

## 6. CONFLICT MANAGEMENT SYSTEM

The intent of this policy is to provide faculty and administration a clear path to resolving differences. Conflict is both an inevitable part of the workplace and an opportunity for improvement. Every conflict is unique and may require a distinct path to resolution. MCCCDC is committed to offering the faculty access to the District's coordinated network of options for the good faith review and resolution of workplace conflicts. These options include:

- An informal process to encourage prompt resolution of disputes. The informal step may include consultation, facilitated discussions, or mediation; and
- A formal process for conflicts not resolved through informal efforts, including facilitated discussion, mediation, and review by the College President and Chancellor.

The Grievance procedures established in this section are not the sole and exclusive remedy available to a grievant for resolving disputes arising under this document. It is understood that the subject matter forming the basis of the Grievance or Resolution of Controversy may also be instituted in an administrative action before a governmental board or agency. The provisions of Section 3.8. still apply.

### Issues not covered by this policy

- Claims that involve accusations of harassment, or violations of the Americans with Disability Act (ADA) or other EEO issues, should be reported to the Office of Equal Employment Opportunity. See Administrative Regulation 5: Non-Discrimination for more information.
- Title IX claims shall be reported to the Vice President of Student Affairs and to the District Director of HR Solutions Center. See Administrative Regulation 5: Non-Discrimination for more information.
- Alleged violations of law, mismanagement, gross waste of monies or abuse of authority refer to Administrative Regulation 6.20: Whistleblower Protection.
- Allegations regarding perceived impairment of a faculty member that is manifesting in the workplace, should be reported to District Human Resources.
- Allegations of criminal conduct or perceived violations of workplace violence should be reported to Public Safety Department. See Administrative Regulation 2.4.12: Workplace Violence Prevention for more information.

### 6.1. Definitions

#### Grievance

A Grievance is an alleged misapplication, misinterpretation, or violation of a specific provision(s) of the Residential Faculty Policies (RFP) or Administrative Regulations that adversely affects the grievant, as defined below. Initiation of a Grievance is the procedure by which a grievant may challenge a decision rendered by a supervisor, as defined below. Matters not specifically covered by the RFP or Administrative Regulations should be addressed through the Resolution of Controversy process, as defined below.

#### Grievant

A grievant is a faculty member or members covered by the RFP who initiates the Grievance process as described in Section 6.3. If the aggrieved party is the College Faculty Senate or District Faculty Association, the Grievance will be initiated at the appropriate level.

Finkenstadt,Patricia..., 4/13/2016 5:26 PM

**Comment [1]:** Proposed new language for Conflict Management, including Grievances and Resolutions of Controversy.

**Resolution of Controversy (RoC)**

All faculty shall be accorded professional and courteous treatment by their colleagues and supervisors. A Resolution of Controversy (RoC) will be available for faculty to resolve workplace conflicts that are not Grievances. This process may be used to resolve issues such as, but not limited to, poor communication, different values, differing interests, scarce resources, and personality clashes. Initiation of a Resolution of Controversy is the procedure by which a complainant may challenge a decision rendered by a supervisor, as defined below.

**Complainant**

A complainant is a faculty member or members covered by the RFP who initiates the Resolution of Controversy (ROC) process. If the aggrieved party is the College Faculty Senate or District Faculty Association, the Resolution of Controversy will be initiated at the appropriate level.

**Supervisor**

A supervisor is an individual with the authority to render a decision under the RFP or Administrative Regulations. For the purposes of this policy, it is assumed that Grievances or RoC may challenge decisions made by employees of the District Support Services Office when acting in a supervisory capacity and the levels will proceed according to their respective reporting structures.

**6.2. Core Elements of the Conflict Management System****Facilitator**

A trained, neutral third party that may, upon request and agreement of all parties, facilitate problem-solving meetings at the informal or formal level.

**Grievance File**

All documents, communications, and records dealing with the processing of a formal Grievance shall be maintained in a separate Grievance file by District Human Resources and shall not be kept in the personnel file of any participant. Tracking and documenting all Grievances will be the responsibility of District Human Resources. A member shall have access to all documents pertaining to his/her Grievance and shall be provided copies of same.

**Investigation**

Prior to initiating any investigation, District or College leadership must contact District Human Resources. District or College leadership should proceed according to District Human Resources Guidelines, which will include notifying the Faculty Senate President or Faculty Association President, and informing the faculty member being investigated unless such notification would jeopardize the integrity of the investigation or harm the institution.

