

SECTION: 3.0 PERSONNEL

SUBJECT: GRIEVANCE PROCEDURE FOR PROFESSIONAL STAFF

Title: Problem Solving / Grievance Procedure for Professional Staff

Background The procedures set forth in this policy are to be used by professional staff employees at Lewis-Clark State College (LC State) to resolve a dispute regarding a decision or action affecting the employee.

Point of Contact: Human Resource Services

Other LC State offices directly involved with implementation of this policy, or significantly affected by the policy: President; Provost & Vice President for Academic Affairs; Vice President for Finance & Administration; Vice President for Student Affairs; Title IX

Date of approval by LC State authority: September 2024

Date of State Board Approval: N/A

Date of Most Recent Review: September 2024

Summary of Major Changes incorporated in this revision to the policy: Added definition for Procedural Observer; Changed “defendant” to “respondent;” Clarified the employee (grievant) is responsible for starting the informal track process; added related laws and policies at the end of the policy. Updated format.

Applicability:

This policy provides a fair, equitable, and efficient procedure for employees covered under this policy to resolve grievances at the earliest date and at the lowest supervisory level possible.

Misunderstandings occasionally occur in the workplace; differences in personalities and viewpoints, communication problems, and work pressures are only a few of them. Lewis-Clark State College (LC State) encourages misunderstandings to be handled at the department level, with assistance from Human Resource Services (HRS), if needed.

The procedures outlined in the policy are to be used by a professional staff employee to resolve a work-related problem, dispute, or disagreement that affects the employee. Professional staff include exempt employees on an annual contract who work at least half time or more.

Grievances on reduction in force due to a declared financial exigency should be handled through the [State Board of Education \(SBOE\) procedures](#).

1. Definitions:

- A. Grievant: A person who lodges a formal or informal complaint.
- B. Respondent: A person who is being accused of wrongdoing.
- C. Respective Administrator: The second-level supervisor from the grievant, such as a division chair, dean, vice president, or president.
- D. Procedural Observer: The observer monitors the proceedings to ensure that proper procedures are followed, adherence to the policy is maintained, and fairness is upheld throughout the process. The person may also take notes, provide guidance on procedural matters if needed, and ensure that the rights of all parties involved are respected.
- E. Informal Process: An informal meeting between the professional staff employee and the immediate supervisor to identify the complaint, discuss ways to resolve the complaint, and resolve the complaint at the lowest level possible. This process is initiated by the employee/grievant.

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- F. **Problem-Solving Procedure:** A process for a professional staff employee to address non-disciplinary, job-related matters, such as communication issues with a supervisor or co-worker, resistance to policies, performance evaluation rating, and inappropriate conflict with others, etc. This process is initiated by the employee/grievant.
- G. **Professional Staff Hearing Board (PSHB):** A group of professional staff employees who have the responsibility to hear each grievance no more than thirty calendar days after a grievance has been filed.
- H. **Grievance Procedure:**
 - i. Unless excluded below, a grievance is defined to include the following:
 - a) A violation of a specific provision of college policy that materially affects an employee's terms and conditions of employment; and/or,
 - b) An employee wishing to challenge the recommendation for his/her dismissal or demotion as defined in [Policy 3.117](#).
 - ii. Excluded from the grievance process are:
 - a) Issues related to the reassignment of duties.
 - b) Personality conflicts.
 - c) Non-renewal of appointments, unless an employee presents bona fide allegations and evidence to the president that the non-renewal of the employment contract was the result of discrimination prohibited by applicable law.
 - d) Layoffs resulting from the declaration of financial exigency.
- I. **Working Days:** Monday through Friday, excluding weekends, official college holidays (per the LC State Holiday Schedule), college closures, and employee leave time.
- J. **Extension of Time:** Either party may ask for an extension at any time during this process due to illness or other approved leave. This extension must be agreed upon in writing by the grievant and the respondent.

