



## **EMPLOYEE GRIEVANCE**

### **POLICY**

Although the College encourages employees to initially discuss problems and matters of concern with their supervisor, this policy seeks to assure the full-time and part-time employees of Brunswick Community College that their grievances will be considered fairly, rapidly, and in a non-threatening atmosphere.

As related to this policy, a grievance is an employee allegation that a work-related problem or condition is unfair, inequitable, arbitrary, discriminatory, offensive, and/or a hindrance to effective job performance. This policy does not apply to dismissal, layoff, non-renewal, or other matters of employment status unless there is a contention that any such action was in violation of written College policies, procedures, regulations, or in violation of any applicable federal or state law.

A grievance must be presented with “reasonable promptness.” If processing time limitations are not met by the administrator at each step, the employee may then request higher administrative assistance in obtaining requested relief. If the employee does not meet the stated time limitations, the process will be terminated, and such grievance cannot be resubmitted.

To the extent permitted by law, compliance with the employee grievance procedure contained in this section is required before any person may institute litigation against the College or any of the College’s employees acting in their official capacities on behalf of the College.

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### **PROCEDURES**

#### **Part 1: Definitions**

1. Full-time employee: A person employed by the College on the basis of a forty-hour week for a term of nine months, ten months, or twelve months and subject to the State Retirement System.
2. Part-time employee: A person who is employed by the College pursuant to a contract on a basis of 30 hours per week.
3. Hearing Committee: Five-member committee selected on an as needed basis. Members are selected as follows: two members selected by the College Cabinet, one faculty member appointed by the Faculty Senate, one staff member appointed by the President, and one member selected by the Human Resource Department. The parties responsible for the selection of the Hearing Committee members may be modified when participation in the selection process could interfere with an impartial grievance procedure.
4. Burden of proof: The party having the burden of proof is required to present evidence to prove the existence of those facts which entitle him or her to a favorable answer to his or her contentions. Under



this Grievance Procedure, the burden of proof is on the employee to prove his or her contentions to a substantial certainty and those contentions, if proven, merit relief.

5. Business day: Any normal workday that the College is open for business.

### **Part 2: General Provisions**

1. Application: This Grievance Procedure applies to full-time employees and part-time employees as defined in Part 1 above.

2. Right to Legal Counsel: An employee who exercises any of the rights granted hereunder has the right to be represented by legal counsel or by another person designated in writing to act on the employee's behalf only at a hearing before the Hearing Committee, and the employee will be responsible for his or her own legal fees. If the employee is to be represented by legal counsel, he or she must so inform the Hearing Committee through the President in writing at least three business days before the date of the hearing.

Counsel for the College will advise the Hearing Committee in the conduct of all hearings hereunder. The College employee(s) involved in the matter similarly has/have the right to be represented by legal counsel at a hearing before the Hearing Committee, if it is determined that legal counsel is advisable (this provision not applicable to the employee bringing the grievance who is covered in the paragraph above). The determination of advisability shall be made by counsel for the College. The College will be responsible for all reasonable legal fees incurred on their behalf, unless it is determined that the College officials acted intentionally, in bad faith, or clearly in conflict with the best interests of the College, in which case the College officials shall be responsible for payment of the legal fees incurred on their behalf.

3. Proceedings to be Closed: All proceedings before the Hearing Committee will be closed with only the Committee members, the employee, the employee's department head and supervisor, any other College employee involved in the matter, representative or legal counsel of the employee bringing the grievance, any legal counsel representing any other College employees involved in the matter, the legal counsel representing the Hearing Committee, and such witnesses as may be called by either side to be in attendance. Witnesses may be sequestered before their testimony and requested to leave following their testimony. At the Hearing Committee's discretion, either a written transcript or an audio tape recording of all proceedings before the Committee will be kept, and upon request, a copy will be furnished to the employee at his or her expense.

4. Extension of Time Requirements: At his or her sole discretion, the employee's supervisor, Vice President, the President and the President on behalf of the Hearing Committee may extend any time requirements set forth herein for a reasonable period if extenuating circumstances are found justifying a longer period. Notice of any such extension must be promptly delivered to all parties and, if mailed, must be deposited with the United States Postal Service prior to expiration of the time period being extended.



