For Cause or Procedure or 3.9P(H) Formal Challenge of Termination or Return to Annual Contract, each of which requires a meeting with the Provost). The complainant may have a support person at all Advisory Meetings; however, the support person is strictly there for support and cannot represent or speak for the complainant. The purpose of the meeting is to clarify the issues leading to the grievance and to seek a resolution. If the grievance is not resolved by the College Vice President within 10 business days of the initial Advisory Meeting, the complainant may choose to pursue a Formal Hearing under this procedure.

C. Request for Formal Hearing:

1. Request Requirement: If a complainant or group of complainants wishes to partake in a Formal Hearing, they must complete and submit the "Request for Formal Hearing Under Procedure 3.23P" form to HR (see Appendix 1). The form is appended to the end of this procedure and requires the following information:
 - a. The complainant's name and contact information;
 - b. A statement on Informal Resolution Procedures that have been utilized and their outcomes (if any);
 - c. Whether an Advisory Meeting has taken place;
 - d. The date or dates on which the grievance occurred;
 - e. A short and plain statement of the grievance, including all known respondents; and
 - f. The complainant's signature and date of signature.
2. Deadline: A request for Formal Hearing must be filed no later than 90 calendar days after the date of the event or act giving rise to the grievance.
3. Evaluation of Request by HR: HR, in consultation with appropriate shared governance leaders, will evaluate each request and determine whether the request is timely complete and within the scope of the formal hearing issues. HR will ensure that an Advisory Meeting, if

required, has taken place. HR will notify the complainant of whether the request has been accepted or rejected. If rejected, HR will provide a brief reason for the rejection and state whether the complainant can submit a new request for Formal Hearing for the same grievance. If the request is rejected because the issue does not constitute a Formal Hearing Issue and is not a matter covered under College Rule 3.23 or College Procedure 3.9P(G) or (H), the complainant may ask HR for review by the Hearing Committee (see D4).

4. Withdrawal: A request for Formal Hearing may be withdrawn at any time. However, if such request is withdrawn, the matter cannot be resumed at a later time unless the complaint was withdrawn contingent on an agreed upon informal resolution that was not implemented. In order to withdraw a complaint, the Complainant must notify HR, in writing, of their request to do so.

D. Formal Hearing Considerations:

1. Overview: A Formal Hearing is a fair and equitable formal process that provides for the review of circumstances and the issuance of findings of fact by a grievance hearing committee followed by a final decision by a College Vice President unless timely appealed to the College President. A Formal Hearing may be utilized to address eligible grievances that have not been successfully resolved by the Informal Dispute Resolution Process or Advisory Meeting and when a faculty member selects the internal process under Procedure 3.9P (G) or (H). Parties in the Formal Hearing are the complainant and the respondent. There may be multiple complainants and respondents. The Formal Hearing is not a criminal or civil court proceeding and should not be regarded as such. HR will be responsible for administering this process and ensuring consultation and compliance.
2. Prohibited Communications: Once the Formal Hearing process has been initiated by filing a written form with Human Resources, the designated complainants and respondents may not communicate with members of the hearing committee or President regarding any issues raised in the Formal Hearing outside the presence of the other parties.
3. Duty to Participate: Parties to a Formal Hearing have a duty to participate meaningfully in the hearing process.
4. Hearing Committee:
 - a. Appointment: The shared governance leaders will appoint, in consultation with HR, a three-person hearing committee whose members are accepted by both parties of the grievance.
 - b. Training: HR is responsible for ensuring that committee

members are properly trained before they participate in a hearing.

- c. Composition: The composition of the three-member committee should reflect the parties of the grievance peers in terms of employee classification and shared governance representation (i.e. College Senate and Career Service Council) to the extent possible and will be determined with HR in consultation with appropriate shared governance leadership.
- d. Selection of Committee Chair: The members of the hearing committee will by majority vote elect a chair from among themselves who will preside at the hearing.
- e. Conflicts of Interest: A conflict of interest occurs when an individual's personal interests could compromise their judgment. A conflict of interest may, for example, arise when a committee member is family or friends with or is the direct supervisor or subordinate of the complainant, respondent, or another individual involved in the grievance or dispute.

