



Santa Fe College Rules Manual

Title: **Grievance Procedure: Career Service Employees** **Rule 3.24**

General Authority: FS 1001.64(18)

Law Implemented: FS 1001.64(18)

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Problem Resolution and Grievance Procedures

Purpose: To establish procedures that will provide career service employees with the fullest opportunity to bring forth problems and have those problems resolved. These procedures are intended to assure career service employees fair consideration and due process in matters concerning employment and to provide, if needed, a hearing. It is the right of every career service employee to express a problem and have it considered without fear of reprisal.

Definition: Grounds for problem resolution or grievance procedures exist when a condition or action is alleged by a career service employee to be contrary to: a contract, policy, rule, procedure, effective working conditions, or professional standards.

Career service employee shall mean all full-time career service employees of the College who have completed their six-month probationary period.

In order to prevent the assertion of stale or untimely grievances, no career service employee shall file a request for peer review under the Informal Problem Resolution Procedure set forth in this rule or a request for a formal hearing under the Formal Grievance Procedures set forth in this rule unless the request therefore is submitted in writing in accordance with this rule not later than 60 calendar days after the date of the event giving rise to the grievance.

Use of Established College Procedures

The person or persons seeking resolution of a problem are encouraged to use established procedures of the College. These procedures include a discussion with the person or persons who are believed to be the source of the problem, and, if that discussion fails to resolve the problem, a discussion with the next supervisor in line of both sides. It is the supervisor(s)'s responsibility to make a reasonable effort to resolve the problem. If the grievant(s) feel a satisfactory adjustment is not reached, then the problem may be discussed with the next higher supervisory level(s). Each supervisor should provide their

recommendations in writing to all parties of both sides within 10 working days of the first discussion of the problem.

Informal Problem Resolution Procedure

Purpose: To provide an informal, expeditious, and non-adversarial process to encourage the resolution of a problem expressed by career service employee(s) of the College. The objective is for the parties to reach a mutually acceptable and voluntary agreement without intervention by the College President or the Board of Trustees of the College.

Procedure: The person seeking resolution of a problem may request peer review from the chair of the Career Service Council. Participation in peer review must be acceptable to all parties. Choice of the peer review process, explained in steps A through E following, is an elective process to be agreed on by both parties to the grievance. If either of the parties declines the use of the peer review process, then step F must be conducted before the Formal Grievance Procedure can be pursued.

- A. The chair of the Career Service Council shall appoint up to three full-time employees of the College to serve on an ad hoc peer review committee. The members appointed must be acceptable to all parties. When the grievance is solely between career service employees, the members will be drawn from the Career Service Council. Otherwise the members will be drawn from both the Career Service Council and the College Senate members. The members of the peer review committee will by majority vote elect a chair who shall notify all parties of the time, date, and place of the review.
- B. The role of the peer review committee includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem-solving, and exploring settlement alternatives. All parties will be encouraged to resolve the problem in a mutually agreeable manner. During the peer review process, decision making rests with the parties.
- C. The peer review shall be informal, non-adversarial, and confidential. Parties may have a support person but not an attorney. Any oral and written communications resulting exclusively from the peer review process shall be confidential and inadmissible in any subsequent legal or administrative actions. This confidentiality does not bar parties in a subsequent legal or administrative action from obtaining evidence on any issue that led to the use of the peer review procedure.
- D. Peer review should be completed within 45 days of the request for the problem resolution. The peer review committee may at any time declare that a problem has not been resolved. When the peer review is complete or a declaration that the problem has not been resolved is made by the peer review committee, the chair of the committee shall declare the peer review committee disbanded and give written

notice to the chair of the Career Service Council and all parties to the peer review procedure.

- E. Should the problem not be resolved in the peer review process, the person or persons who asked for the problem resolution have the option of pursuing a formal grievance under this rule but only after completing step F following.
- F. Advisory meeting with the appropriate College Vice President or Provost prior to requesting Formal Grievance Hearing: If a person elects to use a formal grievance procedure set forth under this rule, the person or persons alleging the grievance must have an advisory meeting with the College Vice President or Provost. The grievant may have a support person at all meetings with the College Vice President or Provost. The purpose is to clarify the issues leading to, and to seek preliminary resolution of, the problem leading to the grievance. If the grievant(s) feel the resolution received from the College Vice President or Provost within 10 days of the initial advisory meeting is not satisfactory, the grievant may choose to pursue a formal grievance under this rule.

Formal Grievance Procedures

Purpose: To provide a fair and equitable process to seek the resolution of a grievance expressed by career service employee(s) of the College.

Procedures: Parties in the formal grievance procedure are the person or persons alleging the grievance and the person or persons alleged to be the source of the problem leading to the grievance. Parties, at their expense, may have attorneys at any stage of the formal grievance procedures provided under this rule. The grievant who wishes to pursue a formal grievance may choose one of the following procedural options:

Presidential Hearing

- A. The grievant will request, in writing, from the College President a hearing before the College President or his or her designee. If there is a conflict of interest for the College President or his or her designee to hear and decide the case, another designee will be selected by the College President. The person conducting the hearing will be called the chair.
- B. The chair will give written notice to the President of the College and all parties of the date, time, and place of the hearing and the procedures to be used at least 15 working days before the hearing. The hearing should begin within 30 working days of the original request. The President of the College, or his or her designee in the event of a conflict of interest on the part of the President, will render the final decision within 30 working days of the receipt of the transcript of the hearing.

