

ARTICLE 10

GRIEVANCE PROCEDURE

10.01 Principles

The Association and the College recognize that an effective grievance procedure with reasonable time limits will advance harmony within Pensacola State College. In the event that a grievance may arise between the College and one or more represented faculty members, or between the College and the Association, which involves the interpretation or application of this Agreement and which cannot be settled through informal discussion, the grievance procedure described below shall be instituted for the timely and orderly resolution of such grievances. The grievance procedure is not available for the settlement of complaints where the grievant does not assert a violation of some specific provision or provisions of this Agreement. The College shall not be required to accept any grievance that includes any general reference to Articles or provisions of this Agreement.

When a grievance is submitted other than through or by the Association, the Association shall be notified by the grievant prior to or at the time of submission, and the Association shall be afforded notice and an opportunity to be present during any grievance meetings between a grievant and a College representative. The grievant shall also have the right to be present, together with any advisor that he or she may wish to designate.

Nothing in this article shall be construed to inhibit the use of alternate methods in the resolution of the faculty member's grievance, regardless of how far the grievance process has progressed. (See Section 4.04.)

No reprisals or retaliations of any kind shall be taken against any employee for filing a grievance. At no time in the process shall the grievant be threatened, intimidated, unnecessarily delayed, or otherwise discouraged from pursuing the satisfaction of the grievance. All participants in a grievance hearing are to protect themselves and their fellow participants by refraining from discussion of the grievance outside of the proceedings.

An alleged legally prohibited discriminatory act or practice may be presented by the grievant directly to the employee's Vice President or Dean, with appeal made to the College President, and to the District Board of Trustees, if necessary.

10.02 Definitions

A. Definition of a Grievance

Claims and complaints verbally addressed to an administrator, or so discussed with an administrator by a faculty member, are not to be deemed grievances during any time periods when they are being verbally presented or discussed. A grievance is defined as a written claim that the College has violated or misapplied a specified provision or specified provisions of this Agreement, including this Agreement's General Provisions, with resulting harm, also to be described with specificity, to the grievant. The grievance shall set out the facts of the matter in enough detail to enable an otherwise uninformed third party, assuming the truth of the facts as stated, to determine from the grievance and this

Agreement, that a violation of this Agreement has or has not been described. The grievance document must also state with specificity the relief that the grievant seeks.

B. Who May Be a Grievant

A faculty member desiring to grieve must date, sign, and present a timely individual grievance in order to be entitled to have his or her grievance processed or to be granted any relief, whether the grievance is prosecuted on his or her behalf by the Association or not. If more than one faculty member is affected by any asserted violation, the Association president, or his or her designee, may sign a single grievance document.

The Association may also be a grievant. Association grievances may be inserted at the third step of the grievance procedure.

This Agreement shall not be construed to require the College to grieve any decision before acting thereon, and the College shall not have access to the grievance or arbitration procedures as a grievant.

C. Time Limits

The time limits provided in this Article must be strictly observed, unless extended by mutual consent. The failure of a grievant to pursue a grievance within the time permitted at any step or phase of the proceeding shall mean that the grievance stands abandoned. The College's failure to respond to a grievance within the time provided at any step shall mean that the grievant shall thereupon be entitled to proceed to the next step.

However, if, prior to the deadline for the Step II appeal, the grievant or PSCFA discovers another violation related to the original grievance, the grievant or PSCFA shall be allowed to amend the original grievance, and the amendment shall be addressed as if it were a part of the original filing. In order to consider the amended grievance, the College will have an additional fourteen College business days added to the response deadline of the Step at which the amended grievance is filed.

D. Use of Duty Time

College representatives shall make themselves available to meet with grievance representatives during non-duty hours for the purpose of preparing, handling, investigating, processing, or otherwise dealing with grievances or potential grievances.

10.03 Procedure

A. Grievance Procedure

1. Informal Discussion

A grievant shall first try to resolve the issue by discussing the grievance directly with his or her immediate supervisor within ten (10) College business days from the date of the act or omission giving rise to the grievance, or within ten (10) College business days from and after the date when the grievant acquires, or in the exercise of reasonable diligence should

have acquired, knowledge of such act or omission. Respondent will render a verbal decision to the faculty member within ten (10) College business days from the date the first discussion was held. In the event the Respondent is not available during the ten (10) days following the alleged violation, the faculty member will meet with the acting supervisor and express his or her intent to pursue the informal discussion procedure. If the aggrieved person is not satisfied with the disposition, or if there is no disposition within ten (10) days after the discussion, the grievant may file the grievance in writing.

