

GRIEVANCE

 <small>H. LAVITY STOUT COMMUNITY COLLEGE</small>	
Title: Grievance	Number: 4.13.0722.1
Original Approval by the Board of Governors Date: July 26, 2022	Implementation Date: July 26, 2022
History: Practice of Long Standing Revised and Approved by the Board of Governors: Scheduled Review Date: July 2025	Office Responsible for Review: Human Resources

RATIONALE

The purpose of this grievance policy is to provide a clear, efficient and transparent grievance process when resolution through informal means has not resolved employee concerns. Employees have the right to seek redress for grievances, and this policy outlines the scope of grievances and details the process for reporting and processing a grievance. It is applicable to all employees, including full-time, part-time, adjunct and student workers.

DEFINITIONS:

Administrator – a person whose job involves helping to organize and supervise the way that an organization or institution functions, such as Cabinet officers and heads of academic and non-academic departments.

Corrective Action – Employment action taken by a supervisor or the Human Resources Department, with the goal of correcting unacceptable employee performance or conduct.

Grievance – a perception of personal injustice, which an employee describes, concerning their employment relationship, pertaining to:

- Violation or application of the BVI Labour Code, HLSCC employment policies, practices, and/or employment contracts;
- Work conditions – workplace harassment, health and safety conditions;
- Disputes between coworkers, suppliers, and/or management;
- Corrective actions;
- Termination.

Grievance Committee – an ad hoc body formed by the Human Resources Manager in consultation with the President's Executive Committee from among faculty and staff based in the circumstances of a grievance, to serve as a resident jury for the purpose of adjudicating matters pertaining to an employee.

Grievant – a person who submits a complaint or grievance for formal processing.

Respondent – a party against whom a petition or grievance is filed.

POLICY:

1. The resolution of an employee grievance may take one of four forms, each dependent on the satisfaction of the employee with the outcome at the preceding step. The four progressive steps include the following:
 - Step 1 – Appeal to the Immediate Supervisor
 - Step 2 – Appeal to the Second-level Supervisor
 - Step 3 – Appeal to the President via a Grievance Committee
 - Step 4 – Appeal to the Human Resource Committee of the Board
2. The decision of the Human Resource Committee of the Board is final and binding, and closes the appeal process
3. To maintain the most harmonious relationships among employees, an important goal of the internal grievance process is to resolve disputes at the lowest possible level.
4. As the grievance moves through the formal process, the grievant may not add new issues or claims to the original grievance which cites instances prior to the claim, nor can an employee institute more than one grievance procedure, based on the same facts, claims, circumstances or events. Amended grievances may be considered by the committee if a new issue or claim has arisen since the original grievance filed. Once the matter reaches a committee stage, that committee can request additional information as deemed necessary.
5. By entering into the grievance procedure, employees are recognizing the authority of the College and are voluntarily allowing due process of College channels and authority in the search for a solution to their grievance. Therefore, pursuing legal action at any point in the duration of this procedure would be out of harmony with this process.
6. If an employee is pursuing other legal action in respect of the grievance, both processes cannot occur simultaneously.
7. Electronic recordings of meetings will form part of the process of the Grievance Committee and the Human Resources Committee of the Board for accuracy and will be maintained by the Board Secretary according to the applicable statute of limitations.
8. No grievant, witness or member of the grievance committee shall be subject to harassment, reprisal, or retaliation for utilizing or participating in the grievance process.

PROCEDURE

STEP 1 – APPEAL TO IMMEDIATE SUPERVISOR

To initiate the first step in the grievance process, the grievant should discuss an issue in which the respondent is not the supervisor, with the immediate supervisor in an attempt to resolve the problem informally within five (5) business days of the incident leading to the grievance. The grievant should indicate the applicable policy,

procedure or practice which are noted as being violated and indicate if there were any witnesses to the incident. The supervisor will document the complaint of the grievant and provide a copy of the written claim to the grievant and the Human Resources Department. A follow-up meeting will be held with the grievant to confirm the written grievance, as well as to give the grievant the opportunity to present any supporting documentation. If an employee submits a written complaint, the supervisor will likewise hold a follow-up meeting to review the information. All meetings held to discuss documented grievances should be electronically recorded with the permission of all parties involved. The supervisor must document his/her response in writing to the grievant within five (5) business days, even if the response was initially given orally. If the complaint is against the supervisor, the grievant may request a meeting with the next level supervisor, i.e., the administrator to whom the immediate supervisor reports. If the matter is settled, the supervisor should submit the documentation from the meeting to the Human Resources Manager to close the matter. If no discussion occurs with the supervisor or if the supervisor does not respond in writing to the grievant within the allotted five (5) business days, the grievant should contact the Human Resources Department. The Human Resources Department will reach out to the immediate supervisor to outline the grievance process and the expectations of the supervisor. This process should occur within three (3) business days. If the immediate supervisor does not respond after the advice from Human Resources, that supervisor will be subject to disciplinary action, and the matter will be referred to the next level supervisor by the Human Resources Manager.

