

FORMAL COMPLAINT RESOLUTION PROCEDURE		
Procedure No: 2.16.2.2-P	Revision Number:	Effective Date: 11-01-17
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Responsible Official: General Counsel	References: Administrative Policy 2.16.2	

1. PURPOSE

This Procedure provides a mechanism for faculty and staff to resolve within their chain of supervision covered complaints that are not resolved through normal collegial communication. Handling of complaints under this Procedure should emphasize resolution within the line of supervisory authority at the earliest possible level and in the quickest possible time.

2. SCOPE

This Procedure applies to faculty and staff (“Employee”) complaints at the colleges and the System Office about alleged actual violations, misinterpretations, or improper applications of specific personnel statutes, regulations, policies, and Procedures. It does NOT include the following matters that are not grievable or are governed by other KCTCS policies:

1. Allegations of harassment, discrimination, hostile work environment, or retaliation. These are governed by the KCTCS Anti-Harassment and Discrimination Policy;
2. Matters of faculty promotion and tenure properly referable to the KCTCS Senate Advisory Committee on Appeals under KCTCS policy and procedure;
3. Complaints about matters an employee merely dislikes unless the complaint is based on alleged violations, misinterpretations, or improper applications of specific personnel statutes, regulations, policies, and procedures;
4. Complaints about matters in which an Employee has no direct personal interest;
5. Complaints that come through the EthicsPoint portal or matters formally filed in other forums or under other policies or procedures recognized by KCTCS;
6. Complaints about a supervisor’s opinion of an employee’s performance or placement on a performance improvement plan, or;
7. Complaints or grievances arising from essentially the same facts as a prior complaint decided under this or any other KCTCS policy or procedure.

3. GENERAL PROVISIONS

These General Provisions apply to all Employee Complaints under this Procedure.

- A. All participants in the Complaint Resolution Procedure are expected and required to comport themselves with civility and mutual respect in a manner consistent

with the KCTCS Core Values.

- B. Supervisors are accountable for ensuring KCTCS delivers high quality service and positive performance results. Accordingly, they have primary responsibility for appropriately addressing work-related complaints and disputes.

C. Decision Considerations.

- 1. A supervisor deciding issues under this Procedure may gather additional information he/she deems necessary to a fair and proper result. Supervisors should be guided by:
 - a. The interests of our students, along with the academic and community service missions of the institution;
 - b. The KCTCS Core Values;
 - c. Applicable policies and procedures;
 - d. Information provided by the Employee; and
 - e. Fundamental fairness to all stakeholders.
- 2. The proper standard to weigh information and make decisions under this Procedure is “preponderance of the evidence,” or whether something is 51% more likely than not.
- 3. Supervisors should consult Human Resources Directors, the KCTCS Human Resources Department, the Director of Employee Relations at the System Office, or the Office of General Counsel for guidance on issues or questions.
- 4. Because the Complaint Resolution Procedure is not a legal proceeding, rules of evidence and trial procedure do not apply;
- 5. The Employee is entitled to fairness and should have sufficient facts to process a complaint under this Procedure. However, there is no right to conduct “discovery” as in a court proceeding.

D. Employee Representatives. Face-to-face meetings are not required under this procedure, but are permissible if the parties believe such a meeting is helpful to clarifying issues. If such a meeting is scheduled, the Employee may, at his/her own expense, have a representative of his/her choosing for support purposes only. However,

- 1. The representative is bound by KCTCS policies and procedures;
- 2. The representative may not direct questions, speak on behalf of the Employee, or otherwise directly participate in any meeting. The representative may only consult with and appropriately support the Employee. The representative may be excluded if his/her conduct becomes disruptive.

E. Failure to Meet Timeframes or Submit Required Information.

1. Failure of an Employee to meet the timeframes or submit required information specified in this Procedure is grounds to reject the appeal, with no further action other than notifying the Employee of the rejection and supporting reasons. If the Employee's appeal process terminates for lack of timeliness, the Employee shall have no further legal, contractual, administrative, or other remedies available arising from the same or essentially same facts.
 - a. The Employee may refile the complaint if done within the originally prescribed timeframe for that Step.
 - b. The Employee and the responsible supervisor may agree in writing to extend any timeframe specified in this Procedure.
2. Failure of management to timely forward a response to the Employee at any stage of this Procedure shall be deemed a denial of the complaint.

F. New Information on Appeal.

1. Appeals from a decision at a prior Step under this Procedure may not contain new information or matters not addressed at the prior Step, except that the Employee may offer to resolve the matter for a lesser remedy than what he/she requested at the prior Step.
 2. Claims of retaliation for filing the Complaint are not "new information or matters."
- G. If a person designated in this Procedure to render a decision at any Step is the same person designated to decide a subsequent Step, or who has implemented the action complained of, the Employee may skip that Step and proceed to the next level.
1. If the immediate supervisor is the College President or Cabinet Member, the KCTCS President shall assign uninvolved Cabinet Members to serve as Step 2 and Step 3 authorities.