**Just Cause**

No faculty member shall be disciplined, reprimanded, suspended, or reduced in assignment or compensation without just cause.

**Mediator**

A trained, certified and neutral third party who may, as defined in Section 6.3., mediate the formal or informal process, following the steps outlined in Section 6.5.

**Meetings for problem-solving**

All meetings and hearings under this procedure shall be conducted in private and shall include relevant parties, their designated or selected representatives and a facilitator or mediator, if requested. The intent of the conflict management system is to provide confidential resolution of Grievances and complaints. However, Governing Board policy and state or federal law may preempt this good-faith intent.

**Representation**

A faculty member may be accompanied by another employee, such as the Faculty Senate President, to meetings under this policy. The employee will be provided time to attend the meetings. When any faculty member is required by the College President to appear before the Chancellor, Governing Board, or any committee thereof, concerning any matters that could adversely affect employment, he/she shall be entitled to select a representative and/or to have legal counsel present to advise and/or represent him/her during such meetings.

**Retaliation**

Faculty and administration are prohibited from retaliating against any individual for using the conflict management system. Retaliation or retribution by any employee against any person who files a complaint may result in disciplinary action up to and including termination. Similarly, if it is determined that the complaint is materially false and that it was made in bad faith, the complaining party may be subject to disciplinary action up to and including termination or expulsion. Any employee who believes that retaliation is occurring shall report such actions to Human Resources.

**Scope of Grievance or Resolution of Controversy**

Disputed issues which were not presented in writing at the prior Grievance or RoC level may not be asserted at the next higher level.

**Timelines**

Timelines may be extended through mutual agreement. Failure of the administration to render a decision within the prescribed timelines automatically elevates the Grievance or RoC to the next level. Failure of the grievant or complainant to elevate the Grievance or RoC within the prescribed timelines ends the process. Every effort shall be made to resolve Grievances and RoCs prior to the end of the academic year. Resolution of Grievances and RoCs may require continuation into the next academic year. Such continuation will suspend all procedural timelines until resumption of faculty accountability. In consultation with District Human Resources, the parties may mutually agree to continue during non-accountability periods. Initiation of either process under this section within the prescribed timelines will be deemed sufficient to toll the matter without prejudice to the grievant/complainant.

**Written Decisions**

Decisions rendered at all levels of the conflict management system shall be in writing, setting forth the decision and the reasons therefore, and shall be transmitted promptly to all parties in interest. Decisions that are unsatisfactory to the aggrieved person may be elevated through the conflict management system.

### **6.3. Procedures for Grievances or Resolutions of Controversy**

#### **6.3.1. Level One: Informal Process**

Many Grievances or Resolutions of Controversy (RoC) can be efficiently resolved through direct communication or negotiation with colleagues, supervisors or appropriate administrators. Depending upon the specific organizational hierarchy, there may be multiple supervisory levels to attempt to resolve the Grievance or RoC prior to escalating the conflict to the formal level. These may include, but are not limited to Occupational Program Directors, Division/Department Chairs, or Deans. By mutual agreement all supervisory levels may meet during the informal step to resolve the issues in a single meeting and parties may request a neutral facilitator or mediator (see RFP 6.x) to assist in the discussion.

Within twenty-five (25) accountability days of the occurrence of the act or omission giving rise to the Grievance or RoC or within twenty-five (25) accountability days of the date when the grievant or complainant should reasonably have known of the act or omission, the employee shall present the Grievance orally to his/her immediate supervisor. For a Grievance, the grievant shall cite the specific section of the RFP or Administrative Regulation which has allegedly been misapplied, misinterpreted, or violated. For a RoC, the complainant shall specify the nature of the complaint. The purpose of bringing the matter to the attention of the immediate supervisor is to resolve the matter at the lowest level.

The supervisor or administrator has five (5) accountability days to schedule the problem-solving meeting. The actual problem-solving meeting will be held within ten (10) accountability days of scheduling the meeting. A decision will be rendered within five (5) accountability days of the problem-solving meeting. The decision will be rendered in writing to the grievant or complainant.

If other levels of supervision before Level One of the Formal Process (Appropriate Vice President) exist and are appropriate, then the grievant or complainant is required to informally proceed to the next level. The timeline noted above will be followed by both parties. By mutual agreement all supervisory levels may meet during Level One to resolve the issues in a single meeting.

