

MOTLOW STATE COMMUNITY COLLEGE

SUBJECT: EMPLOYEE GRIEVANCE/COMPLAINT PROCEDURE

I. Purpose

The following grievance/complaint procedure is to provide an orderly method for employees of Motlow State Community College to process their grievances or complaints. This policy addresses two matters: (1) grievances which are subject to committee review; and (2) complaints which must be resolved without committee review.

II. Policy Statement

It is the policy of Motlow College to provide an effective procedure for solution of problems arising from the employment relationship or environment and to make every effort to resolve any grievance or complaint at the lowest possible step in the grievance/complaint procedure. To this end, a formal grievance procedure has been established for the ease and benefit of all employees. It is the responsibility of administrators and academic and supervisory personnel to inform and make available to all employees information concerning their right to file a grievance or complaint and their right to be protected from retaliation. All employees are encouraged to discuss any problems with their supervisor or unit head prior to utilizing any grievance/complaint procedures. No employee shall retaliate or discriminate against another employee because of the latter employee's attempt to file a grievance or complaint. Supervisors are also responsible for ensuring that the employee is free of retaliation, coercion, and/or discrimination arising from the employee's filing of or intent to file a grievance or complaint.

III. Scope

This procedure is available to all employees of Motlow State Community College. Employees shall include persons employed in EEO categories as administrators, faculty (including full-time faculty on term or temporary contracts), professional non-faculty, clerical and secretarial, technical and para-professional, and service/maintenance. Probationary employees in these EEO categories are included in this definition. Student workers, adjunct faculty, and temporary workers are not included in the definition of employees. This policy has no application to a termination procedure against a tenured faculty member under TBR Policy No. 5:02:03:00, Section III 16.d or TBR Policy No. 5:02:03:10, Section III.15.b.

Appeals for support staff employees who are demoted, suspended without pay, or terminated are covered under TBR Guideline P-111 (P-111 superseded MSCC Policy on March 15, 2002).

An employee may choose to utilize the procedure for review by the grievance committee (established pursuant to this policy) in the following situations:

- A. Actions relating to the suspension of employees for cause or termination in violation of an employment contract which fall under TBR Policy No. 1:06:00:05 (Cases

Subject to TUAPA) or TBR Policy No. 5:02:03:00 Section III 16 b (2) (Suspension of Tenured Faculty).

B. Actions involving hearings requested pursuant to TBR Guideline P-080 Section B.2. Motlow State Community College may choose to utilize the procedure for review by the grievance committee when resolving a complaint initiated pursuant to TBR Policy No. 5:02:03:30(Faculty Promotion).

IV. *Responsibility for Implementation and Compliance*

The President of Motlow College is responsible for implementation of these procedures and has the final decision-making authority in any action subject to these procedures. The Director of Human Resources serves as Motlow College's grievance officer.

V. *Definitions*

A. Immediate supervisor - That person who is directly responsible for the supervision of the employee's activities.

B. Next-higher-level supervisor - That person who is directly responsible for the supervision of the immediate supervisor's activities.

C. Working days - Days on which institutional offices are officially open.

D. Date of the decision - Date the decision is communicated to the employee if communicated in person; three (3) days after mailing of the decision if communicated by mail.

E. Complaints - A complaint may not be taken to a committee for review. A complaint is a concern which an employee wants to discuss with supervisory personnel in an effort to resolve the matter. Personnel actions such as performance evaluations, rates of pay, position reclassifications, verbal disciplinary warnings, termination of clerical and/or support personnel during or at the end of the initial probationary period, group life insurance, group health benefits or retirement benefits, or position terminations due to reduction in force do not fall under the definition of complaint.

F. Grievances - A grievance may be taken to a committee for review. An employee may only grieve those matters defined in 1 - 3 below. A grievance may result from any action that Motlow State Community College has taken against an employee which:

1. violates Motlow College or TBR policy, or involves an inconsistent application of those same policies,
2. violates any constitutional right. The most likely areas are the rights in the First, Fourth or Fourteenth Amendment of the federal constitution where that action hampers free speech, freedom of religion, the right to

association, provides for improper search and seizure, or denies constitutionally required notices or procedures or :

3. violates a federal or state statute not covered by TBR Guideline P-80.

VI. *Complaint Procedure*

A complaint must be brought to the attention of the employee's immediate supervisor within ten (10) working days after the employee becomes aware of the problem. The employee should state the basis for the complaint and the corrective action desired in temperate and reasonable terms. The employee and the supervisor should discuss the complaint in an attempt to resolve the matter in a mutually satisfactory manner.