2. General Provisions

- A. Discrimination, sexual harassment, sexual misconduct, and other illegal discrimination based on race, color, age, religion, gender, national origin or disability, or any other status protected by law are absolutely prohibited. Allegations of the above will be reviewed and potentially investigated under [Policy 3.110](#), the policy prohibiting discrimination, sexual harassment, and retaliation and corresponding Procedural Guidelines.
- B. All parties, including a hearing board, will sign a confidentiality agreement and shall keep all matters discussed during this process in strict confidence. Only those individuals who are involved in the process will have access to the information and confidentiality agreements shall be signed and executed prior to gaining access to the information associated with the specific grievance.
- C. The administration of this procedure is the responsibility of HRS once they are notified that an employee/grievant has initiated a complaint. HRS facilitates the process to ensure compliance with this policy and all other applicable policies. HRS is available to answer questions about this policy. All correspondence, including the hearing board, must be copied to HRS.

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- D. The process described in this policy is an internal process to be initiated by the employee/grievant, intended to encourage informal dispute resolution and, when necessary, allow for structured but non-adversarial resolution of disagreements. Accordingly, employees who utilize this process are free to consult with legal counsel at their own expense, but attorneys are not permitted to attend or participate in the process.
- E. Retaliation is prohibited during the Problem-Solving / Grievance Process. No employee, Professional Staff Hearing Board (PSHB) members, or witnesses, may be disciplined or otherwise prejudiced in employment for exercising their rights or participating in the process under these procedures. The college considers such acts of retaliation against any staff member as a result of their involvement as unacceptable conduct and may constitute grounds for disciplinary action up to and including dismissal from employment.

3. Problem Solving Procedures

- A. LC State has adopted Problem-Solving procedures to provide professional staff employees with a fair approach to address issues. The procedure consists of three (3) separate tracks:
 - i. The “Informal Track” is initiated by the professional staff employee/grievant. It is a meeting between the employee and the immediate supervisor to resolve the problem at the lowest level possible. This is not a mandatory step in the process but is strongly encouraged.
 - ii. The “Problem-Solving Track” is for non-disciplinary, job-related matters.
 - iii. The “Grievance Track” is for a violation of a specific provision of college policy that materially affects the employee’s terms and conditions of employment; or an employee wishing to challenge the recommendation for his/her dismissal or demotion as defined in [Policy 3.117](#). The employee may start with the Grievance Track instead of starting with the Informal or the Problem Solving Track.
- B. Informal Track: Meeting with immediate supervisor
 - i. The employee is strongly encouraged to engage in an informal meeting with the supervisor to identify the precise complaint, discuss ways to resolve the complaint, and resolve the complaint at the lowest level possible. The employee will begin by completing the [Informal Meeting Resolution Form](#) and provide their suggested resolution. The supervisor will add their comments to the Informal Meeting Resolution Form, then will meet with the employee within five (5) working days to discuss. If the employee accepts the resolution, both the supervisor and the employee will sign the document.
 - ii. If a resolution is reached, the complaint is considered resolved and is not subject to reconsideration at a later date, unless the agreed-upon solution is not implemented. If the complaint is not resolved during the informal meeting with the supervisor, the employee may either file for Problem-Solving or file a Grievance, depending on the nature of the complaint (review definitions in 3A). If the employee does not file for either within ten (10) working days, the issue will be considered resolved.
 - iii. If the employee chooses not to participate in the Informal Track and moves directly to one of the other two Tracks, he/she must schedule a time to meet with HRS prior to filing.
- C. **Problem Solving Track**
 - i. A process for professional staff employees to address non-disciplinary, job-related matters with the respective administrator (one level up from their immediate supervisor).