#### **6.3.2. Formal Process**

##### **6.3.2.1. Level Two: Appropriate Vice President**

If the grievant or complainant is not satisfied with the disposition of the alleged Grievance or Resolution of Controversy (RoC) at the informal level, the grievant or complainant may file a Grievance or RoC, in writing, within ten (10) accountability days with the Vice President who is the immediate supervisor of the person to whom Grievance or RoC was taken at the informal level. If the grievant or complainant elects not to file the Grievance or RoC in writing within ten (10) accountability days, the Grievance or RoC will be considered terminated.

The Vice President has five (5) accountability days to schedule the formal meeting. The actual problem-solving meeting will be held within ten (10) accountability days of scheduling the meeting. A written decision will be rendered within fifteen (15) accountability days of the problem-solving meeting. If no decision is rendered within fifteen (15) accountability days after the problem-solving meeting, the Grievance or Resolution of Controversy is automatically forwarded to the next level.

**6.3.2.2. Level Three: College President**

If the grievant or complainant is not satisfied with the disposition of the Grievance or Resolution of Controversy (RoC), the grievant or complainant may, within five (5) accountability days of the decision of the appropriate Vice President, forward the written Grievance or RoC and the response received from the Vice President, to the College President. If the grievant or complainant elects not to forward the Grievance or RoC in writing within five (5) accountability days of the meeting with the Vice President, the Grievance or RoC will be considered terminated.

The College President has five (5) accountability days to schedule the problem-solving meeting. The actual problem-solving meeting will be held within ten (10) accountability days of scheduling the meeting. The College President will issue a written response to the grievant or complainant and to the Faculty Senate President within fifteen (15) accountability days after the problem-solving meeting. If no decision is rendered within fifteen (15) accountability days after the problem-solving meeting, the Grievance or RoC is automatically forwarded to the next level.

**6.3.2.3. Level Four: Chancellor**

If the grievant or complainant is not satisfied with the disposition of the Grievance or Resolution of Controversy (RoC), the grievant or complainant may, within five (5) accountability days of the decision of the College President, forward the written Grievance or RoC and the response received from the College President, to the Chancellor. The Chancellor has five (5) accountability days to schedule the problem-solving meeting. The actual problem-solving meeting will be held within ten (10) accountability days of scheduling the meeting. The Chancellor will issue a written response to the grievant or complainant and to the Faculty Senate President within fifteen (15) accountability days after the problem-solving meeting. The decision of the Chancellor is final and binding.

**6.4. Grievances or Resolutions of Controversy by Action of Vice Chancellors or Chancellor**

**6.4.1.**

If the Grievance or Resolution of Controversy (RoC) is the result of conduct of a Vice Chancellor, the grievant or complainant will request a meeting with the appropriate Vice Chancellor in an

effort to resolve the conflict. The Vice Chancellor has five (5) accountability days to schedule the problem-solving meeting. The actual problem-solving meeting will be held within ten (10) accountability days of scheduling the meeting. The Vice Chancellor will issue a written response to the grievant or complainant and to the Faculty Association President within fifteen (15) accountability days after the problem-solving meeting.

If the grievant or complainant is not satisfied with the disposition of the Grievance or RoC, the grievant or complainant may, within five (5) accountability days of the meeting with the Vice Chancellor, may file a Grievance or RoC, in writing, to the Chancellor. The Chancellor has five (5) accountability days to schedule the problem-solving meeting. The actual problem-solving meeting will be held within ten (10) accountability days of scheduling the meeting. The Chancellor will issue a written response to the grievant or complainant and to the Faculty Association President within fifteen (15) accountability days after the meeting. The decision of the Chancellor is final.

#### **6.4.2.**

If the Grievance or Resolution of Controversy (RoC) is the result of conduct of the Chancellor, the grievant or complainant will request a meeting with the Chancellor in an effort to resolve the conflict. The Chancellor has five (5) accountability days to schedule the meeting. The actual problem-solving meeting will be held within ten (10) accountability days of scheduling the meeting. The Chancellor will issue a written response to the grievant or complainant and to the Faculty Association President within fifteen (15) accountability days after the meeting.

If the grievant or complainant is not satisfied with the disposition of the Grievance RoC, the grievant or complainant may, within five (5) accountability days of the meeting with the Chancellor, submit the Grievance or Resolution of Controversy request to the Governing Board. The Governing Board may, at its option within thirty (30) accountability days after receipt of the written Grievance or Resolution of Controversy, review the evidence and issue a written decision which shall be final. Should no written decision be rendered within thirty (30) accountability days, the decision of the Chancellor is final.

