

# Grievance Policy

## Grievance Policy

### Applicability

This Grievance Policy applies to all students, faculty members, and staff members of the College and to issues involving other employees, students, and/or third parties with contractual relationships with the College. These Grievance Procedures are not applicable to complaints that have other internal remedies in place

Employees who voluntarily resign their employment with the College are able to exercise rights under this policy during the two weeks immediately following their resignation. Employees terminated for cause are not able to exercise rights under this Policy in order to be re-employed but otherwise have two calendar weeks immediately following termination to file a grievance

This Policy is applicable to all grievances filed from the date of this Policy forward

### Grievance

A grievance is an allegation by an individual based on specific facts that there has been a misinterpretation, misapplication, discriminatory application, or violation of a College Policy or Procedure. The intent of a grievance process is to resolve a dispute over significant issues not minor disagreements

The following situations may be grieved: (1) alleged violations of academic freedom; (2) unsafe or inappropriate work assignment; (3) unsafe working conditions; (4) policy application; and (5) legally prohibited unequal treatment including, but not limited to, discrimination or harassment on the basis of age, sex, race, religion, creed, color, ethnic/national origin, ancestry, physical or mental disability, pregnancy, genetic background, marital status, sexual orientation, gender identity, veteran status, or other personal characteristic protected by applicable local, state or federal law. The Grievance Policy cannot be used to question or challenge the academic judgment or decision-making related to these actions

### Confidentiality

Confidentiality means, maintaining as confidential, to the extent possible, all matters related to a grievance on a criterion of "need to know." To the extent possible, strict confidentiality will be maintained by all parties regarding all matters relevant to grievances on a criterion of "need to know" with the following provisions. Please see Recording Policy, Social Media Policy, and Student Code of Conduct, which all apply to confidentiality

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## **Non-retaliation**

Retaliation is a material adverse action against an individual, because of his or her participation in any part of a grievance proceeding. The College prohibits retaliation in any form. Students, faculty members, and staff members have a right to file a good faith grievance and to participate in an informal and formal grievance procedure without fear of retaliation. The College will not tolerate retaliation against the Grievant, Respondent(s), Witnesses, Panel Members, Grievance Coordinator(s) or against any other individuals formally involved as parties to the grievance procedure. Any attempt to retaliate against a person or persons for raising an issue or participating in dispute resolution under this Policy is strictly prohibited. Any person who makes such an attempt will be subject to whatever disciplinary action the College concludes is appropriate, up to and including termination. Please see Recording Policy, Social Media Policy, and Student Code of Conduct, which all apply to non-retaliation

## **Student Publications**

Publications of any kind regarding or referencing any material or persons of a grievance, grade, or conduct matter, within the Student Code of Conduct Standards and Policies, is prohibited. A student shall neither publish, nor cause or permit to be published, the terms and conditions of this agreement/process, Grievances, Conduct Conferences, Appeals Conference, decision results, Witnesses, College employees name(s), student name(s), the College name, or the like, in any press release, newsletter, newspaper, flyer, circular, social media site, like Facebook, Twitter, or Instagram, or other publication, online or offline. These actions will result in Dismissal

## **Burden of Proof**

Any member of the College community who files a grievance has the burden of proving, by a preponderance of the evidence, that he or she has been wronged. If at the conclusion of the Grievance Meeting/Hearing, the Grievant fails to carry this burden, then the finding should be “not responsible” on the part of the Respondent(s)

## **False Grievances**

The purpose of these guidelines is to provide a mechanism to address legitimate student and employee complaints and grievances. However, false grievances undermine the purpose and effectiveness of these guidelines/this policy. Accordingly, persons who knowingly bring false grievances may be subject to disciplinary action

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## Online Students

Due to the College's distance learning programs, the process for grievances involving individuals outside of the home campus may be conducted by telephone, teleconferencing, or by Go-To-Meeting. The College President, or designee, is responsible for the coordination of the process to assure an expeditious and fair resolution of problems raised by College students, faculty, and staff outside of the main campus location

## Timetables

Time is usually one of the concerns of persons seeking to resolve differences. Sensitivity to the issue of time is also important in the successful use of the grievance procedure. While haste is to be avoided in the discussion and resolution of problems, the danger of crippling the possibility of a meaningful resolution by delaying discussion or work on the issues involved is equally to be avoided. This procedure addresses the crucial issue of time - establishing a time limit for each step in the procedure. An extension may be granted if necessitated by time limitations resulting from the College calendar or other special circumstances

If an extension is desired by one or both parties involved in the resolution of a grievance, the request must be made in writing. The College President will approved/not approve any extension. The Grievant and Respondent will be provided written notice of any such extensions approved by the College President

