

Davis Technical College

Employment Grievances Policy

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Board Approval: 30 January 2003

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1. Purpose

To provide policy and procedures to ensure fair treatment for Davis Technical College (College) employees who seek to resolve work-related grievances.

2. References

2.1. Board of Regents Policy and Procedure R831, Minimum Requirements for Non-Faculty Staff Employment Grievances Policy

3. Definitions

3.1. Employment Grievance - a grievance concerning interpretation or application of personnel policies or practices; working conditions; employee-supervisor relationships; disciplinary sanctions, or termination or non-retention, or other personnel matters. Certain employment issues not eligible for employee grievances include position descriptions, classification of positions, and establishment of salaries commensurate with classifications.

3.2. Final and Binding Decision - a final administrative decision. The complainant cannot take the matter any further administratively.

3.3. Final and Binding Decision-Maker - the cognizant Vice President of the College, or his or her designee, empowered to render the final decision of the College. If the grievance is against a College Vice President, or a member of the College President's Office, the final and binding decision maker is the College President, or his designee.

3.4. Immediate or First-Level Supervisor or Supervision - the lowest level of exempt salaried supervision of the employee as defined in the Fair Labor Standards Act and Department of Labor regulations.

3.5. Grievance Hearing - in grievances of dismissal from employment, a hearing before a panel of the Personnel Relations Committee; in grievances of lesser disciplinary sanctions and other matters, a hearing before either a panel of the Personnel Relations Committee or a designated administrator or officer, as provided by this policy.

3.6. Human Resource Office - that office or individual in the College charged with the administration and record maintenance of personnel matters, or such other person as may be specially designated by the College President to act as a neutral party to assist with the resolution of grievances at the College. The Human Resource Office should not be represented by membership on the Personnel Relations Committee.

3.7. Personnel Relations Committee - a committee established by the Human Resource Office. Membership will be from Classified, Professional/Administrative, and Faculty employee groups as a cross section of the College community. Such members are to be selected for their objectivity and fairness in personnel matters.

3.8. Staff Member – a Classified, Professional/Administrative, or Faculty employee who receives compensation for work or services from funds controlled by the College, regardless of the source of the funds, the duties of the position, the amount of compensation paid, or the percent of time worked. There are two categories of Staff Member subject to this policy:

3.8.1. Regular Staff Member - a full-time (40 hours per week) salaried or hourly benefited staff member whose employment is defined by the College as being of a continuous nature, initially funded for a non-temporary period, who has successfully completed the probationary period. This includes full-time (40 hours per week) Classified, Professional/Administrative, and Faculty personnel. Normally, a regular staff member is one assigned to work 75% or more in a position expected to last more than 12 months.

3.8.2. Part-Time, At-Will, Temporary, or Probationary Staff Member - a staff member assigned to work less than full-time, or in a position considered part-time hourly, temporary or expected to be of short duration, as defined by the College; or a newly hired employee in a regular position but still in the probationary status. Normally, a part-time staff member is one assigned to work less than 75%; a temporary position is one not expected to be available after 12 months.

4. Procedures

4.1. Discrimination or Harassment Complaints - Problems or complaints involving a claim of discrimination or harassment on the basis of race, color, national origin, religion, sex, age, disability, or veteran's status are processed as provided by current College policy and procedure on equal opportunity and nondiscrimination in employment.

4.2. Part-Time, At-Will, Temporary or Probationary Staff Members - These grievance procedures shall not be generally available to part-time, at-will, temporary or probationary staff members. At the discretion of the cognizant Vice President, such procedures as are provided shall be limited to informal processes and will not involve a hearing before the Personnel Relations Committee. Regular staff members shall be provided grievance procedures in conformance with these policy and procedures.

4.3. Informal Discussions with Supervisor - Regular staff members and those part-time, temporary or probationary staff members who have access to grievance procedures under College policy shall first attempt to resolve employment grievances through informal discussions with their immediate supervisors. The Human Resource Office shall be available to assist both parties in the informal resolution of grievances. A staff member may not be subjected to intimidation or reprisal for assertion of an employment grievance.

4.4. Grievance Review Process - An employment grievance review process, including appropriate time lines, is available to all regular staff members who are not satisfied with the results of informal discussions. A staff member has the right to be accompanied by another employee or a person of his or her choice during a formal grievance proceeding. This person is a support for the employee and not to be considered the representative of the employee. The Personnel Relations Committee has the right to directly address and receive an answer from the employee without interference. Each party has the right to hear the presentations of the other parties, and the right to be heard.

4.5. Alternative Process Adjustments - If any steps provided for in this policy are impractical for any reason, the Human Resource Office, normally after consultation with the staff member, may prescribe an alternative process which, to the maximum practicable degree, assures to the aggrieved staff member the fair and adequate consideration of the problem or complaint; provided, however, that a regular staff member's right to a hearing before the Personnel Relations Committee can not be denied nor abridged.

4.6. Time Off With Pay - Reasonable time off with pay during scheduled working hours shall be provided to the staff member, the staff member's representative, or any witnesses called to testify, for time spent participating in proceedings leading to resolution of the complaint. Time spent by the employee or representative in such activities outside scheduled working hours is non-compensable. Neither time-off with pay nor compensation is provided for time or money spent in preparation for such proceedings. The Personnel Relations Committee may use resources available to it to obtain the appearance of necessary witnesses.

4.7. Schedule of Proceedings - The conduct of the grievance procedure shall proceed as expeditiously as is reasonable under a time frame established by the Human Resource Office. Time limits so established may be extended by mutual agreement between the Human Resource Office and the aggrieved staff member.

4.8. Pre-Hearing Conference - A regular staff member not satisfied with solutions proposed as a result of attempted informal resolution established by College policy shall be entitled to a pre-hearing conference with the Human Resource Office and the employee's immediate supervisor as a further attempt to resolve employment grievances.

4.9. Personnel Relations Committee Hearing - A regular staff member not satisfied with solutions proposed, as a result of any pre-hearing procedures established by College policy, shall be entitled to a hearing before the Personnel Relations Committee. Each party to the complaint shall be notified, has the right to be accompanied at the hearings by a person of his or her choice, has the right to hear the presentations of the other parties, and has the right to be heard by the Committee. The person selected by the Director of Human Resources to be the chairperson of the Personnel Relations Committee shall be in control of each meeting or hearing held by the Committee and shall set all hearing protocols and procedures.

4.10. Reasons to Excuse a Committee Member from Participation - A Personnel Relations Committee member shall be excused from participation by the Director of Human Resources before or during any grievance deliberation where the committee member may be influenced by personal relationships with the parties, by bias concerning the circumstances giving rise to the complaint, or by any other material influence which would appear to inhibit the member's ability to render an unbiased judgment.

4.11. Final and Binding Decision - When a hearing is held, the final and binding decision-maker shall review the written report, findings and recommendations of the Personnel Relations Committee. Based upon such review and without conducting further hearings, he or she, shall take one of the following actions:

4.11.1. Ratify the Committee's findings and adopt its recommendations.

4.11.2. Return the report to the Committee for reconsideration or clarification.

4.11.3. Reject all or parts of the Committee's findings and recommendations on one of the following grounds, among other possible reasons:

4.11.3.1. The Committee's recommendations are not supported by the record, or,

4.11.3.2. The Committee's recommendations are based on a misinterpretation of applicable law or policy.

4.12. Notification of Final Decision - Written notification of the final and binding decision shall be communicated by the final and binding decision-maker to all parties concerned.

4.13. Grievance Limitations - An employee may not institute more than one grievance procedure based on the same facts, circumstances, or events.