### **6.5. Mediation Process**

#### **6.5.1. Mediation Process**

If all parties agree to mediate the Grievance or Resolution of Controversy (RoC), the Faculty Senate President or Faculty Association President will request that the Office of the Vice Chancellor for Human Resources contact the mediation service. The Mediator (trained, certified, and neutral) will mediate, conciliate, and coordinate communication among

disputing parties. Timelines may be extended by mutual agreement.

**6.5.1.1.**

The Mediator shall coordinate meetings and/or the exchange of correspondence between the disputing parties. The Mediator shall establish the time, date, and place of each meeting, giving at least 48 hours notice. If all parties agree, mediation can occur with less than 48 hours notice.

**6.5.1.2.**

The Mediator shall forward copies of the complaint and the mediation guidelines to the disputing parties. All mediation meetings shall be closed and confidential.

**6.5.1.3.**

If the matter is resolved through mediation, the Mediator shall prepare an Agreement within five (5) accountability days of the completion of the mediation stating:

- The names of the parties
- That the mediation was successful
- The terms of the resolution.

Each party shall sign and date the Agreement at which time the mediation process ends.

**6.5.1.4.**

The Notice of Resolution, which will include the names of the parties involved, that the mediation was successful and the date of resolution, will be sent to the parties involved, the Faculty Senate President or Faculty Association President, the appropriate Vice President(s), and the College President.

**6.5.1.5.**

Information received by the mediator during the mediation process will be confidential. Personal notes and minutes created or received during the mediation will be destroyed by the Mediator. The Mediator will not testify or provide statements about cases in which he or she were involved to Grievance or any other committees or hearing boards.

**6.5.1.6.**

The Mediator may terminate mediation after meeting with each party at least once if it is apparent that the matter cannot be mediated.

**6.5.1.7.**

If the matter is grievable or subject to the Resolution of Controversy process, a party has an additional fifteen (15) accountability days from the termination of mediation to proceed with the formal level of the Grievance or Resolution of Controversy process addressed in Section 6.3. in accordance with the terms thereof.

**6.5.1.8.**

The mediation process shall conclude within forty-five (45) accountability days following the assignment of a mediator to the dispute. If no final resolution has been reached within that time, the mediation process shall cease; however, the mediator shall continue the mediation process for no more than fifteen (15) additional accountability days if the mediator and all parties to the mediation expressly acknowledge that the mediation process has been constructive and that the mediator and all parties believe that continuing the process will lead to a successful resolution of the dispute.

Patricia Finkenstadt 4/13/2016 5:26 PM  
**Comment [2]:** Updated section number.

**6.6. Administrative Evaluation**

**6.6.1.**

The purpose of this process is to evaluate the validity of a complaint against a Faculty member and, at the option of the College President or designee, to provide guidance as to appropriate action. This process should not be used to evaluate student claims of discrimination or student complaints involving an academic process.

**6.6.2.**

The College President, or designee, in response to a written, signed complaint from a student, Faculty member, administrator, or staff, may initiate an administrative evaluation after advising the Faculty member within fifteen (15) accountability days of receipt of the complaint; and, at the option of the Faculty member, will advise the Faculty Senate President.

**6.6.3.**

The evaluation team for an administrative evaluation shall consist of the appropriate Vice President, a Faculty member chosen by the evaluatee, and a Faculty member appointed by the College President, who may ask that this Faculty member be appointed by the Faculty Senate President. In no instance shall the Department/Division Chair of the evaluatee or the Faculty Senate President serve on the evaluation team. The evaluatee

Finkenstadt,Patricia..., 4/13/2016 5:26 PM  
**Comment [3]:** All changes in the remainder of Section 6 are to align section numbers unless otherwise noted.

must secure the Faculty member and communicate acceptance to the College President or designee within seven (7) calendar days of notification of the Administrative Evaluation; otherwise, the Faculty Senate President will appoint a Faculty member within seven (7) calendar days after the failure occurs.

**6.6.4.**

Prior to the evaluation, the College President, in consultation with the evaluation team, will determine the nature and scope of the evaluation. The scope may be expanded to include recommendation for action to the College President. The evaluation process is confidential. Only the results of the evaluation will be discussed with the evaluatee, the evaluation team, and, at the option of the evaluatee, the Faculty Senate President. A report that explains the evaluation results will be generated within forty (40) accountability days from the receipt of the signed complaint and placed in the evaluatee's official personnel file (see also RFP 3.9.4. & 3.9.6.). The College President and the evaluatee will receive a copy of this evaluation. By mutual agreement between the College President or designee, evaluation team and evaluatee, the deadline may be extended.