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- ii. If the Informal Track (if applicable) to resolve the complaint is not satisfactory to the grievant, the grievant may initiate the Problem-Solving procedure. The grievant must submit the [Problem-Solving Form](#) to HRS and his/her respective administrator no later than ten (10) working days after the informal meeting with the supervisor, if it was used. This must address the following:
 - a) A concise statement of the facts surrounding the complaint.
 - b) An explanation of previous efforts to resolve the issue.
 - c) The remedy the grievant is seeking.
- iii. Within five (5) working days of filing the form, the grievant will meet with the respective administrator. Since the goal of this process is to resolve the problem, the respective administrator may also invite the grievant's supervisor(s) and any additional people who may be helpful in resolving the issue(s).
- iv. If applicable, within five (5) working days of this meeting, the respondent will meet with the respective administrator. Any additional people who may help resolve the issue may be included in this meeting, such as the respondent's supervisor. The respective administrator shall review the proposed resolution with HRS before providing it to the grievant.
- v. No later than three (3) working days after the meeting with the respondent, HRS, the grievant, and the respondent must receive, a suggested resolution from the respective administrator, in writing, on the Problem-Solving Form. The grievant must either accept the proposed resolution in writing, file for a review to request a final decision from the President or designee or choose not to proceed further.
- vi. If the grievant files for a review and the president is the respective administrator, the Vice President for Finance and Administration (VPFA) will review any requests for final decisions.
- vii. If a satisfactory resolution is not reached with the respective administrator, the grievant may file for a review by the president or designee no later than five (5) working days after receiving the suggested resolution from the respective administrator.
- viii. Within five (5) working days of receiving the Problem-Solving Form to review request, the president or designee must complete the review. The president or designee may confer with the direct supervisor; the Division Chair, Department Head, Dean, or Vice President; the grievant, the respondent, and any others who participated in the Problem-Solving Procedure to determine how to best resolve the complaint and complete the request for review.
- viii. The grievant, respondent, and HRS must receive a final decision from the president or designee, on the Problem-Solving Form, within three (3) working days after the review is completed. The Problem-Solving Procedure ends with the final decision of the president or designee.
- ix. A final Problem-Solving decision is not appealable.

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Timeline	Action
10 working days after informal meeting with supervisor	The grievant must submit the Problem-Solving Form to Human Resource Services and the respective administrator.
Within 5 working days after filing Problem Solving form	The grievant will meet with the respective administrator.
Within 5 working days after the above meeting	Respondent will meet with the respective administrator (if applicable). The respective administrator shall review the proposed resolution with HRS before providing it to the grievant.
No later than 3 working days after the meeting with the respondent	HRS, grievant, and the respondent must receive a suggested resolution from the respective administrator in writing on the Problem-Solving Form .
No later than 5 working days after receiving suggested solution	If a satisfactory resolution is not reached, the grievant may file for a review by the president or designee. If the president is the respective administrator, the VPFA will be the president’s designee.
Within 5 working days of receiving the review request	President or designee must complete the review.
Within 3 working days after review is complete	HRS, grievant and respondent must receive a final decision from the president or designee on the Problem-Solving Form . This decision is not appealable.

D. Grievance Track

- i. A grievance includes the following:
 - a) A violation of a specific provision of college policy that materially affects the employee’s terms and conditions of employment; and/or,
 - b) An employee wishing to challenge the recommendation for their dismissal or demotion as defined in [Policy 3.117](#). The employee/grievant does not have to follow the Informal or the Problem Solving track to use the Grievance track. They may begin with the Grievance track. This track is initiated by the grievant/employee..
- ii. Preliminary Procedures
 - a) If the informal process was used and the resolution is not satisfactory to the grievant, the grievant may initiate the Grievance Track. The grievant should do so by submitting the [Professional Staff Employee Grievance Report](#) to HRS no later than ten (10) working days after the informal meeting with his/her supervisor in which meets the criteria for section D.i. The employee/grievant must use the form to clearly state (a) the facts surrounding the grievance, (b) an explanation of previous efforts to resolve the issue, and (c) the remedy the employee is seeking.