## Informal Resolution

### Step 1. Informal Resolution – Initial Discussion

Before filing a formal written grievance, the Grievant must make a good faith effort to confer with the party against whom he or she has a grievance in an effort to resolve the matter informally. The grievance must be brought to the attention of the appropriate individuals within the timelines specified in these Procedures or the grievance will not be considered. Informal discussions between the parties at all levels of the College should occur in good faith to attempt to resolve the dispute. Discussions regarding informal resolution are expected to be treated with confidentiality. The Grievant should initiate this informal process within fourteen (14) days of the most recent incident or action leading to the grievance. This meeting should represent an effort to achieve by informal means what the Grievant regards as fair and reasonable resolution to the complaint

The Grievant, has the obligation to adequately and fully inform the Respondent of the problem and what would be considered a satisfactory solution. The Respondent, in turn, has the obligation to consider the matter seriously and to answer issues as promptly as possible, yet not with undeliberated haste. Both parties have the obligation to act in good faith

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If the issue is not resolved, then the Grievant should proceed to Step Two of the informal process

## **Step 2. Informal Resolution – Meeting with College President**

If the informal grievance is not satisfactorily resolved through informal means of Step 1 in the Informal Resolution, the following points are important. If the Grievant wishes to pursue the informal grievance, the Grievant must submit a written request for an informal resolution to the President within five (5) days from the attempt to resolve the dispute. Failure to submit such a request will constitute a waiver of the student, staff, or faculty member's right to pursue the grievance. The Grievant must submit a written informal grievance to the College President, within the timelines described in these Procedures, for consideration and further action, stating the nature of the grievance, the steps that have been taken to resolve, and the resolution expected

The College President will determine whether the issue qualifies as a grievance as defined by this Policy and, if so, to hear the grievance and make a recommendation on the action, if any, to be taken. A meeting to discuss the Grievance should normally occur within fourteen (14) working days of the Grievant's notification of the grievance to the College President. College President may require any additional meeting that is necessary for resolution at his/her discretion. If the Grievance is resolved in this meeting, then the College President should prepare a written document summarizing the issue and its resolution and give a copy to the involved parties, if necessary

The President/Dean may recommend that the grievant drop the grievance because it lacks merit or for other just cause. Such a recommendation, however, shall not be binding on the grievant. The President/Dean of the College shall confer with the parties and make every reasonable effort to resolve the grievance informally as quickly as possible. When possible, the College prefers to resolve conflicts informally through discussion or mediation

If the grievance is not resolved, then the Grievant is encouraged to use Step 3 of the Informal Procedure

## **Step 3. Informal Resolution – Mediation**

If the informal grievance is not satisfactorily resolved through informal means of Step Two in the Informal Resolution, the following points are important. Any student who has not reached an informal resolution will be required to go through mediation sessions with the President/Dean of the College. Mediation is an informal and confidential process through which the grievant and the accused can participate in search for a fair and workable solution

If the informal grievance has not reached an informal resolution the Grievant must request for a mediation meeting in writing. The Grievant's request for a mediation meeting should generally be made within five (5) working days of the conclusion of Step 2 of this procedure. Failure to submit

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such a request will constitute a waiver of the student, staff or faculty member's right to pursue the grievance. This meeting should generally occur within fourteen (14) working days from the date the Grievant requests the mediation meeting. The Grievant and all other involved parties must be informed of the date of this meeting in writing

Mediation suspends the informal grievance procedure for up to thirty (30) days from the last meeting (in Step 2) with the College President to discuss the informal grievance resolution, and can be extended at the discretion of the President/Dean. The College President will participate in this meeting and will function as the mediator to facilitate discussion and assist in resolving differences between the parties. All parties will attend. The purpose of this meeting is to discuss the grievance and, if possible, reach a solution that is acceptable to all parties. Each party should be prepared to meet with a fair resolution desired

If resolution is reached from this meeting the College President/Dean will document the meeting and the resolution. Copies of the written documentation will be given to the Grievant, the Respondent, and to the appropriate supervisors, managers, dean and/or division executive(s) for implementation

Any grievance which has gone through the informal resolution state and mediation process after trying to resolve the grievance and chooses to pursue the grievance, will need to file a formal grievance within five (5) days of the abandonment of an attempt at an informal resolution

## Formal Grievance

### Step 1. Written Request for Grievance Hearing/Meeting

In the event the Grievance is not resolved through informal discussions and mediation, then the Grievant may choose to pursue the Formal Grievance Procedure as described below. Prior to invoking the Formal Procedure, the Grievant must demonstrate that he or she has exhausted all Informal steps and mediation and is still not satisfied with the resolution of the issue

A written request for a grievance hearing must be completed by the Grievant and submitted to the College President within five (5) working days of the conclusion of the final mediation meeting. Upon receipt of the written request for a grievance hearing, the College President will assess whether interim measures to protect the Grievant while the grievance is pending are appropriate and will inform the Grievant and Respondent in writing if any such measures are taken. The College President will notify the Respondent and will give the Respondent a copy of the written grievance. The Grievant is required to prepare a written request for a grievance hearing, to ensure that any subsequent grievance hearing will address the specific issues that most concern the Grievant. To file a formal grievance, the student must submit a written, signed statement (the "grievance") to the