STEP 2 – APPEAL TO NEXT-LEVEL SUPERVISOR

If the matter is not satisfactorily resolved based on a discussion with the immediate supervisor, the grievant may, within five (5) business days of receiving the response to Step 1, submit a written request to the Human Resource Manager to appeal the matter to the next-level supervisor. The written appeal must include a clear explanation of why the employee disagrees with the response obtained at Step 1 and any documents that pertain to the grievance. The Human Resource Manager will:

1. Acknowledge receipt of appeal and supporting documentation and keep the grievant informed of steps being taken.
2. Provide the appeal, together with the supporting documentation, to the next level supervisor. This submission from the Human Resources Manager to the next level supervisor should be done within three (3) business days.
3. Outline the requirements of the grievance process and the requirements of the supervisor at this level.

The next-level supervisor will review the documents and may then confer with the Human Resources Manager to clarify any details or to review applicable policies and procedures. The Human Resources Manager may offer to facilitate a meeting and/or to serve as a mediator between the two parties to try to resolve the matter. Any action taken by the next level supervisor should occur within five (5) business days of receipt of the complaint and accompanying documentation, with a written report to Human Resources within two (2) business days of any action taken and the outcome. Based on a written report by the next level supervisor, and any consultation related thereto, the Human Resources Manager will provide a written summary of the discussion and resolution to the grievant within five (5) business days of the meeting. All meetings are to be electronically recorded with the consent of involved parties.

If no discussion occurs with the next level supervisor or if the supervisor does not respond in writing to the grievant within the allotted five (5) business days, the grievant should contact the Human Resources Department. The Human Resources Department will reach out to the next level supervisor with a reminder

of the requirements of the grievance process and the expectations of the supervisor. This process should occur within two (2) business days. If the supervisor does not respond after intervention by Human Resources, the supervisor will be subject to disciplinary action, and the matter will be referred to the Grievance Committee level.

STEP 3 – APPEAL TO PRESIDENT VIA THE GRIEVANCE COMMITTEE

If the grievant remains dissatisfied with the decision of the next-level supervisor, he/she may, within five (5) business days of receiving the Step 2 decision, submit a written request (using the *Employee Grievance Hearing Request Form*) to the Human Resources Department to appeal the matter through the Grievance Committee. The request should contain the following:

- The grievance claim and supporting documentation
- A summary of previous discussion(s) with the supervisor, next-level supervisor and/or Human Resources Manager
- The outcome that is sought

Upon receipt of the employee's request, the Human Resources Manager must:

1. Acknowledge receipt of appeal and supporting documentation, and keep the employee informed of steps being taken.
2. Confirm that Steps 1 and 2 of the grievance process were undertaken. If not, the Human Resources Manager shall inform the grievant and supervisor(s) of the process and refer the matter accordingly. The confirmation and any subsequent referral should occur within three (3) business days of receipt of the appeal by the employee.
3. If confirmation indicates that the process has been followed, Human Resources Manager shall initiate Step 3 of the process by compiling a list of possible committee members.

Membership of the Grievance Committee

The initial list should comprise of four individuals according to the table below, which will be shared with the grievant and respondent. In compiling the list, the Human Resources Manager in consultation with the President's Executive Committee will attempt to ensure that the proposed employees do not hold a personal or professional interest in the outcome of the grievance or are influenced by personal relationships with the Grievant or the Respondent; since either of these conditions may inhibit the employee's ability to render a fair or unbiased judgment.

Both parties will each be afforded the opportunity to veto one name from the list based on perceived conflicts of interest such as familial or friendly relationships with either party, or previous documented differences which were not amicably resolved with either party. The individual(s) will be replaced with someone from the same representative area to maintain the balance set out in the table below.

The Chair of the Grievance Committee will be an Executive Officer appointed by the Human Resources Manager in consultation with the President's Executive Committee. The Executive Officer selected should not have responsibility over either the grievant or the respondent.

Individuals selected to serve on the Grievance Committee should be allowed to decline participation based on perceived conflicts of interest such as familial or friendly relationships with either party, or previous documented differences which were not amicably resolved with either party.