Ad Hoc Hearing Committee

- A. The grievant will request in writing from the chair of the Career Service Council a hearing before an ad hoc hearing committee comprised of three full-time employees of the College. The members of this committee will be appointed by the chair of the Career Service Council within 10 days of the receipt of the request. The members appointed must be acceptable to all parties. When a grievance is solely between career service employees, the members will be drawn from the Career Service Council. Otherwise the members will be drawn from both the Career Service Council and the College Senate members.
- B. The hearing committee will by majority vote elect a chair. A quorum of the hearing committee requires the presence of all three members designated to act as the ad hoc hearing committee.
- C. The chair will give written notice to the President of the College, or his or her designee, and all parties of the date, time, and place of the hearing and the procedures to be used in the hearing at least 15 working days before the hearing. The hearing should begin within 30 days of the request. The chair will forward a transcript of the hearing and the hearing committee's written recommendation to the College President, or his or her designee, who will render the final decision within 30 working days of the receipt of the transcript of the hearing and the hearing committee's written recommendation.

Provisions Applicable to All Formal Grievance Procedures

- A. Any party to a formal grievance who believes that his or her substantial interests or other legal rights may be affected by the outcome of a grievance asserted under these formal grievance procedures is advised to consult with an attorney prior to participating in a formal grievance under this rule. Any party whose substantial interests or other legal rights may be affected by the outcome of a formal grievance proceeding under this rule should consider proceeding with a formal administrative hearing under the provisions of Chapter 120, *Florida Statutes*, or through other appropriate legal proceedings instead of participating in a formal grievance hearing under this rule. All parties to a formal grievance hearing are cautioned that participation in a formal grievance hearing may constitute a waiver of their right to appeal the decision rendered in a formal grievance proceeding or to seek the same, additional, or different relief in an administrative hearing under the provisions of Chapter 120, *Florida Statutes*, or under any other applicable municipal, county, state, or federal ordinance, statute, law, rule, or regulation.
- B. In adopting procedures for the conduct of formal grievance hearings under this rule, including the presentation and admission of evidence and all other procedural matters, the chair of the hearing committee, the President or the President's designee (herein the "chair") may adopt the following model rules of procedure:

1. Within 5 working days after a written request by the chair, the grievant shall file a short and plain statement of the grievance with the chair and serve a copy thereof, by United States mail or by hand-delivery, to each party to the grievance proceeding.
2. Within 10 working days after service of the grievant's statement of the grievance, each party to the grievance proceeding shall file a short and plain response to the grievance asserted by the grievant with the chair and serve a copy thereof, by United States mail or by hand-delivery, on each other party to the grievance proceeding.
3. After the time has expired for the filing of written responses to the grievance asserted by the grievant, the chair shall give the parties at least 15-days' written notice of the date, time, and place of the hearing.
4. Each party to the grievance proceeding shall file a list of the witnesses he or she intends to call at the hearing with the chair and serve a copy thereof, by United States mail or by hand-delivery, upon all other parties to the grievance within 5 working days following the receipt of notice of the hearing.
5. The chair shall open the hearing upon determining the presence of a quorum of the hearing committee and the parties to the grievance.
6. The chair shall then state the general rules of the procedures to be followed in the conduct of the hearing. As presiding officer, the chair of the grievance committee shall have control of the proceedings. The chair shall take whatever action is necessary to insure an equitable, orderly, and expeditious hearing. The parties shall abide by the chair's decision. 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. The chair or any member of the hearing committee may direct questions to either party, any witness, or the representatives of any party at any time during the proceedings.
7. The order of the proceedings shall be:
 - a. Opening statement by the grievant or by his or her representative;
 - b. Opening statement by each responding party or by his or her representative;
 - c. Presentation of the grievant's case, with direct and cross-examination of the witnesses by the respective parties;
 - d. Presentation by each responding party of their respective cases, with direct and cross-examination of the witnesses by the respective parties;

- e. Closing statement by the grievant or his or her representative;
 - f. Closing statement by each responding party or his or her representative.
8. Oral evidence shall be taken only on oath or affirmation to be administered by the court reporter. Each party shall have the right: to present evidence relevant to the issues; to cross-examine opposing witnesses; to impeach any witness regardless of which party first called him or her to testify; and to rebut the evidence presented against it. Any relevant evidence shall be admitted if it is the sort of evidence on which reasonable prudent persons are accustomed to rely in the conduct of their affairs. Hearsay evidence may be used to supplement or explain other evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, e.g., lawyer-client, husband-wife, accountant-client, sexual assault counselor-victim, etc. Irrelevant and unduly repetitious evidence shall be excluded.
9. 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, if the hearing is conducted by a hearing committee, the hearing committee shall thereupon conduct its deliberations in an open meeting, which all parties and other interested persons may attend, and upon completion of said deliberations shall vote for or against the grievance and the hearing committee's written recommendation to the College President, or his or her designee. The decision and written recommendation of the hearing committee shall be determined by majority vote and a minority written recommendation to the College President or his or her designee may be rendered.
- C. All documents submitted or created in connection with a formal grievance hearing, including, without limitation, the written grievance; all written responses to the grievance; any written settlement agreement or letter of understanding reached as the result of the formal hearing; the transcripts of any hearings conducted by the hearing committee, the President, or the President's designee; any documents received into evidence during a hearing or otherwise considered by the hearing committee, the President, or the President's designee; and the final decision of the President or his or her designee on any grievance, are public records and shall constitute the record of the grievance.
- D. If required by law, the President of the College or his or her designee will be responsible for giving advance public notice of the date, time, and place of all formal grievance hearings conducted under this rule. All formal grievance hearings conducted under this rule will be conducted in a public facility to be designated by the President of the College and will be recorded and transcribed by a certified court reporter at the expense of the College.

- E. The President's decision, or the decision of his or her designee, on a formal grievance shall become final and binding on all parties to the formal grievance when the written decision is rendered and a copy thereof is served upon all parties to the grievance by United States mail or by hand-delivery.