If the employee and the immediate supervisor are not able to reach a mutually satisfactory resolution to the complaint, the employee may proceed to discuss the matter with the next-higher-level supervisor within five (5) working days of the date of the discussion of the complaint with the immediate supervisor. Failure to comply in a timely manner shall be deemed a waiver by the employee and the complaint may not be raised again.

If the employee and the next-higher-level supervisor are not able to reach a mutually satisfactory resolution to the complaint within five (5) working days, the employee may proceed to file a written complaint form with the Director of Human Resources. The complaint must be filed within five (5) working days of the date of the discussion with the next-higher-level supervisor. Failure to comply within a timely manner shall be deemed a waiver by the complainant and the complaint may not be raised again.

Upon receipt of a written complaint, the Director of Human Resources will allow the employee to present facts and or materials. The Director will then investigate the dispute and attempt to find a solution. Within five (5) working days, the Director will submit a written recommendation to the President. Upon receipt of the recommendation, the President may accept the recommendation or select the appropriate alternate resolution. The President's decision shall be communicated to the employee within three (3) working days.

The President's decision shall be final. Complaints do not include a right to any type of hearing, adversarial proceeding, nor the right to appeal to the Chancellor.

VII. *Grievance - General Rules of Implementation*

- A. All employees shall have access to the grievance/complaint procedure.
- B. A grievance/complaint must be presented to the grievant immediate supervisor (Step 1) within ten (10) working days after the occurrence of the incident claimed to have given rise to grievance. Any claim not presented within the time-frame provided shall be deemed to have been waived and shall not be considered. For repetitive or on-going incidents or circumstances, the

grievance/complaint must be filed within ten (10) working days of the last occurrence of such incident or circumstance.) Once a final determination is made, the grievant may not later present the same grievance again to attempt to gain a more favorable outcome.

C. The grievant is entitled to be accompanied by an advisor at each step of the grievance procedure; however, the advisor may not act as an advocate on behalf of the grievant.

D. Employees shall be given the opportunity to pursue grievances during their assigned work time and have access to all persons, places, and official records for information necessary to the determination and processing of a grievance in the specified time limits. This access shall not interfere with normal work flow of the college.

E. The President may grant reasonable extensions of the applicable time limit at each stage of the procedure upon the timely showing of a good cause. The request for an extension must be in writing. The approval or denial of the request shall also be in writing.

F. Supervisors to whom a grievance is raised and the grievance committee may consult the Director of Human Resources for advice on resolving grievances (except for grievances involving an action taken against the grievant by the Director of Human Resources).

G. The grievant may withdraw in writing a filed grievance at any stage of the process.

VIII. *Grievance Committee*

A. The President shall appoint a pool of committee members from each job classification including tenured faculty, non-tenured faculty, administration, support clerical staff and maintenance staff who have been trained about the institutional grievance committee and are regular full-time employees only.

B. The President shall appoint a committee of five (5) members from that pool to hear an individual grievance within the following guidelines:

1. One representative who is the same race and sex of the grievant.
2. One representative from the same job classification as the grievant.
3. Two representatives from job classifications non-partial to the grievance.

- C. The committee will be chaired by the Director of Human Resources.
- D. The term of the pool of committee members will be indefinite. In the event of a vacancy, the President shall appoint a new member to the pool.

IX. *Steps for Filing the Grievance*

Step 1: Discussion with Immediate Supervisor

A grievance must be brought to the attention of the employee's immediate supervisor within ten (10) working days after the employee becomes aware of the problem. The employee should state the basis for the grievance and the corrective action desired in temperate and reasonable terms. The employee and supervisor shall discuss the grievance in an attempt to resolve the matter in a mutually satisfactory manner. The supervisor shall conduct any necessary or appropriate investigation and inform the employee of a decision based upon full and fair consideration of all the facts within five (5) working days of the initial discussion. The immediate supervisor will insure that the decision is clearly communicated to, and understood by, the employee. If the employee is satisfied, with the decision, no additional action is required. If the employee is not satisfied, the employee may proceed to Step 2. The requirement to proceed to Step 2 prior to Step 3 shall not be required for employees for whom the immediate supervisor or the next-higher-level supervisor is the President. (If no decision is communicated to the employee within five (5) working days of the initial discussion, the employee may proceed directly to Step 2 or Step 3, as may be applicable.)