4. COMPLAINT RESOLUTION PROCEDURE

College Employee appeals are handled primarily by college administrators, except that academic issues may be appealed from a college Faculty Member to the Chancellor of KCTCS, if a resolution cannot be reached within the College. System Office Employee appeals are handled by System Office administrators. The steps in the Complaint

Resolution Procedure are as indicated below:

Step 1

- A. An Employee may direct written complaints about matters subject to this procedure to the immediate supervisor within 10 working days of the occurrence or when a reasonable person should have become aware of the issue. The complaint must state:
 - 1. The particular act(s) of which the Employee complains and date(s) thereof;
 - 2. The specific laws, policies, or other authorities the Employee believes have been violated; and
 - 3. The requested remedy.
- B. The supervisor shall attempt to resolve the matter in light of the considerations in **General Provisions, Paragraph C** of this Procedure.
 - 1. The supervisor shall render a written decision within 10 working days.
- C. If the issue is not decided within 10 working days or if the Employee does not accept the decision, then the Employee has 10 working days to proceed to Step 2.

Step 2

- A. If timely filed, the Employee may forward a written dated complaint to the department head, or if the department head is implicated by the complaint, then to the next senior administrator in the line of supervision. The complaint must:
 - 1. Contain copies of the written complaint and decision at Step 1;
 - 2. Identify the reasons the Employee believes the Step 1 decision is improper, citing specific laws, policies, or other authorities he/she believes have been violated; and
 - 3. The requested remedy.
- B. The department head or the next senior administrator shall attempt to resolve the matter in light of the considerations in **General Provisions, Paragraph C** of this Procedure.
- C. The department head or the next senior administrator shall render a written decision within 10 working days.

- D. If the issue is not decided within 10 working days or if the Employee does not accept the decision, then the Employee has 10 working days to proceed to Step 3.

Step 3

- A. If timely filed, the College Employee may forward a written dated complaint to the College President, and the System Office Employee (including employees of the Kentucky Fire Commission and Kentucky Board of Emergency Medical Services) may forward a written dated complaint to the Cabinet member responsible for the Employee's department. The complaint must:
1. Contain copies of the written complaints and decisions at Steps 1 and 2;
 2. Identify the reasons the Employee believes the Steps 1 and 2 decisions were improper, citing specific laws, policies, or other authorities he/she believes have been violated; and
 3. The requested remedy.
- B. The College President/Cabinet member shall attempt to resolve the matter in light of the considerations in **General Provisions, Paragraph C** of this Procedure.
1. The College President/Cabinet member shall render a written decision within 20 working days.
- C. If the issue is not decided within 20 working days or if the Employee does not accept the decision at Step 3, then the Employee shall have 10 working days to proceed to Step 4, EXCEPT:
1. If the Employee is a faculty employee performing a faculty role (viz. an administrative role) AND the issue involves matters of academic freedom or academic policy, the Employee must appeal the academic issue to the KCTCS Chancellor. This is a **Step 3- Academic Appeal**.
 - a) If the appeal involves both academic and non-academic issues, the College President shall determine the non-academic issues and the Chancellor shall decide the academic issues.
 2. Step 3-Academic appeals to the KCTCS Chancellor must state:
 - a) The particular act(s) of which the faculty employee complains and dates thereof;
 - b) The date the Employee submitted the appeals at all prior Steps of the process and the results thereof;

- c) The academic principle at issue and an explanation of how the action complained of violates that academic principle;
 - d) The requested remedy; and
 - e) The reasons the Employee believes the Step 3 decision is improper, citing specific laws, policies, or other authorities he/she believes have been violated.
3. The KCTCS Chancellor shall attempt to resolve the matter in light of the considerations in **General Provisions, Paragraph C** of this Procedure.
- a) In any complaint in which a filing alleges the Chancellor acted improperly, the KCTCS President shall designate another Cabinet member or other appropriate official to perform any function the Chancellor would otherwise perform under this Procedure.
 - b) The KCTCS Chancellor shall render a written decision within 20 working days.
 - c) If the issue is not decided within 20 working days of the date the Step 3-Academic appeal is properly filed or if the Employee does not accept the decision, then the Employee has 10 working days to proceed to Step 4.

Step 4

- A. Employees may file a written appeal to the KCTCS Board of Regents in accordance with the requirements of this Section, PROVIDED that such appeal must be filed in writing no later than 10 working days after deemed denial or receipt of the Step 3 decision.
- B. The Step 4 appeal must:
 - 1. Contain copies of the written complaints/appeals and decisions at all prior Steps;
 - 2. Identify the reasons the Employee believes the prior decisions were improper, citing specific laws, policies, or other authorities that were violated; and
 - 3. State the desired resolution.
- C. The Board's designee, the President of KCTCS, shall consider and respond to timely, proper complaints.

1. The President may request that the Board designate an alternative designee for any particular case.
 2. The President may designate staff to assist in the investigation and response to the Step 4 appeal as the President deems necessary.
 3. The President shall apprise the Board of Step 4 appeals as the President and Board Chair may determine.
 4. The President will render a decision within 20 working days of the Board's receipt of the complaint and shall forward his/her written decision to the parties.
- D. The decision of the Board's designee is final, except for matters subject to the KCTCS Independent Third Party Appeal as provided in KCTCS Board of Regents Policies 2.16.3 and 2.17.

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Attachment A: Timeline for CRP steps

COMPLAINT RESOLUTION PROCEDURE			
Steps	Action	Written Response Due Within	Employee Must Appeal in Writing Within
1	Written with supervisor	10 working days	10 working days
2	Written with department head	10 working days unless extended in writing by mutual agreement	10 working days
3	Written with the College President/Cabinet member, or for faculty academic appeals, the KCTCS Chancellor	20 working days unless extended in writing by mutual agreement	10 working days
4	Board of Regents Designee (usually KCTCS President)	20 working days unless extended in writing by mutual agreement	Final, except for matters eligible for third party appeal