5. Notices: Any notifications and decisions called for herein must be in writing and delivered in person or by the United States Postal Service. Any notification or decision to be delivered by US Postal Service must be sent by registered mail, postage prepaid, and will be deemed delivered upon actual receipt by the party to whom sent or that party's representative, or after three calendar days of when sent, whichever first occurs. The College and/or its officials involved in the matter will be deemed to have properly submitted any such notice or decision for delivery by the United States Postal Service if the most current address of the employee on file with the College is used.

6. Waiver of Privacy Rights: By taking any appeal hereunder, an employee consents to all of his or her relevant employment records being made available to the College officials involved in the matter, all members of the Hearing Committee, and all legal counsel involved in the matter.

7. Compliance with Time Requirements: If an employee fails to comply with any of the time requirements set, forth herein with respect to completing and filing the documents required to pursue his or her grievance or otherwise to proceed under this Grievance Procedure, then the last substantive decision rendered on behalf of the College will stand as final, and all proceedings hereunder will be deemed to be terminated.

8. Hearing Committee: After being appointed, the Committee shall, by majority vote, select a chairperson to serve at the pleasure of the Committee. Vacancies occurring shall be filled for the remainder of the unexpired term in the manner as regular selections are made. Should the selection of a member not be made by the group having authority to do so within sixty days after the date on which the vacancy occurs, the President shall fill the vacancy by appointment for the remainder of the unexpired term.

If any member of the committee feels that he/she cannot render an impartial decision on any grievance brought to the committee, for personal or any other reason, that member should resign his/her position on the committee before the hearing is scheduled. A committee member who is employed in the same department as the employee bringing the grievance should resign his/her position before the hearing is scheduled.

### **Part 3: Procedures**

#### **Step I - Informal Resolution**

Before filing a formal grievance and within seven business days of the event or condition resulting in the employee's grievance or his or her knowledge thereof, an employee must discuss the grievance with his or her supervisor who will make a careful inquiry into the facts and circumstances of the complaint. The supervisor will make every effort to resolve the matter promptly and informally and will tender his or her decision in the matter to the employee within five business days of when presented. The employee may then appeal this decision to his or her supervisor in accordance with Step 2. Otherwise, the decision of the supervisor will stand as final, and all proceedings hereunder will be deemed to be terminated. If the supervisor fails to timely deliver his or her decision to the employee, then the employee should proceed directly with filing a formal grievance in accordance with Step 2. Otherwise, all proceedings hereunder will be deemed to be terminated.



**Step 2 - Formal Grievance**

Within three business days of the employee's receipt of the supervisor's decision or within eight business days of when presented by the employee if the employee's supervisor fails to timely respond in accordance with Step 1, an employee who desires a further review of his or her grievance may file a written notice of the grievance with his or her department head. To properly file the grievance, the employee must properly complete and file a written memo which provides a specific statement of the grievance, indicates what solution or remedy the employee expects to the grievance, and indicates the employee's particular area of disagreement with the decision of the supervisor, if one was rendered. If the employee's supervisor is also the department head, the grievance should be filed with the appropriate Vice President.

The department head or Vice President will review the issues in the grievance, make such investigations, conduct such informal hearings as he or she deems appropriate, and may consult with other College employees, except the President. The department head or Vice President will inform the employee in writing of his or her decision within ten business days after receipt of the employee's grievance. The employee may then appeal the department head's decision to the appropriate Vice President, or Vice President's decision to the Hearing Committee. Otherwise, the department head's or Vice President's decision will stand as final, and all proceedings hereunder will be deemed to be terminated.

**Step 3 - Appeal to Vice President**

Within three business days of the employee's receipt of the department head's decision, an employee who desires a further review of his or her grievance may file a written notice of the grievance with the Vice President responsible for the area in which the employee is employed.

The Vice President will review the issues in the grievance, make such investigations and conduct such informal hearings as he or she deems appropriate, and may consult with other College employees, except the President. The Vice President will inform the employee in writing of his or her decision within ten business days after receipt of the employee's Grievance Form. The employee may then appeal the Vice President's decision to the Hearing Committee. Otherwise the Vice President's decision will stand as final, and all proceedings hereunder will be deemed to be terminated.