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President of the College. The guidelines set forth below are designed to ensure that the written request for a grievance hearing clearly identifies those issues

The written request, when made, must include the following information:

- ❖ The (current) date the written request for a grievance hearing is submitted to the College President
- ❖ The Grievant's name and job title, or student identification number, current e-mail address, and telephone number. All active .edu accounts will be the official communication for e-mail
- ❖ The department, division, or program in which the Grievant is enrolled or employed
- ❖ The specific nature of the problem or complaint including
  - the name of the Respondent(s)
  - all facts related to the complaint, and
  - all documentation related to the complaint
- ❖ A written summary of the steps undertaken in the Informal Procedure and all informal efforts that have been completed
- ❖ The student should state in writing that he or she has rejected any offer made during the informal process of resolution
- ❖ Copies of any documents produced as a result of that informal process including documents produced by the Grievant as well as any responses from the Respondent, supervisor, department head, or others
- ❖ If applicable, a list of not more than five witnesses and their current e-mail address and telephone number for any witnesses the Grievant plans to produce at the hearing
- ❖ State in writing that he or she has rejected which specific offer(s) made during the informal process of resolution
  - the specific reason(s) the grievant disagrees with responses obtained through the Informal Procedure
  - the Grievant's suggestion for proper resolution of the matter. Includes description of remedy sought
- ❖ State in writing that he or she has accepted which specific offer(s) made during the informal process of resolution
  - the specific reason(s) the grievant agrees with responses obtained through the Informal Procedure
- ❖ The Grievant's suggestion for proper resolution of the matter
- ❖ The Grievant's hand written signature
- ❖ The written request will not be accepted through e-mail

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## Step Two. The Grievance Hearing Panel

### Purpose of the Grievance Hearing Panel

The Grievance Hearing Panel has two charges. The first is to determine whether the Grievant's complaint is a grievable issue under this Policy. If the Hearing Panel determines that the issue is grievable under this Policy, then its second objective is to hear the grievance and all related testimony and render a decision and recommendations on the issue(s) being grieved

### Appointment of the Grievance Hearing Panel

The College President, upon receipt of a written request for a grievance hearing, will immediately notify the appropriate division executive and/or dean and the Director of Compliance. A hearing panel will be selected. This will normally be done within fourteen (14) working days of receipt of the written request for a grievance hearing

## Step Three. Initial Meeting of the Grievance Hearing Panel

The initial meeting of the Grievance Hearing Panel is a closed meeting, for Hearing Panel members only. This meeting will generally take place within fourteen (14) working days of appointment of the Panel members. The Panel will then determine whether the issue(s) presented by the Grievant are grievable under this Policy, including whether the grievance is valid or is a frivolous complaint

Prior to the initial meeting of the Panel, the College President will provide members of the Panel with a copy of the Grievant's written complaint, and any other documents that are part of the grievance. At that time, members of the Grievance Hearing Panel may ask the College President to obtain additional documents that it believes to have relevance to the meeting

The Panel's decision will be based on a simple majority vote of its members

If the Grievance Hearing Panel decides the issue is not grievable under this Policy, then the College President or Director of Compliance will prepare a written report of the Panel's findings. The report will generally be issued within fourteen (14) working days of the Initial Meeting. The College President will then forward the report to the appropriate division executive(s), or dean(s), Director of Compliance, and to the Grievant and Respondent(s)

If the members determine the issue is grievable under this Policy then the College President will notify the Grievant, Respondent(s), division executive(s) and/or dean(s), and Director of Compliance in writing of this decision and a separate meeting will be scheduled by the Grievance Hearing Panel for the purpose of hearing the grievance and issuing a report and recommendations

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## Step Four. The Grievance Hearing

The scope of the grievance hearing is limited to the issue(s) identified in the written request for a grievance hearing

The College President will schedule a date for the grievance hearing. The grievance hearing will generally be held within fourteen (14) working days from the date the Hearing Panel issues its decision from the initial meeting. The College President will notify the Director of Compliance of the date of the hearing, who will notify all of the involved parties and witnesses in writing

The Respondent will be asked to submit to the College President a list of no more than five (5) witnesses each, and their current e-mail address and telephone number, to speak on their behalf during the Grievance Hearing Panel meeting. This list must be given to the College President at least five working days prior to the hearing date. The Grievant witnesses will have already been listed by the Grievant on the written request. Only witnesses whose names appear on this list will be permitted to participate in the hearing. If extenuating circumstances exist, the Grievance Hearing Panel may elect to hear testimony from additional witnesses the Panel believes have pertinent information to provide. Members of the Grievance Hearing Panel may ask the College President to obtain additional documents that it believes to have relevance to the Hearing

