

Procedure: 4.4.3p. (III.M.I.)

Employee Complaint Resolution

Revised: September 9, 2019, July 13, 2012
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Adopted: July 13, 2012



I. PURPOSE:

The Technical College System of Georgia [TCSG] is committed to the fair and equitable treatment of all employees and encourages employees to bring their work-related concerns forward without fear of reprisal. Prompt reporting, open, honest communications, and timely processing of employee complaints are vital to facilitating an effective resolution.

The purpose of this procedure is to establish a uniform process for the resolution of employment concerns not addressed by the Unlawful Harassment Procedure or other specific complaint resolution process. It shall be followed by employees of the System Office and the technical colleges. The process is intended to encourage communication between the parties involved, either directly or through an intermediary, to facilitate a mutual understanding of and appropriately address any policy or safety issues. Employees and their respective supervisors are encouraged to make reasonable efforts to resolve complaints prior to utilizing the formal Employee Complaint Resolution Procedure.

No employee will be penalized, formally or informally, for voicing a complaint in a reasonable, businesslike manner, or for participating in an established complaint resolution process. Anyone who intentionally supplies false or misleading information in connection with a complaint or anyone who attempts to or actually harasses, intimidates, or retaliates against an employee for using the Employee Complaint Resolution Procedure or for providing information in connection with a complaint will be subject to disciplinary action.

While this complaint resolution process is provided to employees as a mechanism for expressing concerns about employment, it is not intended to alter in any way the employment at-will relationship between the TCSG and its at-will employees or those employees working under the terms of an employment contract, if applicable.

II. RELATED AUTHORITY

O.C.G.A. § 45-22-1 TO §45-22-12, Public Employee Hazardous Chemical Protection and Right to Know Act of 1988
O.C.G.A. § 45-1-4: Georgia Whistleblower Act
State Personnel Board Rule 478-1-.20 Employee Complaint Resolution Procedure
State Board Policy 2.1.1. Statement of Equal Opportunity
State Board Policy 4.4.1. Positive Discipline
State Board Policy 4.4.5. Reduction-in-Force

State Board Policy 6.5.1. Academic Standards, Evaluations, and Appeals
State Board Policy 4.4.3. Employee Complaint Resolution Policy
TCSG Procedure 4.3.1p. Unlawful Harassment of Staff

III. APPLICABILITY

All work units and technical colleges associated with the Technical College System of Georgia.

IV. DEFINITIONS

- A. **Agency Complaint Resolution Coordinator:** the person designated to be responsible for receiving complaints, determining eligibility, and tracking the processing of complaints.
- B. **Agency Complaint Review Official:** an impartial individual designated by the agency to conduct complaint reviews.
- C. **Complaint:** a claim filed by an eligible employee that the employee's personal employment has been affected by unfavorable employment decisions or conditions due to unfair treatment.
- D. **Harassment:** physical, verbal, or non-verbal/visual conduct that is either directed toward an individual or reasonably offensive to an individual because of his or her race, color, national origin, religion, age, disability, genetic information, sex (which does not meet the definition of sexual harassment as defined in the Statewide Sexual Harassment Prevention Policy), political affiliation, protected uniform service, or legally protected category other than sex.
- E. **Retaliation:** an act or omission intended to, or having the reasonably foreseeable effect of, punishing or otherwise impacting an individual for submitting (or assisting with submitting) a complaint or reporting discrimination or harassment, for participating in a discrimination or harassment investigation or proceeding, or for otherwise opposing discrimination or harassment.
- F. **Sexual Harassment:** physical, verbal, or non-verbal/visual conduct that is either directed toward an individual or reasonably offensive to an individual because of his or her sex. Therefore, for purpose of the procedure, sexual harassment includes physical, verbal, or non-verbal/visual conduct constituting:
 - 1. Unwanted sexual attention, sexual advances, requests for sexual favors, sexually explicit comments, and other conduct of an expressed or obviously implied sexual nature, by an individual who knows, or reasonably should know, that such conduct is unwanted or offensive; and
 - 2. Conduct that hostile, threatening, derogatory, demeaning, or abusive or intended to insult, embarrass, belittle, or humiliate, an individual, because of his or her sex, regardless of whether the underlying reason for the conduct is apparent.
- G. **Workday:** Monday – Friday business day, exclusive of State holidays.