**Step 4 - Appeal to the Hearing Committee**

Within five business days following the employee's receipt of the written decision of the department head or Vice President, the employee may file a written appeal for review with the Hearing Committee. The appeal must be submitted by the employee to the Chair of the Hearing Committee.

The Hearing Committee will hear the matter if it determines that:

- A. The grievance procedures described within this policy have been followed.
- B. The employee's grievance is eligible to be addressed by this policy.



C. The facts alleged by the employee, if established, could support the employee's contentions as described.

If the Hearing Committee determines that a hearing would be appropriate, the Chair of the Committee will so notify the employee and the President, and the hearing will be scheduled as soon as is reasonably feasible to all parties. If the Hearing Committee determines that the employee's request for a hearing does not meet all of these requirements, the Chair of the Committee will immediately notify the employee in writing of the conditions(s) that are not met. The employee will then have three business days from the date of receipt of this notification to amend and re-file the request for hearing. If the amended request for hearing is not timely submitted or if the Committee determines, after considering same, that any of the required conditions are still not met, the Chair of the Committee will so notify the employee and the President in writing, and the last substantive decision rendered on behalf of the College will stand as final. All proceedings hereunder will then be deemed to be terminated.

The hearing will be conducted under the control of the Chair of the Hearing Committee. The Hearing Committee may consider only such evidence as is presented at the hearing and need consider only such evidence as it considers fair and reliable. The hearing need not be conducted strictly according to rules of law relating to the examination of witnesses or presentation of evidence. Any relevant matter upon which responsible persons customarily rely in the conduct of serious affairs shall be considered, regardless of the existence of any common law or statutory rule which might make evidence inadmissible over objections in a civil or criminal action.

The hearing will begin with presentation by the employee of evidence to support his or her contentions, which evidence will be limited to testimonial and documentary proof relevant to the employee's contentions as specified in the employee's request for hearing. The other College employees involved in the matter will then be entitled to present rebuttal evidence, which evidence will be limited to testimonial and documentary proof relevant to the employee's contentions in rebuttal thereof or in general support of the administration's decisions. The Chair of the Hearing Committee may then allow such rebuttal or hear any additional positions of the employee and/or the other College employees involved in the matter as the Chair deems reasonable.

During these proceedings, the Hearing Committee may at any time meet in executive session with only the Committee members and any other person(s) so requested to be in attendance. At the end of all presentation of evidence, the Hearing Committee will meet in executive session to consider and reach a final disposition of the matter. Executive sessions need not be recorded or transcribed in any manner. In making its decision, the Hearing Committee will keep in mind that the burden of proof is on the grieving employee to satisfy the Committee that his or her contentions are true to a substantial certainty and that relief of some nature is merited.

The Hearing Committee will make a written report, including recommendation, to the President with a copy to the employee, the employee's department head and/or Vice President and supervisor within ten business days of the final hearing in the matter.



### **Step 5 - Review by the President**

Within three business days following the employee's receipt of the Hearing Committee's written response, an employee who is dissatisfied with the Committee's response may submit a written request for further review to the President. To properly file the grievance, the employee must describe, in writing, the solution or further remedy desired, and indicate the employee's particular area of disagreement with the Committee's response.

The President will initially determine whether the employee's grievance is appropriate to be addressed through this policy and whether the procedures established herein have been followed. If the President determines that either requirement is not met, the President will so notify the employee in writing within five (5) business days of the President's receipt of the employee's grievance. The employee then has three (3) business days to appeal this decision of the President. Otherwise, the last substantive decision rendered on behalf of the College will stand as final, and all proceedings hereunder will be deemed to be terminated.

If the President determines that the employee's grievance is appropriate to be addressed hereunder and the procedures established through this policy have been followed, the President will:

- A. Schedule an informal hearing with (to be determined by the President) the employee, the employee's supervisor, the department head or Vice President and/or any other College employee involved in the matter.
- B. Confirm the recommendation of the Hearing Committee.
- C. Overrule the committee.

Within ten business days of receipt of the employee's request for further review, the President will notify the employee of his/her decision. With respect to grievances other than grievances involving sexual harassment and/or racial discrimination, the decision of the President is final.

*Approved by the Brunswick Community College Board of Trustees*  
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