Any member of the committee should recuse themselves if they identify a conflict of interest by notifying the committee chair who will notify HR. If a conflict of interest with respect to a committee member's ability to participate in an impartial manner becomes apparent, the committee member may be recused from further participation by the committee chair in their sole discretion. If the committee chair perceives a conflict, they may recuse themselves from participation on the committee by notifying HR. Upon notice of a recusal, the shared governance leaders, in consultation with HR, will appoint a new committee member.

Should either the complainant or respondent believe there is a conflict of interest with one of the committee members, it is their responsibility to contact HR with appropriate rationale. It is HR's responsibility to oversee a process by shared governance leaders to investigate and make an appropriate decision.

- f. Attendance: All appointed committee members must be present at the hearing and any deliberations.
5. Advisors. Parties, at their expense, may have an advisor, who may be an attorney, attend the hearing. ***However, an advisor may not directly address the committee or directly participate in the hearing. The role of the advisor is to quietly advise the person who invited them. The committee chair may, in their sole discretion, excuse an advisor if their presence disrupts the***

hearing in any way. If a party wishes to have an attorney present, they must provide a Notice of Attorney as required below. In the event that this internal process is being utilized for Procedure 3.9P(G) or (H), the bold-faced, italicized statements above will not apply.

6. Formal Hearing Process and Timeline:

- a. Request Submitted by Complainant: The complainant initiates the Formal Hearing process by submitting the "Request for Formal Hearing Under Procedure 3.23P" form to HR.
- b. Request Processed: HR reviews the request. If the request is rejected, HR will notify the complainant within 5 business days of receipt of the request. If the request is accepted, HR will, within 5 business days of receipt of the request, send to all identified parties a copy of the request for Formal Hearing. If additional parties are later identified, they will be notified in writing as promptly as possible.
- c. Committee Appointed: HR will appoint a hearing committee within 10 business days of the date that HR notifies the parties that the request for Formal Hearing is approved.
- d. Hearing Scheduled: HR will schedule a hearing 30 to 45 business days after the date that HR notifies the parties that the request for Formal Hearing is approved.
- e. Notice of Hearing: Within 10 business days of the date that HR notifies the parties that the request for Formal Hearing is approved, HR will provide written notice of the Formal Hearing to all parties of the date, time, and place of the hearing, a list of committee members, and the procedures to be used in the hearing.
- f. Conflicts of Interest: Parties to a hearing and committee members should notify HR and the committee chair of any perceived or actual conflicts of interest in members of the committee no more than 5 business days after receipt of the notice of hearing.
- g. Respondent's Response: Within 10 business days after receipt of the notice of hearing from HR, each respondent shall file a short and plain response with HR, and HR shall serve a copy thereof, by written notice, on each other party to the grievance proceeding.
- h. Witness List and Evidence: Each party to the grievance proceeding shall file with HR a list of the witnesses they intend to call at the hearing and copies of all evidence they intend to present at the hearing and HR shall serve a copy thereof, in writing, upon all other parties to the grievance within 15 business days following the receipt of notice of hearing.
- i. Notice of Attorney: If a party wishes to have an attorney present at a hearing, they must notify HR and all other parties in writing at least 5 business days prior to the hearing. Should such

notice be provided by a party, the College reserves the right to reschedule the hearing to allow for attendance by the College's General Counsel or a designee.

- j. Formal Hearing: The Formal Hearing will take place at the time and date scheduled by HR.
- k. Deliberations by Committee: At the conclusion of the hearing, the committee will deliberate and make findings of fact to be submitted to the decision maker.
- l. Court Reporter: The College does not transcribe hearings. If a complainant or respondent wishes to hire a court reporter to attend and transcribe a hearing, they may do so at their own expense.

7. Evidence for Formal Hearings:

- a. Standard of Evidence: The complainant is responsible for supporting their complaint with a preponderance of the evidence showing that a College policy or procedure has been violated. A preponderance of evidence means a party convinces the committee that there is a greater than 50% chance that their claim is true.
- b. Relevance: Each party shall have the right to present evidence relevant to the issues. Any relevant evidence shall be admitted if it is the sort of evidence on which reasonable, prudent persons would rely. Irrelevant and unduly repetitious evidence shall be excluded. Members of the Committee and the HR representative will determine what is irrelevant and unduly repetitious.
- c. Oral Evidence: Oral evidence shall be taken only on oath or affirmation to be administered by a notary public to be provided by HR.
- d. No Cross-Examination: There will be no cross-examination by either party. Only the hearing committee will be permitted to cross examine the parties and witnesses, as applicable.
- e. Surprise Evidence: The committee may choose to adjourn to enable either party to investigate evidence for which a claim of previously undisclosed evidence is made or may choose to prohibit the party from using any evidence they did not previously disclose.

