



## **Procedure 450-05 Appeal**

**Sponsor: Human Resources**

### **Purpose**

An employee may appeal a dismissal, involuntary demotion, or suspension without pay for ten (10) work days or more. Anything less than ten (10) workdays is not subject to this procedure or the Procedure 450-03 Complaint and Grievance Resolution. The appeal process is available to individual classified employees (non-exempt) and full-time faculty members who have completed their probationary period and does not apply to group appeals. Part-time employees and administrative/professional (exempt) employees are not entitled to the appeal process.

### **Definitions**

None

### **Procedure**

#### Filing an Appeal

1. The employee must file an appeal with Human Resources in writing within five (5) working days of notice of the supervisor's decision.
2. The appeal must contain a detailed statement of the basis for the appeal, the reasons the employee believes the discipline is improper and the relief requested. In the case of a dismissal, if no request for a hearing is filed in a timely manner the dismissal shall be reported to the District Governing Board for ratification or other action at its next regular meeting.
3. The Executive Director of Human Resources shall schedule a hearing on the appeal, not less than ten (10) working days nor more than thirty (30) working days from the date of filing. The Executive Director of Human Resources shall notify all parties of the date, time and place of hearing.

#### Form of Hearing

1. A hearing officer will be designated by the President to hear the appeal. The hearing officer may be a Vice President or Dean not directly involved with the decision being appealed or an individual retained by the College to hear an appeal. The hearing officer is responsible for determining that the College has followed proper procedures in matters concerning the dismissal, involuntary demotion, or suspension without pay.
2. The employee has the right to be represented by legal counsel of his/her choice; however, the College is not liable for any cost or expense incurred for such representation. The employee must notify the Executive Director of Human Resources as to whom, if anyone, will be representing him/her at the hearing at least three (3) working days prior to the beginning of the hearing.
3. A College representative shall prepare and present the College's case.
4. The hearing officer shall be able to examine witnesses under oath when conducting a hearing and shall also have the authority to administer oaths to witnesses.
5. A list of witnesses must be submitted to Executive Director of Human Resources three (3) working days prior to the hearing. Once both parties have provided their witness lists, copies will be provided to the employee and the supervisor.

6. All documents/exhibits/witness lists presented as evidence will be submitted to the Executive Director of Human Resources prior to the hearing. Once both parties have provided their documentation, copies will be provided to the employee and the supervisor.
7. The hearing shall be closed to the public. The hearing officer shall be entitled to legal counsel for the purposes of advising and assistance with the administration of the hearing. The hearing shall be informal in nature. The rules of evidence shall not apply, provided that irrelevant, immaterial and unduly repetitious evidence be excluded.
8. The hearing officer will conduct the hearing and is authorized to take evidence and to hear oral testimony presented by either side. Both parties may begin the hearing by making a brief opening statement. After both sides have presented their cases, each side will have an opportunity to make a closing statement.

#### Closing Decision

Upon conclusion of the hearing, the hearing officer shall provide a written decision to the President, the employee, and the supervisor. If the hearing officer decides that the dismissal, demotion, or suspension without pay should be upheld, then the decision shall be reported to the District Governing Board for ratification during its next meeting (the employee and supervisor need to be notified of time and place). If the hearing Officer's decision is to reverse or modify the dismissal, demotion, or suspension without pay, then the President shall, within five (5) working days after receipt of the decision, either take or direct other employees to take any administrative actions necessary to implement the hearing officer's decision, or forward the hearing officer's decision to the District Governing Board so that the Board can review the record of the proceedings and render a final decision. No additional evidence, testimony or comments will be considered by the hearing officer once the hearing has been officially closed. At that time, the hearing is completed and only the evidence, testimony and comments made prior to the official closing will be considered.

#### Disposition of Records

All records pertaining to a hearing will be maintained by Human Resources and will not become part of the employee's official personnel file. All documents provided to the President and Board will be returned to Human Resources at the completion of the process.

#### **References**

Procedure 450-03 Complaint and Grievance Resolution

#### **Procedure History**

02/23/2011 New and Adopted by College Council

#### **Legal Review**

02/2011