2. Written Grievance

Step I: The grievant(s) must file the grievance, in writing using the format specified in Appendix I and in compliance with all requirements of this Article, with the appropriate dean or another designated College Administrator within fourteen (14) College business days from and after the date of the final disposition in the informal discussion procedure or within fourteen (14) College business days following the ten (10) day period identified for the disposition. When the designated first point of contact is the respondent, the grievant may file a grievance at Step II.

The dean or department head will respond, also in writing, within fourteen (14) College business days from and after the date when the written grievance is submitted to him or her. This response should include the deadline for Step II submittal and a date and signature line indicating receipt by the grievant.

Step II: The grievant, if dissatisfied, may advance the grievance by submitting it in writing, using an updated version of the grievance document, to the Vice President, Academic and Student Affairs, within fourteen (14) College business days from and after the date of receipt of the Step I answer or expiration of the time allowed for a Step I answer without an answer being received.

The Vice President, Academic and Student Affairs will provide a Step II answer, in the same manner as is required in Step I, within twenty (20) College business days after receiving the appeal.

3. Meetings

Meetings to discuss grievances in process shall occur at the convenience of the parties involved and by mutual consent, when those representing both sides agree that meetings are required in order to arrive at a proper disposition. The Office of the Vice President, Academic and Student Affairs will arrange a grievance meeting before answering if requested by the grievant.

B. Arbitration Procedure

1. Arbitrability. Only those grievances which have been processed through the grievance procedure in strict compliance with all of its requirements may be submitted to arbitration.
2. Initiating Procedure. The arbitration procedure may be invoked by the Association delivering a written request for arbitration to the Office of the Vice President,

Academic and Student Affairs within twenty (20) college business days after receipt of a Step II disposition of a grievance.

3. The Association may thereafter, but within thirty (30) College business days after initiating arbitration, mail to the Federal Mediation and Conciliation Service a request for a list of five (5) arbitrators, with a copy of the request to the opposing party.
4. Within twenty (20) College business days after receipt of such a list, the parties' representatives shall, in a face-to-face meeting or by telephone, alternately strike names from the list, with the Association to make the first strike. The remaining name will identify the arbitrator, provided that either side shall have the right to reject one list of arbitrators. Alternatively, the parties may agree to select an arbitrator not on the list.
5. The Association will then, within ten (10) College business days, notify the arbitrator of his or her selection and furnish him or her with a copy of all grievance documents generated to date and a copy of this Agreement. The arbitration will then proceed in accordance with the reasonable requests and instructions of the arbitrator, but subject to the following conditions:
 - a. No arbitrator may have more than one case involving the College pending before him or her at a given time without the consent of the College and the Association.
 - b. The arbitrator must agree when taking the case to render a written opinion if asked to do so by a party.
 - c. No party may inform the arbitrator, by evidence or otherwise, of any offer of settlement made, and the arbitrator may not consider any such offer. Breach of this provision shall entitle the non-offending party to reject the arbitrator's decision and demand a new arbitrator.
 - d. The arbitrator shall schedule all proceedings outside of normal College operating hours if requested by the College to do so.
 - e. The arbitrator may not require the College to violate a Board rule that has not been modified by this Agreement.
 - f. If the arbitrator rules partly for the grievant and partly against the grievant, his or her charges shall be equally shared by the grievant and the College; otherwise, the loser shall pay all of the arbitrator's charges. A grievance that is voluntarily withdrawn after arbitration has been invoked will be deemed to have been lost.
 - g. Arbitration decisions shall be final and binding if rendered in compliance with this Agreement but shall otherwise be subject to be vacated on appeal to a State court of general jurisdiction.

10.04 Disclosure

The parties and their constituents shall have the right to seek and receive any information which may have a bearing on a grievance.

10.05 Election of Remedies

- A. If prior to seeking resolution of a dispute by filing a grievance hereunder or while the grievance proceeding is in progress, an employee requests, in writing, the same remedy of the matter in any other forum, whether administrative (including the Public Employee Relations Commission) or judicial, the College shall have no obligation to entertain or proceed further with the matter pursuant to this grievance procedure. As an exception to this provision, a grievant may file an EEOC charge while the grievance is in progress when such filing becomes necessary to meet federal filing deadlines pursuant to 42 U.S.C. Section 2000e et seq.

- B. The filing of a grievance by an employee constitutes a waiver of any rights to judicial review of agency action pursuant to Chapter 120.