



DELGADO COMMUNITY COLLEGE

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EFFECTIVE DATE:	July 8, 1991
ORIGINATING ORGANIZATION:	AA01

MANAGEMENT INSTRUCTION

SUBJECT: GRIEVANCE POLICY AND PROCEDURES FOR EMPLOYEES IN THE CLASSIFIED SERVICE

PURPOSE

To state Delgado's grievance procedures for classified personnel.

SCOPE AND APPLICABILITY

Applies to all classified personnel.

BACKGROUND

It is the policy of Delgado Community College to develop and maintain a satisfied and efficient work force. Open communication is encouraged between supervisors and employees so that differences can be resolved before they become grievances. It may be expected, however, that misunderstandings or dissatisfaction will occur in day-to-day relationships between employees or between an employee and his/her supervisor. Consequently, grievance procedures have been instituted for classified and unclassified employees to ensure all grievances are considered in an orderly and timely manner. It is incumbent upon every supervisor to provide his/her employees an opportunity to be heard in accordance with the procedures contained in this instruction.

POLICY AND PROCEDURES

A. General Provisions

1. Nothing herein shall be so construed as to deprive a classified employee of the right of appeal to the Director of Civil Service or the Civil Service Commission in appropriate cases, or to alter or extend the time within which an appeal is required to be filed with the Civil Service Commission, or to alter in any way the

Rules of the Commission.

2. The appointing authority's decision shall be final in all cases properly subject to processing through this grievance procedure.
3. Any employee who takes reprisal action of any kind against any employee making use of this grievance procedure shall be subject to disciplinary action.
4. If a grievance hearing is conducted under this procedure, the employee against whom the grievance complaint is made shall have the right to appear and testify at the hearing.
5. Any employee involved in a grievance complaint is entitled to be assisted and represented in the preparation and presentation of his complaint by any employee of his own choosing. The appointing authority of the College is entitled to be assisted or represented by an individual of his own choosing.
6. A classified employee selected by a grievant to represent him in processing a grievance shall be granted necessary time off to investigate the grievance and represent the grievant without loss of pay and without charge to annual leave, such time off subject to the approval of his supervisor.
7. A Grievance Committee composed of five (5) members will be appointed by the appointing authority for purposes of conducting hearings as provided for in the Grievance Procedure. An employee designated as a member of the Grievance Committee shall, with the approval of the appointing authority, be granted necessary time off during working hours to prepare for and hear appeals and prepare recommendations, without loss of pay and without charge to annual or compensatory leave.

The Chairman of the Grievance Committee shall be designated by election from within its membership.

Any member of the Grievance Committee who is a party to or a party of the act resulting in the grievance in question shall be excused from the

Committee during any hearing concerning said grievance. In such cases, an alternate shall be designated by the appointing authority.

8. The decision to utilize this Grievance Procedure shall be the voluntary decision of the individual employee.

Definition of Grievance

Grievance means an employee complaint or personnel problem not appealable to the Director of Civil Service or to the Civil Service Commission. As a general guide, although not all-inclusive, the following actions would normally be appealable to the Director of Civil Service:

1. Removal of a permanent employee for cause.
2. Demotion of a permanent employee as a disciplinary action.
3. Political, religious, or racial discrimination.
4. Suspension without pay as a disciplinary action.
5. Discrimination practiced by the violation of the Civil Service Law or a Civil Service Rule.

Grievance Procedures

1. First step

All grievances should be presented within ten (10) calendar days from the date the grievant first became aware of, or should have become aware of, the cause of such grievance. The aggrieved employee should present his/her grievance to his/her immediate supervisor, and if possible, it should be settled at that level through discussion. The immediate supervisor should render a decision to the employee on the complaint as soon as possible, and must render an oral decision within three (3) calendar days. Since the grievance is being processed informally at this stage, neither the supervisor nor the employee shall have representation.

Second Step

If the grievance has not been settled, it shall be presented in writing by the employee to the department head within seven (7) working days after the supervisor's response is due. The department head shall respond to the employee in writing within five (5) working days.

Third Step

If the grievant is not satisfied with the decision of the department head, he/she shall within five (5) working days, beginning with the first working day after receiving the decision, submit the written and signed grievance to the department head's supervisor. The department head's immediate supervisor shall respond within three (3) working days of receipt of grievance and forward to his immediate supervisor until it reaches the vice president level. The vice president shall respond to the grievant within three (3) working days of receipt.

If the grievance is settled to the satisfaction of the grievant prior to reaching the fourth step, a copy should be sent to the appointing authority.

Fourth Step

If the employee is not satisfied with the decision in Step Three, he/she shall, within five (5) working days, beginning with the first working day after receiving the decision, submit his/her written and signed grievance to the appointing authority of the College.