8. Formal Hearing Procedures: The committee will conduct the hearing under the following rules of procedure:

- a. Opening the Hearing: The presiding chair elected by the hearing committee shall open the hearing upon determining the presence of all members of the hearing committee and the parties to the grievance. If a party fails to be present at the hearing, the presiding chair may choose to move forward with the hearing without that party's presence. The presiding chair's decision on

whether to move forward with the hearing may be based on the presiding chair's determination of the reasonableness of a party's absence and other factors at the chair's discretion.

- b. Statement of Hearing Rules and Procedures: The chair shall then state the general rules of procedure to be followed in the conduct of the hearing:
 - i. As presiding officer, the chair of the grievance committee shall have control of the proceedings.
 - ii. The chair shall take whatever action is necessary to ensure an equitable, orderly, and expeditious hearing.
 - iii. The parties shall abide by chair decisions. In the event a party to the grievance or a member of the hearing committee objects to a decision of the chair, a majority vote of the hearing committee shall govern.
 - iv. The chair or any member of the hearing committee may direct questions to either party or any witness at any time during the proceedings.
- c. Order of Proceeding: The order of proceeding for the Formal Hearing shall be:
 - i. Opening statement by each complainant;
 - ii. Opening statement by each respondent;
 - iii. Presentation of each complainant's case, with each complainant given the opportunity to complete direct examination of their witnesses;
 - iv. Presentation by each respondent of their respective cases, with each respondent given the opportunity to complete direct examination of their witnesses;
 - v. Closing statement by each complainant;
 - vi. Closing statement by each respondent; and
 - vii. At the conclusion of the taking of evidence and the closing arguments of the parties, the chair shall close the evidentiary part of the Formal Hearing and begin deliberations.
- d. Deliberations and Committee Summary: At the conclusion of the hearing, the committee shall conduct its deliberations to determine all relevant facts. The committee will note refusal by any party to participate meaningfully in the formal hearing process. Upon completion of deliberations, the hearing committee shall make a summary report for the parties. The summary report must be affirmed by a majority of the

committee members and signed by all committee members. The committee chair will forward a summary report of the hearing containing findings of fact to HR. HR will provide the parties and the decision maker with a copy of the committee's summary report.

- e. Review and Decision: HR will forward evidence and the committee's summary report to the relevant Vice President (the "VP") unless the VP is the Respondent, in which case the Sr. VP will serve as decision-maker. Note that if the Sr. VP is the Respondent, the President will make alternative arrangements in writing to guide the process. Based on the findings of fact, the VP has authority to make decisions for future action in conjunction with existing college rules and procedures (e.g. reversal of adverse employment action or resolution of a dispute regarding terms and conditions of employment). The appropriate VP will review the records and will submit a decision to HR within 10 business days of receiving the records from HR. HR will promptly share the decision with the parties.
- f. Final Decision if No Appeal: The VP's decision shall become final and binding on all parties to the Formal Hearing the day after the deadline for the parties to appeal if they do not appeal. If a party appeals by the deadline, the decision shall bind the parties as described below.

E. Appeal to President

1. Appeal: If a complainant or respondent does not agree with the determination of the VP, they may appeal the decision by submitting a written request to HR by mail or e-mail with a short statement of the grounds for appeal and any new evidence they wish to provide, within 5 business days of receiving the VP's decision. HR will forward a copy of the appeal request to the other parties. HR will additionally submit copies of documents from the hearing, the committee's summary report, and the VP's decision to the President for review on appeal.

If a party wishes to submit a response to the appeal, they must submit their written response to HR by mail or e-mail within 5 business days of receiving the notice of the appeal. HR will forward the response to the President and the other parties.