Step 2: Discussion with Higher-Level Supervisor

If the employee and the immediate supervisor are not able to reach a mutually satisfactory resolution to the grievance, the employee may proceed to discuss the matter with the next-higher-level supervisor within five (5) working days of the date of the decision of the immediate supervisor. Failure to comply with Step 2 in a timely manner shall be deemed a waiver by the employee and the grievance may not be raised again. The next-higher-level supervisor and the employee shall then follow the same procedure as required in Step 1.

If the employee is satisfied with the decision reached by the next-higher-level supervisor, no additional action is required. If the employee is not satisfied, the employee is to follow the organizational chart using the same procedure up to the Vice President level.

If the employee is not satisfied with the decision at the Vice President level, the employee may proceed to Step 3.

Step 3: Written Grievance Statement

If the employee and the Vice President are not able to reach a mutually satisfactory resolution to the grievance, the employee may file a written grievance with the Director of Human Resources on a Grievance Form (Attachment A). The grievance must be filed within five (5) working days of the date of the decision of the Vice President. Failure to comply with

Step 3 in a timely manner shall be deemed a waiver by the grievant and the grievance may not be raised again.

The Director of Human Resources may request the employee to restate the grievance for additional clarity if necessary, but such request shall not prejudice the employee in regard to the applicable time limit. At the filing of the written grievance, the employee has the option to request the grievance (1) to be investigated by the Director of Human Resources or (2) request a hearing by the grievance committee. If the employee chooses an investigation by the Director of Human Resources, the Director will make a thorough and independent study of the grievance. The Director of Human Resources may request either or both supervisors to respond in writing to the grievance statement. Within ten (10) working days of the filing of the grievance the Director of Human Resources will forward a recommendation of solutions to the President. Upon receipt of the recommendation, the President may accept the recommendation of the Director of Human Resources or select an appropriate alternate resolution. The President's decision shall be directed to the employee within five (5) working days. The President's decision shall be final and binding to all parties concerned. An employee dissatisfied with the resolution may not request a hearing by the grievance committee.

If the employee chooses to request a hearing by a grievance committee, the President shall appoint a grievance committee as established with this policy. Within ten (10) working days of the filing of the request for a hearing on the grievance, the grievance committee shall conduct an impartial hearing on the grievance, at which time it will accept and review all pertinent information presented by the employee and the Chairperson of the committee as well as any other information it deems appropriate. The grievance committee shall make a thorough and independent study. The procedure by the committee shall consist of fact finding. The committee shall be allowed to hear each witness, including the grievant, separately. The grievant shall be allowed to present any pertinent evidence to the committee and to have the committee call those witnesses who have testimony pertinent to the decision. Three (3) working days after the hearing, the Chairperson of the committee shall prepare a written report of the committee's recommendation and reasons to the President. The recommendation shall be based on full and fair consideration of all the pertinent facts and circumstances. The report shall also contain a summary of the committee's investigation and findings. Copies of the report shall be submitted to all parties involved.

Upon the receipt of the recommendation, the President may accept the recommendation of the committee, in whole or part, or select an appropriate alternate resolution. Within five (5) working days, the President's decision shall be directed to the Chairperson of the committee and all parties involved. The President's decision shall be final and binding as to all parties concerned. However, grievances which are processed through the grievance committee are appealable to the Chancellor only where they fall within the parameters set out in TBR Policy No. 1:02:11:00.

X. *Maintenance of Records*

A. Copies of written grievances/complaints and accompanying responses and documentation shall be maintained in the office of the Director of Human Resources. If finding adverse to the grievant/complainant is made the finding shall be maintained in the grievant /complainant's personnel file.

B. Copies of grievances/complaints and accompanying responses shall be maintained for at least three years.

SOURCE: MOTLOW COLLEGE XR: TBR Policies: 1:06:00:05, 1:02:11:00,
5:02:02:00, 5:02:03:00,
5:02:03:10
TBR Guidelines P-080, P-110

COMPLAINT/GRIEVANCE FORM

MOTLOW STATE COMMUNITY COLLEGE

(Type or Print)

1. Name _____
2. Position _____
3. Classification: __Administrative __Faculty
 __Professional __Clerical and Support
4. Department/Divison _____
5. Name of immediate supervisor _____
6. Date complaint/grievance initially discussed with immediate supervisor _____
7. Name of next-higher level supervisor: _____
8. Date complaint/grievance initially discussed with next-higher supervisor: _____
9. Explanation of complaint/grievance (include identification of any institution policy violated):

10. Corrective action desired: _____

Employee Signature

Date