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- b) Within three (3) working days of receiving the Grievance Report and upon receiving a signed confidentiality agreement from each member of the PSHB, HRS will distribute a copy of this report to the grievant, the respondent, the respective administrator, and the PSHB as comprised and described in Section 7 of this policy. The chair of the PSHB will meet with HRS to review and receive guidance on the policy and the procedure. HRS will furnish the chair with detailed guidelines on procedures for conducting the grievance hearing and will provide support to the chair throughout the entire process. HRS will provide guidance prior to the PSHB issuing their final recommendation.
 - c) Within five (5) working days of receipt of the formal grievance, the PSHB and a member from the HRS staff shall meet to review the case to determine if the matter is grievable under this procedure and the PSHB will issue a written notice to HRS of whether or not a hearing will take place, and if so, set forth the time and place for the hearing after consulting with the grievant and respondent.
 - d) Within three (3) working days, HRS will distribute this written notice to the grievant, the respondent, and the respective administrator. There is no further internal appeal process if the PSHB rules that the matter is not grievable.
 - e) The authority to review the recommendations from the PSHB and make the final institutional decision shall reside with the VPFA or his/her designee for policy violations, or the president to review recommendations to dismiss or demote an employee. If the grievance involves the VPFA, the president shall make the final institutional decision.
- iii. Hearing and Findings
- a) The hearing shall be conducted subject to procedures set forth by the PSHB and in consultation with HRS.
 - b) Both parties shall present their positions. The grievant shall present their position first.
 - c) The respondent shall present their position and have the opportunity to respond to the other party.
 - d) Witnesses shall be invited by the grievant and/or respondent into the hearing and excused by the chair or member of the PSHB. Witnesses may be questioned by both parties and the PSHB.
 - e) The grievant first then the respondent will have an opportunity to speak after hearing from the witnesses and present their final position.
 - f) The chair will assist in clarifying issues and determining fact, as well as with the general conduct of the hearing. The PSHB may ask questions of both parties to help understand the facts.
 - g) The hearing is not intended to be overly formal or in the nature of a court proceeding.

4. The Professional Staff Hearing Board (PSHB)

- A. The Professional Staff Organization (PSO) will elect a pool of seven (7) members to serve a two-year term. The PSHB (PSHB) shall consist of five (5) members (all of whom are professional staff at LC State). As the need arises, three (3) members of the pool will be selected by the PSO to serve on the Hearing Board, and one (1) of the three (3) selected members will be designated by the Chair of the PSO to serve as Chair of the Hearing Board. The final two (2) members of the hearing board will be appointed by the President.

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- B. PSHB members shall not include individuals who have an interest in the case, or who have supervisory authority over the grievant or respondent or in some other way, have a conflict of interest or bias in the case. In the event a member must excuse him or herself due to a conflict, a replacement will be identified by the same entity that appointed that member.
- C. Three (3) of the five (5) members of the PSHB shall constitute a quorum for the purpose of hearing a grievance and rendering a decision by majority vote of those present. No member of the PSHB who has not attended the evidentiary hearing shall participate in the decision.