Both the Grievant and Respondent may be accompanied at the hearing by a support person (e.g., student, parent, faculty member, staff member, associate); however, this person may not participate in the hearing or speak on his or her behalf. Potential witnesses, other than the Grievant and Respondent(s), must remain outside of the hearing room other than when they are required to testify

Prior to the hearing, the Grievance Hearing Panel will establish an appropriate schedule for the proceedings. A typical schedule follows. Once the hearing is begun, the Grievant will present an opening statement. The Panel may then question the Grievant. The Respondent will then present an opening statement. If there is more than one Respondent each may make an opening statement. After the opening statement of each Respondent, the Panel may question the Respondent(s)

After opening statements and questions have been completed, the Grievant may question each of the Grievant's witnesses. Following the Grievant's questioning, the Respondent may question each witness. The Panel may then question each witness

After the Grievant has called all of the Grievant's witnesses, each Respondent will have a chance to call his or her witnesses and ask questions of each witness. The Grievant may then question the Respondent's witnesses. Following questioning by the Grievant, the Panel may question each witness

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After each side has called all of its witnesses, the Grievant and Respondent(s) may each make a closing statement. The Chair will then briefly review the issue(s) for determination, then all parties except Hearing Panel members will be excused

Members of the Panel will then meet, in private, to evaluate information presented. If during its deliberations the panel determines that additional information and/or witnesses should be considered it may reconvene the hearing at an appropriate time to do so

The Grievant has the burden of proving by a preponderance of the evidence that he or she has been wronged

The Hearing Panel's determination will be based upon a vote of a simple majority of the Panel

## Report of the Hearing Panel

The Panel's decision will be based on a simple majority vote of its members

The Chair of the Grievance Hearing Panel, or designee, shall prepare a written report summarizing the Panel's findings as to whether the grievance has merit and will include recommendations on corrective action(s) to be taken, if any. The Chair's report will generally be given to the College President within fourteen (14) working days of the conclusion of the hearing. If the Panel requires longer than fourteen (14) working days, the Chair of the Grievance Hearing Panel or designee will notify the College President, in writing, of the delay

Upon receipt of the Hearing Panel's report, the College President will provide a copy to the Director of Compliance. The Director of Compliance will generally have fourteen (14) working days to review the report and issue a final written decision and corrective action report to the College President. The College President will transmit this final written decision to both the Grievant and Respondent

If the determination is made that the grievance has merit, the College will take appropriate, corrective, and remedial actions

## Appeal of the Grievance Hearing Panel Decision

### A. Procedures for Appealing a Panel's Determination that an Issue is not Grievable

If the Grievance Hearing Panel determines that the issue is not grievable under this Policy, then the Grievant may appeal this decision to the College's President. The appeal must be made within five (5) working days of the date of the decision of the Grievance Hearing Panel, in accordance with the procedures below

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To appeal a Panel's determination that an issue is not grievable under this Policy, a Grievant must submit a written appeal request to the College President. This written appeal request must state the Grievant's basis for appealing the Panel's determination. The College President will then submit the appeal to the Director of Compliance in writing of his or her decision within fourteen (14) working days of its receipt of the appeal. The College President will notify the Grievant and Respondent of the decision in writing. The President's decision on the appeal is final at the institutional level. If the President reverses the Hearing Panel's determination, the grievance will proceed to a Grievance Hearing in accordance with the procedures described above

## B. Procedures for Appealing a Hearing Panel's Post-Hearing Determination on the Merits

A Grievant or Respondent who disagrees with a decision issued following the Grievance Hearing may appeal the decision to the President. To appeal the decision, a party must submit a written request for appeal to the President within five (5) working days of the date of receiving the initial written decision. The written request for appeal must include a clear explanation of the party's basis for appealing the Panel's decision

The President will thoroughly review the Grievance Hearing Panel's recommendations, along with any witness statements or other documents used during the hearing and any additional information. After conducting this review, the President will furnish a written decision to the Director of Compliance within fourteen (14) working days after receiving the written request for appeal. If the President's review of a case requires longer than fourteen days, then he or she will notify the Director of Compliance in writing of the delay who will notify the Grievant and Respondent in writing

The President's decision regarding the appeal will be submitted to the Director of Compliance, members of the Hearing Panel, and appropriate members of management of the decision. The President's decision on the appeal is final at the institutional level

## Conclusion

The College reiterates the positive nature of the grievance Procedures. These Procedures provide structures which should smooth and speed the resolution of College-related grievances and thus affirm the College's desire to treat each student and each employee fairly. The publication of this Policy and Procedure should guarantee access to the necessary information for the internal resolution of College-related grievances at a Pierce Mortuary College