V. ATTACHMENT:

4.4.3p.a1. Employee Complaint Resolution Form

VI. PROCEDURE:

A. General Provisions

1. Each college and the System Office is responsible for facilitating employee awareness of the Employee Complaint Resolution Procedure. Information about the procedure including deadlines for filing a formal complaint and who to contact for assistance must be provided in one or more formats through which employees are typically communicated. At a minimum, the information should be posted on the official bulletin board and provided to employees during new hire orientation.
2. Any employee may use the Employee Complaint Resolution Procedure for timely-filed, eligible issues, except an employee who
 - a. Has been notified of separation from employment or
 - b. Is seeking relief on the same matter through other administrative or judicial procedures
3. A complaint filed by an eligible employee prior to becoming ineligible will cease to be processed through this procedure upon the employee's separation from employment or upon the employee's filing for relief on the same matter through another administrative process or a judicial process.
4. An employee utilizing the Employee Complaint Resolution Procedure will be excused from duty for up to four hours during regular work hours, as approved by the supervisor, to prepare a complaint. Such preparation time is without loss of pay or leave credits. Meetings with the Agency Complaint Review Official are considered work time and do not count as preparation time. No more than 12 hours of regular work hours per employee per calendar year will be permitted for this reason.
5. Employees having a common complaint may sign and submit one group complaint, identifying up to two of the employees as selected spokespersons for the group. Employees who choose to file a group complaint waive their individual rights to file separate complaints on the same subject.
6. The Agency Complaint Resolution Coordinator may consolidate multiple complaints filed by an employee into a single complaint. The Coordinator may consolidate separate complaints filed by two or more employees regarding the same issues into a group complaint.
7. An employee who needs assistance in filing or processing a complaint may contact the Agency Complaint Resolution Coordinator or other agency-designated official. In no case shall the staff assigned to assist an employee be a party or respondent to the employee's complaint.
8. An employee may voluntarily withdraw his/her complaint at any point during the process by submitting a request in writing to the Agency Complaint Resolution Coordinator. A complaint withdrawn may not be re-filed.
9. Upon the agreement of all parties in the complaint, any time limit in this procedure may be extended. The Resolution Coordinator or the Review Official may unilaterally extend any time limited specified in this procedure due to emergencies or protected absences. The maximum time for processing a complaint is 90 days.
10. Each college and the TCSG System Office must file an annual report with the Department of Administrative Services reflecting the number, nature, and disposition of complaints filed through the Employee Complaint Resolution Procedure.
11. Issues involving non-compliance, unethical, or fraudulent behavior may also be reported to the Ethics and Compliance Hotline at 888-512-5964 or by submitting a form on the TCSG Office of Legal Services website.

B. Subject Matter of Employee Complaints

1. This procedure may be used when an eligible employee's complaint relates to:

- a. Erroneous, arbitrary, or capricious interpretation or application of a State Board policy, TCSG procedure, college operating policy or procedure or any other applicable rules, regulations, ordinances, or statutes;
 - b. Unsafe or unhealthy working conditions;
 - c. Retaliation or intimidation for filing a complaint or exercising any right provided for in a State Board or technical college policy or procedure; or
 - d. Retaliation for participating in the Employee Complaint Procedure.
2. This procedure may not be used when an eligible employee's complaint relates to:
 - a. Allegations of unlawful harassment or discrimination based on race, color, national origin, sex, age, disability, religious or political affiliation. Complaints of this nature must be filed pursuant to the provisions outlined in Procedures 4.3.1p., Unlawful Harassment of Staff or 4.3.1p2., Employee Sexual Harassment Prevention;
 - b. Performance expectations and evaluations. Employees that wish to appeal a disciplinary action must use the process outlined in Procedure 4.4.1p., Positive Discipline. Employees that wish to appeal a performance plan or evaluation must use the process outlined in Procedure 4.4.4p., Performance Management.
 - c. Issues that are pending or have been adjudicated by the State Personnel Board, the Georgia Commission on Equal Opportunity, or through other state or federal administrative or judicial procedures;
 - d. Internal security practices
 - e. Contract non-renewals;
 - f. Temporary work assignments that do not exceed 90 days;
 - g. Budgetary matters or organizational structure, including the number or assignment of positions in any work unit;
 - h. Selection or non-selection of an employee for a position, unless the selection violates a written policy or procedure, or is unlawful;
 - i. Permanent changes in work hours or duties and responsibilities; unless the change is unsafe or unlawful;
 - j. Relocation of employees, unless the relocation qualifies for reimbursement under Office of Planning and Budget regulations;
 - k. Termination, furlough, salary reduction, change in time status, or reduction-in-force. An employee impacted by a reduction-in-force who believes that the accompanying plan was not followed in a manner approved by the Commissioner may request a review by the Commissioner as provided in Procedure 4.4.5., Reductions in Force
 - l. Any other issues that have a separate process for resolution in other agency policies and procedures.
 3. If an individual wishes to bring a complaint accusing another of misconduct and remain anonymous, the ability of the System Office or technical college to fully respond and bring about an appropriate resolution may be impacted.