Within 10 business days of receiving the initial notice of appeal, the President will determine whether to uphold or modify the prior decision. The President will provide HR with a written determination. HR will forward this determination to all parties and the VP.

2. Grounds for Appeal: A party may only appeal the decision of the VP on the following grounds:
 - a. To determine whether the Formal Hearing was conducted fairly in light of the grievance alleged, and whether it gave both parties a reasonable opportunity to prepare and to present information. Deviations from designated procedures will not be a basis for sustaining an appeal unless, in the view of the President, significant prejudice results and can be documented.
 - b. To determine whether the decision reached was based on substantial information, that is, whether there were facts in the case that, if believed by the fact finder, were sufficient to establish the findings of fact presented to the VP.
 3. President's Decision Final: The President's appellate decision shall become final and binding on all parties to the Formal Hearing when the written decision is rendered and a copy thereof is served upon all parties to the grievance by mail or e-mail by HR.
- F. Public Records: All documents submitted or created in connection with a Formal Hearing, including, without limitation, the written grievance, all written responses to the grievance, committee summary report, any documents received into evidence during a hearing or otherwise considered by the hearing committee, the VP's decision, documents related to the appeal, and the final decision of the President, if any, on any grievance, are public records, unless a statutory exemption or exception applies, and shall constitute the record of the grievance. HR is the records custodian for records produced under Rule 3.23 and Procedure 3.23P.
- G. Public Notice: If required by law, the President will be responsible for giving advance public notice of the date, time, and place of all Formal Hearings conducted under this rule. All Formal Hearings conducted under this rule will be conducted in a public facility to be designated by the President of the College and will be audio recorded at the expense of the College.

Appendix 1

Santa Fe College
Request for Formal Hearing Under Procedure 3.23P

This form is used to request a Formal Hearing under Santa Fe College's grievance resolution procedure. Please carefully review Rule 3.23 and Procedure 3.23P prior to completing this form.

1. Employee Information:

Full Name: _____ SFID: _____

Title: _____ Phone: _____

SF Email (Notices will be sent to this email address): _____

Address: _____ Room #: _____

City: _____ State: _____ Zip: _____

Supervisor's Name: _____

2. Date of Incident. On what date or dates did the event or events that caused the grievance occur? A request for Formal Hearing must be filed no later than 90 calendar days after the date of the event or act giving rise to the grievance.

3. Grievance Statement. Please provide a short and plain statement of your grievance. Include the names of all respondents and all involved individuals.

4. Informal Resolution Procedures. Which informal resolution procedures have you tried? Check all that apply. Include a brief explanation of the outcome of each. Though not required, you are encouraged to try informal resolution procedures before requesting a formal hearing.

I tried speaking with the involved individual or individuals. The outcome was:

I tried requesting help from a neutral third party (like Human Resources) to facilitate discussions. The outcome was:

I spoke with a supervisor. The outcome was:

- None. I did not try any informal resolution procedures because:

5. Requested Remedies. What specific remedies would help resolve your grievance?

6. Advisory Meeting. If you want a Formal Hearing, you must first contact HR to schedule an Advisory Meeting with your Vice President or the Sr. Vice President, if applicable. If your grievance is not resolved by the Vice President within 10 business days of the initial Advisory Meeting, you may proceed with this form.

Check the appropriate boxes and provide the information requested for your selection:

- Yes, an Advisory Meeting took place on ____/____/____ with _____.
- No, an Advisory Meeting has not taken place because:
- This grievance relates to a contract issue under Rule 3.9, Procedure 3.9P(G) Dismissal or Return to Annual Contract For Cause or Procedure 3.9P(H) Formal Challenge of Termination or Return to Annual Contract.
 - Other: _____.

I have reviewed Rule 3.23 and Procedure 3.23P, and I wish to move forward with a Formal Hearing. The information I have provided on this form is true and accurate to the best of my knowledge.

Signature

Date

For use by Human Resources:

This Request for Formal Hearing is:

- Approved.
- Denied because:
 - The request is not timely (more than 90 days have passed since the incident).
 - A Formal Hearing is not appropriate for this grievance.
 - This form was not completed properly.
 - An Advisory Meeting is required and did not take place at least 10 business days ago.

Can the complainant submit a new Request for Formal Hearing form for this grievance?

- Yes.
- No.

Name

Signature

Date