This process of establishing the Committee should be completed within five (5) business days. The grievant and respondent shall be promptly notified of the composition of the Grievance Committee.

	<u>Respondent</u>		
<u>Grievant</u>	Faculty	Staff	Administrator
Faculty	4 faculty	2 staff 2 faculty	2 administrators 2 faculty
Staff	2 staff 2 faculty	4 staff	2 staff 2 administrators
Administrator	2 administrators 2 faculty	2 staff 2 administrators	4 administrators

Process of Grievance Committee

The Grievance Committee shall meet within five (5) business days of notification of formation. The Human Resources Manager is responsible for providing copies of the grievance application and all relevant written documentation to the Committee prior to the scheduling of a hearing.

In considering the matter, the Grievance Committee must:

- Meet to review the documents presented;
- Meet with any parties involved in the grievance;
- Conduct a hearing in which equitable opportunity to present both sides of the dispute is provided to the Grievant and Respondent;
- Electronically record the hearing;
- Keep a written record of the proceedings;
- Draft and submit a recommendation to the President and the Human Resources Manager within seven (7) business days of the final Committee meeting.

All deliberation and discussion shall be held confidential. Given that the Committee hearing is not intended to be adversarial, the presence of legal counsel is not permitted.

The Human Resources Manager is required to immediately inform the grievant and the respondent of the findings of the Grievance Committee.

If the timelines are not being adhered to or the employee does not agree with the findings of the Committee, the fourth step in the appeal process may be initiated.

STEP 4 – APPEAL TO THE HUMAN RESOURCES COMMITTEE OF THE BOARD

If the employee wishes to appeal a finding of the Grievance Committee, or a delay or failure to advance a grievance, he/she may make a formal application to the Human Resource Committee of the Board. To do so, the employee must contact the President, who shall forward all written information from the process, up to this point, to the Chairman of the Human Resource Committee of the Board, through the Human Resources Manager, or direct it to the President, if the grievance is against the Human Resources Manager.

If the grievance is against the President, the grievant must submit the request to the Human Resource Committee to the Board through the Human Resources Manager. These materials shall also be sent to the members of the Human Resource Committee by the Human Resources Manager within five (5) business days of receipt of application.

In considering the appeal, the Human Resource Committee has the authority to:

- Hold a pre-hearing conference;
- Request the presence of witnesses, if circumstances warrant, and issue a directive for their appearance;
- Decide whether non-parties may attend the hearing;
- Electronically record the appeal hearing;
- Admit evidence, exclude evidence, and/or accept offers of previously excluded evidence;
- Solicit advice from the College's legal counsel;
- Rule concerning any procedural matters;
- Render a written decision concerning the grievance, and
- Make recommendations for appropriate relief to either party.

Any action taken by the Human Resources Committee of the Board should be done within ten (10) business days of receipt of the application.

The decision by the Human Resource Committee of the Board must be prepared in writing and must contain the factual findings on material issues. The findings shall be shared in confidence with the Board. All decisions must be consistent with the Labour Code 2010 of the Virgin Islands, and with approved policies of the H. Lavity Stouff Community College. The decision by the Human Resource Committee of the Board is final, and no further internal appeal can be made.

Once the decision by the Human Resource Committee has been made, such decision shall be communicated to the President and Human Resources Manager. The Human Resources Manager is responsible for communicating the decision to the grievant and the respondent within two (2) business days. If the Grievant or Respondent is the Human Resources Manager, the President will designate an individual to communicate the decision to the Grievant and the Respondent. This action closes the grievance appeal process.

All documentation from internal grievances must be filed as part of the dedicated storage provision for all employee grievances. Such a file must be kept in the custody of the Human Resources Department and shall not be included in the personnel files of employees.

Attachments: H. Lavity Stoutt Community College Grievance Request Form

Where there any witnesses to the occurrence? Please indicate the name(s)

How have you been adversely affected by this situation?

What specific action have you taken to follow the guidelines for resolution as outlined in the Grievance Policy? What has been the outcome of these efforts? Attach supporting documentation.

Appeal to Immediate Supervisor

Date grievance discussed with immediate supervisor: _____

Supervisor Name: _____

Outcome _____ of _____ Discussion:

Appeal to Second-Level Supervisor

Date grievance discussed with immediate supervisor: _____

Supervisor Name: _____

Outcome _____ of _____ Discussion: _____

Other Action Taken: Please detail any action taken not indicated above

What specific remedy do you request?

I affirm that the above accurately represents the events pertaining to the grievance to the best of my knowledge.

Signature: _____

Date Filed with Human Resources
Department: _____

For Human Resources Department Only

Date Received: _____