C. Filing a Complaint

1. Employees and their respective supervisors are encouraged to make reasonable efforts to resolve complaints prior to utilizing the formal Employee Complaint Resolution Procedure.
2. While employees are encouraged to resolve complaints within their chain of command, eligible employees may also file a written complaint with the complaint coordinator. The complaint must include:
 - a. An explanation of the employee's specific concern (the eligible issue involved);

- b. The parties involved, to include any witnesses with knowledge of the subject of the complaint
 - c. A description of how the employee has been unfavorably affected;
 - d. The time, date and place of any event pertaining to the complaint;
 - e.
 - f. Any policy or procedure at issue and how it was erroneously interpreted or applied; and
 - g. A description of the relief or results the employee is seeking.
3. A complaint must be filed within 10 workdays of the occurrence of the subject of the complaint or within 10 workdays of the date the employee becomes aware or should have reasonably been aware of the problem. The Coordinator has the discretion to grant a waiver to extend the filing deadline.
 4. A complaint is considered received on the day it is delivered to the Agency Complaint Resolution Coordinator by mail, electronic transmission, or personal delivery.

D. Processing a Complaint

1. The Resolution Coordinator will provide an initial response to the employee's complaint within ten (10) calendar days of the receipt of the complaint. The response will include:
 - a. A statement that the complaint is appropriate for resolution under the Complaint Resolution process and describe the manner in which it will be addressed; or
 - b. A statement that the complaint concerns a matter excluded from the provisions of the procedure.
 - c. If the complaint is appropriate for resolution pursuant to another policy or procedure, the Resolution Coordinator will notify the employee of the policy and forward the complaint to the appropriate official.
2. Each college and the System Office must appoint an Agency Complaint Review Official to review the complaint.
3. Within 15 workdays of being assigned the complaint, the Review Official will conduct a review of the complaint. If the Review Official determines the Complaint Resolution process is appropriate to address the complaint, he/she may either investigate and recommend a resolution or refer the matter to mediation upon the concurrence of all involved parties.
4. Investigation of employee complaints may be based solely on written statements and documents provided; interviews with the employee, witnesses and others; meeting with the parties to facilitate communication and resolution; clarification and/or interpretation of relevant policies; or any other action required to gather sufficient information to recommend a resolution.
5. Within thirty (30) workdays of the receipt of the complaint by the Review Official, he/she will notify the employee of the recommended actions to resolve the complaint or that an extension of time is necessary. Should the employee accept the recommendation, the appropriate actions will be taken and the matter will be closed. The Resolution Coordinator will provide written notice to the complainant and the supervisor confirming resolution.
6. If the parties do not resolve the issues during the resolution process, the Review Official will issue written findings and recommendations to the president, or Commissioner for System Office employees. The president or Commissioner, as appropriate, will issue a written decision regarding the complaint and requested

relief. Such a decision will be final and conclude the Employee Complaint Resolution Process.

7. Complaints directed against a technical college president must be filed with the TCSG System Office Resolution Coordinator and will be processed as those filed by System Office staff.

E. Other General Considerations

1. Information concerning the nature, scope, evaluation and resolution of employee complaints submitted pursuant to this procedure shall be confidential to the extent possible and will be shared only with those persons with a need to know; information pertaining to the complaint can be produced under the Georgia Open Records Act unless it is subject to one of the exceptions contained in the statute.
2. Student complaints are not covered by this procedure. Students seeking review of academic decision or reporting other complaints may do so pursuant to applicable TCSG procedures.
3. Employees seeking information regarding the complaint resolution process may consult with their local Human Resources offices, the TCSG Office of Human Resources, the Office of Legal Services or the designated Resolution Coordinator.
4. Classified employees may appeal the president's or Commissioner's final decision by filing an appeal with the Office of State Administrative Service Hearings in accordance with the procedure outline in the State Personnel Board Rules.

VII. RECORD RETENTION

- A. Resolution Coordinators must maintain a record of all written complaints and any applicable documents for a minimum of two (2) years from the date of final resolution. Complaints alleging discrimination or harassment based on race must be maintained for four years.
- B. Materials/documents relating to complaints shall not be maintained in the official personnel files.

Employee Complaint Resolution Form

Please read the Employee Complaint Resolution Policy and Procedure prior to completing this form

Employee Information		
Employee's Name:	Job Title:	Work Unit:
Employee ID Number:	Daytime Phone:	Preferred Mailing Address:
Complaint Information		
Date of Occurrence: _____	Have you discussed this issue with your supervisor? <input type="checkbox"/> yes <input type="checkbox"/> no	Supervisor's Name:
Note: Complaints should be filed within 30 calendar days of the occurrence	Date(s) of discussion:	Supervisor's Phone:
<p>Subject of Complaint:</p> <p>_____</p> <p>Describe what happened: when and where, how your employment has been affected, and indicate names of others who have knowledge of the issues raised in your complaint. Attach any supporting documentation.</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Relief Requested: Indicate the action(s) you are requesting to resolve your complaint:</p> <p>_____</p> <p>_____</p>		

My signature indicates that the information contained on this form and attachments to this form are true and factual to the best of my knowledge.

Date

Employee Signature

If this complaint is being filed by multiple employees involving the same issue(s), attach a list of all participating employees, their employee ID #, day time phone number and signature. If a spokesperson has been designated, the individual chosen should sign this form.

For Complaint Coordinator's Use Only

Date Received

Signature of Complaint Coordinator

Name of Reviewing Official if applicable: _____