The appointing authority or his/her representative shall meet with the employee and his/her designated representative (if desired) within five (5) working days of receipt of the written grievance and shall render a decision within five (5) working days thereafter. In the event the decision of the appointing authority does not satisfy the employee, he/she may request a hearing before a Grievance Committee, in writing, within five (5) calendar days. A hearing shall then be held before a Grievance Committee designated by the appointing authori-

ty. Within five (5) days after receipt of the recommendations, the appointing authority will meet the Chairman of the Committee, the aggrieved, and the other party involved to render his final decision. The employee may request the attendance of a representative. A written decision notifying all interested parties, including the Director of Civil Service, will be sent within five (5) days.

Action by Grievance Committee

Upon receipt of a grievance complaint, the Chairman shall, at the earliest practical time, but no later than five (5) days, call a meeting of the committee to consider the grievance. The committee shall then make whatever investigation is necessary. If it finds sufficient justification, the aggrieved party shall be instructed to furnish names of witnesses. The committee may conduct private sessions.

The interested parties shall have the right to request of the committee the attendance of any witness or witnesses which they deem necessary to the proper presentation of their case. If the committee determines that the appearance of a witness is reasonably necessary to the proper presentation of the case, the committee will request the appointing authority to require the attendance of such witness.

The committee shall submit its findings and recommendations to the appointing authority for action. The recommendations shall be signed by all members who shall designate whether they are in favor of the recommendations or dissent therefrom. This report shall be delivered to the appointing authority immediately following completion of the investigation. The aggrieved party may withdraw his complaint at any time.

Summary Disposition of Grievance

At any time after the filing of a grievance in writing, the appointing authority may summarily dispose of the grievance on any of the following grounds.

1. That the appointing authority lacks jurisdiction

of the subject matter, or of the person against whom relief is sought.

2. That only the Civil Service Commission has jurisdiction as stated in Part 4.1 and 4.2 of the Civil Service manual.
3. That the aggrieved has no legal right to grievance consideration.
4. That the grievance has not been made in the required manner or within the prescribed period of delay.
5. That a decision on the grievance would be ineffective.
6. That the aggrieved has failed to appear at the time and place fixed for the hearing of his/her grievance.
7. That the aggrieved has withdrawn or abandoned his/her request for grievance consideration.

When an appointing authority summarily disposes of a written grievance, he/she shall notify all interested parties, including the Director of Civil Service, in writing.

Notice of Hearing

The aggrieved employee shall be given notice at least five (5) calendar days in advance of the hearing, provided that by consent of the Grievance Committee and the aggrieved employee, such notice and delay may be waived.

Time and Place of Hearing

The place of the grievance hearing shall be specified by the appointing authority and shall be in a convenient place accessible to the aggrieved employee. All such hearings shall be held on the employer's premises, or on other premises mutually agreeable to the parties and within regular working hours; provided, that with the approval of the appropriate appointing authority, any such hearing may continue beyond normal working hours.

H. Conduct of Hearing

1. The aggrieved employee and the employing agency shall have the right to call, examine, and cross-examine witnesses who are employees of the agency against which the grievance is lodged and who have knowledge of the facts at issue.
2. Both parties may produce witnesses other than employees of the agency against which the grievance is lodged, and such witnesses shall be subject to examination and cross-examination.
3. Necessary travel expenses of witnesses called under Section H.1 above shall be paid by the College.
4. The aggrieved employee shall have the right to require the production of books, papers, records, and other items which are within the control of the agency against which the grievance is lodged; which are pertinent to the facts at issue; and which are not held to be confidential by provision of State statute, public law, or Constitutional law.
5. The aggrieved employee shall have the right, but shall not be required, to be represented by an individual of his/her choice.
6. Affidavits and ex-parte statements, offered during the course of a grievance hearing, may be received and considered by the Grievance Committee.
7. The Grievance Committee shall have the right to examine and cross-examine any witness.
8. The Grievance Committee shall have the right to limit corroborative evidence.
9. When a pending case involves substantially the same question of law or fact as presented in a prior case, the Grievance Committee may consider any part of the record in such previous case as it may deem relevant; provided, that in the application of this provision, no party shall be deprived of the right to cross-examine any witness.

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10. The testimony of all witnesses may be received under oath.
11. The Grievance Committee, on request of the aggrieved employee or its own motion, may order that the witnesses in any hearing be separated so as to preclude any witness, other than the parties and their representatives, from hearing the testimony of any other witness.
12. If the aggrieved employee, in preparing his/her written appeal, omits facts which he/she considers pertinent to the grievance under consideration, the Grievance Committee shall permit the employee, prior to the conclusion of the hearing, to enlarge his/her original statement to include such facts.
13. When two or more grievance petitions involve similar or related circumstances, the Grievance Committee may order a joint hearing of any or all the matters at issue, or may order that all such petitions be consolidated.
14. Any officer or employee required to testify shall not be subjected to any disciplinary action by his/her appointing authority because he/she testifies, but may be accountable for actions on his/her part revealed by his/her testimony.

5. **CANCELLATION**

This instruction cancels Part II, Section 2 (pages II-7 to II-13) of the Delgado Personnel Manual DM 2100.2.


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