**6.6.5.**

The College President will have fourteen (14) calendar days from receipt of the report to take any action deemed necessary based on the results of the evaluation.

**6.7. Conflict Between Student and Faculty Member**

When there is a complaint by a student against a Faculty member, the proper District or College authority will work in confidence with the parties to resolve the conflict. A Faculty member will not be required to respond to any complaint that is not in writing over complainant's signature or to complaints that do not have specific documentation of incidents such as dates, times, etc. This complaint must be made available to the Faculty member involved.

**6.7.1.**

A student who feels that he/she has been treated unfairly or unjustly by a Faculty member (full-time or part-time) with regard to an academic process such as grading, testing, or assignments, shall discuss the issue first with the Faculty member involved. This conference shall be requested by the student within fifteen (15) business days from the time the student knew or reasonably should have known about the unfair or unjust treatment. This instructional grievance process shall not be utilized in a case in which a student feels he/she has experienced discrimination. If the student feels that he/she has experienced discrimination on the basis of race, color, religion, national origin, gender, age, disability, veteran status, or sexual orientation, the student shall refer to the Discrimination Complaint Procedures for Students as administered by the Vice President for Student Affairs.

**6.7.2.**

If, within ten (10) business days of the request for the conference with the Faculty member, the problem is not resolved or the Faculty member has been unable to meet with the student, the student may continue the process by filing a written complaint with the Department/Division Chair and appropriate administrative office at the College. This written complaint must be filed within ten (10) business days following the previous deadline. The written complaint will be given to the Faculty member five (5) days before any official meetings are convened.

**6.7.3.**

Upon receipt of a written complaint, the Department/Division Chair or appropriate college administrative officer will work with the parties in an attempt to resolve the conflict. The Faculty member may ask that the Faculty Senate President be in attendance. Every attempt will be made to maintain confidentiality during this process.

**6.7.4.**

A Faculty member will not be required to respond to a complaint that is not in writing and that, when appropriate, did not have the specific documentation including dates, times, materials, etc. The written complaint will be made available to the Faculty member.

**6.7.5.**

If the complaint is not resolved at this level within ten (10) business days, the student should forward, to the Vice President of Academic Affairs or appropriate College administrative office, a copy of the original written complaint with an explanation regarding action taken at each prior level. The Vice President of Academic Affairs or appropriate College administrative officer will meet with the student, Faculty member, the Department/Division Chair, and the Faculty Senate President (the latter upon request of the Faculty member), and attempt to resolve the issues. This level will be the final step in any complaint process regarding grades.

**6.7.6.**

If the complaint, other than those concerning grades, is not resolved by the Vice President of Academic Affairs or the appropriate College administrative officer, it may be forwarded in writing by the student to the College President for final resolution. The College President, or designee, will expedite a timely examination of the issues and will issue a final written determination in the complaint process.

**6.8. Internal Investigations**

**6.8.1.**

Internal investigations will be conducted only by agents granted investigative authority pursuant to MCCC policies and procedures, or by an administratively authorized assignment or contract.

To the extent allowed by law, a Faculty member against whom a complaint is filed will be provided with:

**6.8.1.1.**

a written copy of the complaint, if and when MCCCC procedure requires, or if a preliminary review or investigation indicates that a response from the accused Faculty member must be requested to complete the investigation and/or to comply with MCCCC policies and procedures.

**6.8.1.2.**

a written copy of the investigator's final determination or recommendations at the conclusion of the investigation.

**6.8.2.**

A Faculty member may submit a written response to the allegations at any time during the investigation, as well as a written rebuttal after the investigator's final determination or recommendations have been issued. The complaint and all written statements, responses, and rebuttals will be appended to the investigator's official final determination or recommendations.

**6.8.3.**

A Faculty member who is required to appear or respond to a matter related to an internal investigation has a right to representation and counsel as stipulated in Section 6.2. In no case shall a Faculty member be required to appear or respond prior to receiving a written copy of the complaint.

**6.8.4.**

Retaliation or retribution by a Faculty member against any person who files a complaint may result in disciplinary action up to and including termination. Similarly, if the investigator determines that the complaint is materially false and that it was made in bad faith, the complaining party may be subject to disciplinary action up to and including termination or expulsion.