Northern Marianas College Procedure

Procedure No.:	5006.1	Procedure Title:	Employee Grievances
Issuing Date:		Adoption Date:	Effective Date:
Office of Origin:	Human Resources Office		
Procedure Approval Authority:	President		
Board Policy No. Associated with this Procedure:	5006		
This Procedure Supersedes/Replaces:	New		

The written steps necessary to appropriately and uniformly perform a task in carrying out policies and activities of the College.

Overview/procedure description

Situations may occur where an employee believes that the fair and consistent application of a policy or procedure affecting him or her has not been followed. In most cases, the College expects that the employee will be able to satisfactorily address such concerns with his or her supervisor. However, when a recent and continuing problem has not been resolved within a particular work area or group, the College wishes to provide employees an alternative vehicle for resolving legitimate grievances.

Areas of Responsibility

The Human Resources Office shall administer the employee grievance process in accordance with this procedure.

Procedure details

Definitions:

A "grievance" is defined as a claim by an employee that the manner in which he or she has been treated by the College is in violation of a published policy or procedure.

Disputes over salary grades or rate of pay, or disputes over a supervisor's judgment regarding job performance or professional competence should be brought to the Human Resources Office. Although problems of this nature are not covered by the Grievance Policy, an employee with these concerns is encouraged to discuss them with Human Resources, his or her department or division head, or the appropriate dean or director.

Procedure:

The College's grievance procedure consists of four steps: (1) Step I–Informal, (2) Step II–Formal, (3) Step III–Appeal, and (4) Step IV –Review.

Each step has its own procedures, as set forth below.

Time Limits

If an employee waits too long before submitting his or her grievance or proceeding to the next step in the process the fact-finding process could be difficult and appropriate action may not be timely taken. Employees must follow the time limits set forth below. The Director (or Manager) of Human Resources, or his or her designee, may waive the time limits only if substantial extenuating circumstances prevent the timely filing of the grievance or appeal.

The following time limits apply to this procedure:

Step I – Must be taken within 5 days of the event(s) that lead to the grievance.

Step II –The supervisor's decision may be filed as a grievance within 5 days of the supervisor's written response at Step I.

Step III – Any appeal of the Human Resources Office's resolution must be filed within 5 days of the written decision of the Human Resources Office, at Step II.

Step IV – The decision of the President on Appeal may be reviewed by the Personnel Committee of the Board of Regents for abuse of discretion. Petitions for review must be filed within 5 days of the President's written response at Step IV. If called upon to review a decision, the Personnel Committee shall determine whether it will do so within 5 business days of receipt of such request, and if its decision to review is affirmative, the Personnel Committee shall schedule a review hearing promptly.

Step I – Informal Step

In many cases, disputes over the application or interpretation of policy or procedure can be resolved through communications within a particular department or work area. As such, the first step in the grievance process is a discussion between the employee and the supervisor. The employee must talk with his or her supervisor, explaining the nature of the problem and the relief sought. The supervisor should respond in writing within three business days, if possible.

If the informal procedure fails to resolve the grievance, and the employee wishes to continue the matter, the employee must begin the steps of the formal procedure no later than five calendar days after the receipt of the supervisor's response.

Step II – Formal Step

1. If the matter is not resolved at Step I, the employee may proceed to Step II by submitting a written statement of grievance to the Human Resources Office. This statement must outline all relevant facts that form the basis of the employee's grievance, indicating the College policy or procedure that has allegedly been violated, and stating the resolution sought. The statement should also identify the supervisor who was involved at Step I.

2. Upon receipt of the employee's written statement, the Human Resources Office, will:

a) Advise the employee's department head of the grievance, and determine if the grievant has complied with Step I. (If the Step I procedure was not followed, the Human Resources Office will refer the employee back to Step I.)

b) Schedule a meeting with the employee, the department head, and the employee's supervisor. This meeting should be held promptly (if possible within 14 calendar days of receipt of the employee's written statement).

c) Act as chairperson of the meeting, hear both sides of the dispute, and render a written decision following the hearing.