5. Responsibility of the Professional Staff Hearing Board

- A. The PSHB has the following responsibilities:
 - i. To hear each grievance promptly and in no event more than thirty (30) working days after the grievance has been filed, pending extenuating circumstances.
 - ii. To review all evidence presented to it, including all documentation provided by the grievant and the respondent.
 - iii. To grant extensions of time when circumstances warrant.
 - iv. To act as an impartial fact-finding body representing neither side in the cases brought before it. It does not take any corrective actions nor make any binding decision, but exits solely to hear the facts of each case, make a series of findings based upon those facts, and recommend a course of action to the VPFA or President.
 - v. To make written findings and recommendations to the VPFA or President. The recommendation is made to the VPFA or President of whom will consult with HRS then make the official recommendation and notify the grievant and respondent in writing.
- B. Each party to a grievance is permitted a peer advisor (non-attorney) and witnesses.
- C. At the request of either party or at the direction of the PSHB, the proceedings of the Hearing (other than the Hearing Board's deliberations) shall be recorded. Records of all grievance proceedings shall be subject to the provisions of [Idaho Code Section 74-106](#).
- D. The PSHB shall summon the grievant, the respondent, witnesses, and a mutually acceptable procedural observer who will be present during the entire hearing, to appear before the PSHB.
- E. Each party to a grievance has the responsibility and right to present its case in writing or in person. Should both parties submit the grievance in writing, no hearing will be necessary. If the hearing is conducted, the respondent and the grievant have the right to question witnesses and to be present for the full hearing. The hearing shall be closed except that both parties, and their representatives, are entitled to be present during the entire hearing. The deliberations of the PSHB shall be conducted in private.
- F. The findings and recommendations of the PSHB shall be promptly reported in writing to the Director of HRS, and the VPFA or the President, no event more than five (5) working days after the close of the hearing. The VPFA or the President, in consultation with HRS, will review the PSHB findings and recommendations.

6. Final Decision

- A. Within five (5) working days after receiving the recommendations from the PSHB, the VPFA, or, depending on the nature of the grievance, the President, will review the PSHB recommendations and provide a written response to the grievant, the respondent, the PSHB chairperson, and the respective administrator of which shall include a statement of rationale for his/her decision.

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- B. The record of the hearing shall include at a minimum:
 - i. The [Informal Meeting Resolution Form](#) (if applicable)
 - ii. The [Professional Staff Employee Grievance Report](#).
 - iii. The findings and recommendations of the Professional Staff Hearing Board.
 - iv. The VPFA or President’s decision.
- C. If the grievance was filed to dispute a recommendation for dismissal or demotion, after receiving the findings and recommendations from the hearing board, the President will review the hearing board’s findings and recommendations and the record of the grievance hearing and will issue a written notice of final decision to the grievant, the grievant’s supervisor, and the Chair of the PSHB of whom will inform the PSHB, setting forth the President’s reasons for his/her final decision. Notice of the decision shall be given in the same manner as the notice of a recommendation for dismissal or demotion was given by the President under [Policy 3.117](#), F.3 (a) - (d).
- D. The decision of the President shall be the final institutional decision.
- E. Such record shall be retained by Human Resource Services for a period of not less than five (5) years after the date of the VPFA or President’s decision. LC States’s decision at the conclusion of the grievance process is final per [SBOE Policy II.M.2](#)

Timeline	Action
No later than ten (10) working days after the informal meeting with their supervisor	Employee who wishes to file a grievance shall submit the Professional Staff Employee Grievance Report to HRS.
Within three (3) working days of receiving the Grievance Report	HRS will distribute a copy of this report to the respondent, the respective administrator, and the PSHB.
Within five (5) working days of receipt of the grievance	PSHB shall meet to determine if the matter is grievable under this procedure, shall consult with HRS, then will issue a written notice to HRS.
Within three (3) working days	HRS will distribute this written notice to the grievant, the respondent, and the respective administrator.
No more than thirty (30) working days after the grievance was filed	PSHB must convene and hear or review the grievance.
No more than five (5) working days after the close of the hearing	The recommendations of the PSHB shall be reported in writing to the Director of HRS, and the VPFA or the President.
Within five (5) working days	The VPFA or president will review the PSHB recommendations, consult with HRS, and then provide a written response to the grievant, respondent, PSHB chairperson, and the respective administrator.

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7. Related Laws and Policies

- A. Idaho State Board of Education Human Resources Policies and Procedures, Section II.M.2.
- B. Dismissal of Faculty and Other Exempt Employees for Cause Policy 3.117.
- C. Idaho Code Section 74-106.
- D. Discrimination and Sexual Harassment Policy 3.110