This effort at resolution is not to be regarded as an adversarial proceeding and is not subject to the legal rules, procedures, or formalities of a court of law. Note taking is permitted, however the meeting will not be recorded.

Step III–Appeal

If the employee is unsatisfied with the response from Human Resources at Step II, the employee can proceed to Step III by submitting a written request to the Director (or Manager) of Human Resources for a hearing before an appeal committee. A three-member appeal committee shall hear the grievance and provide a written recommendation to the President or the President's designee. Members of the committee shall be chosen as follows:

1. The department head and the employee shall each choose three people (listed in order of preference) from the appeal panel. An "appeals panel" is defined as a standing list of NMC employees, designated annually by the President, from which appeals committees are chosen to hear grievances under Step III of this procedure[1]. The Human Resources Office shall first

[1]Note: if a grievance is brought against an action of the President, the Personnel Committee of the Board of Regents shall serve as the appeals committee, and its decision in the matter shall be final.

identify an appeal committee member from the list submitted by the employee, based on the employee's preference and the availability of the persons listed. The second member will be identified in the same manner from the list of persons submitted by the department head.

2. The two committee members selected by the parties in the grievance shall select a third member from the panel to chair the committee. If the two committee members cannot agree on a third member, both shall number in ascending order of preference their respective choices from among all the names on the panel. These numbered lists shall be given to the Director (or Manager) of Human Resources, and the person receiving the lowest sum from the two lists shall be appointed to the committee as chairperson.

Members of the appeal committee shall be impartial and are not "representatives" of the party selecting them. If any committee member, in the opinion of that member or the President, has a bias or an interest in the case and is thus impartial, a new person from the panel will replace him or her. This person will be selected in accordance with the above procedures.

3. When the appeal committee has been formed, the chairperson will designate a date and place for a hearing of the appeal. The Director (or Manager) of Human Resources or designee will assist the chairperson in the administrative arrangements and will be present at the hearing. The function of the committee shall be to determine, based upon the facts, whether or not the College followed its policy and/or procedure in the manner in which the grieving employee was treated.

The appeal committee will conduct its hearings under the following guidelines:

a) Prior to the hearing, the parties to the dispute (the department head and the employee) shall determine with the assistance of the Human Resources Office:

i. Stipulated facts and documents that shall be prepared and transmitted to the committee. (If the parties are unable to stipulate to facts, documents, or issues, both parties can present a list to be transmitted to the committee.)

ii. The unresolved issue(s) to be brought before the committee. Such "unresolved issues" shall be limited to issues raised at Step II.

b) The committee shall conduct the hearing in any manner it deems

fair and equitable. To ensure a fair hearing, the parties will present all relevant facts directly to the committee and will present witnesses who have direct knowledge of the facts and can offer information about the grievance. The grievant will not be afforded discovery.

c) The hearings will be conducted privately. The appeal hearing is not an adversarial proceeding and is not subject to the rules or procedures of a court of law. The committee may request that a tape recording of the proceeding be made. Such recordings may not be used outside the committee.

d) The committee shall draft a recommendation based on the stipulated facts and the evidence brought forth at the hearing.

4. The written recommendation of the appeal committee will be reported to the President or the President's designee within 15 working days after the conclusion of the hearing.

5. The appeal committee's recommendation will be consistent with College policy and procedure, and will be advisory to the President, or his or her designee, whose decision will be final, subject to review by the Personnel Committee of the Board of Regents only for abuse of discretion. Copies of the President's decision will be provided to the employee, the department head, and the Director (or Manager) of Human Resources.

6. The College shall not be responsible for expenses that the employee incurs in connection with the activities permitted under this procedure.

Remedies

At each step in the grievance process, the individual representing the College may fashion a remedy that is consistent with his/her authority. If the College determines that as a result of a failure to follow policy the grieving employee had a financial loss, the College may provide compensation to the employee for the loss if he or she signs an appropriate release concluding the matter.

Documentation:

There are no specific documents or forms to be used under this policy. As set forth above, there are a number of places where written communication is required. That communication will typically take the form of a memorandum.