



POLICY: 6Hx28:3E-09

Responsible Executive: Vice President,
Organizational Development & Human
Resources

Policy Contacts: Assistant Vice
President, Human Resources

Specific Authority: 1001.41, F.S.

Law Implemented: 1001.64, F.S.

Effective Date: 02-01-2024

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Employee Dispute Resolution

Policy Statement:

- I. Valencia College (“College”) recognizes that employees should have the opportunity to express differences of opinion in a professional manner and as a result, disputes may occur in the workplace. The College has established a dispute resolution process as a resource for employees to resolve workplace-related disputes at the earliest opportunity to promote productive working relationships. There are two avenues for this process: informal and formal dispute resolution.
- II. The informal dispute resolution process is available for all College employees. It is a collection of common methods used to resolve conflict in the workplace; informal dispute resolution does not involve the use of a formal system of steps or require the completion of forms. This approach is often the most effective method for dispute resolution because it encourages the healthy and respectful exchange of ideas. The informal dispute resolution process provides two options for an employee:
 - A. Interpersonal discussions and/or Facilitated Conversations
 - B. Discussions with supervisor
- III. The formal dispute resolution process, which includes mediation and grievances, is available for full-time College employees as an additional avenue for resolving more serious disputes or disputes not resolved using informal approaches. (Full-time employees are defined in Policy 6Hx28:3C-01 Total Rewards: Compensation & Hours of Work for Employees of the College.)
 - A. The grievance process option of the formal dispute resolution process under this policy is normally for grievances related to employment matters other than disciplinary actions taken against employees. See College Policy 3E-08 Disciplinary Action for information pertaining to appeals on disciplinary actions taken against full-time employees that are:

1. less than a contract termination; or
2. for continuing contract employees, less than a dismissal from employment or return to an annual contract.

All non-disciplinary related disputes are handled in accordance within this employee dispute resolution policy and procedures.

- B. The formal process provides two methods to resolve conflict in the workplace. These formal processes include designated steps to enter, document, and close the process, and usually involve an opportunity for disputing parties to present the case for review by themselves or others involved in the process. The formal dispute resolution process provides two options:
1. Mediation: This approach manages the dispute beyond informal interpersonal discussions and facilitated conversations and provides additional opportunities to find mutually agreeable solutions.
 2. Grievance - The grievance process provides for the review of circumstances of a given situation and renders a recommendation by a committee of trained College representatives. This approach may be necessary to address disputes that have not been successfully resolved in other dispute resolution processes.
- C. The College expects that individuals engaged in a workplace dispute will participate fully in and exhaust informal process efforts to reach an amicable and rational solution to concerns prior to entering the formal dispute resolution process.

- IV. Grievances, complaints, and appeals that can be presented, pursued, and reviewed under a more specific policy or procedure provided by the District Board of Trustees will not be presented or processed under this policy. It is the purpose of this policy to secure, at the earliest possible level, solutions to alleged disputes through procedures that allow employees to present them free from coercion, interference, restraint, discrimination, or reprisal and by which personnel are afforded adequate opportunity to resolve such disputes. Employees who participate in any dispute resolution processes (informal or formal) are expected to continue to follow the reasonable directions of their supervisor before, during, and after the conclusion of the process.
- V. Retaliation against an employee because they engaged in good faith in any of the employee dispute resolution processes is prohibited. Any report of retaliation should be made to a representative from the Organizational Development and Human Resources (ODHR) Employee Relations Office for further evaluation and action as deemed necessary.

Policy History:

Adopted 2-26-14; Amended 2-26-14; Amended 12-12-2018; Amended 2-24-2021; Amended 2-01-2024; Formerly 6Hx28:8-03; Formerly 6Hx28:08-14; Formerly 6Hx28: 3E-09.1 and 6Hx28:3E-09.2

Related Documents/Policies:

College Policy 6Hx28:1-10 Policy Against Improper Activities: Whistleblower Protection

College Policy 6HX28:2-01 Discrimination, Harassment, and Related Misconduct

College Policy 6HX28:3C-01 Total Rewards: Compensation and Hours of Work for Employees of the College

College Policy 6Hx28: 3C-02 Flexible Work Arrangements for Non-Instructional Employees

College Policy 6Hx28: 3D-06.1 Family and Medical Leave

College Policy 6Hx28: 3D-06.2 Fitness for Duty

College Policy 6HX28: 3E-08 Disciplinary Action

College Policy 6Hx28: 3F-03 Suspension, Dismissal, Return to Annual Contract or Non-Renewal of Contracts

College Policy 6HX28: 3F-05.2 Abandonment of Position

Procedures:

I. Informal Dispute Resolution Procedure

The College encourages clear and collegial communication to promptly resolve disputes. An employee is encouraged to initiate discussions through either of the two available options (i.e., interpersonal discussions and/or facilitated conversations; or discussions with supervisor) as soon as reasonably possible from the date of the incident giving rise to the concern.

- A. Interpersonal discussions and/or facilitated conversations: Informal discussion/communication is highly encouraged for all individuals seeking a resolve to a conflict or concern. Parties engage in open meaningful discussions in good faith and work with one another toward mutual resolution that is in the best interest of all involved. Addressing disagreements and differences directly with the individual with whom the conflict is occurring can be the most effective approach to solving a problem. Interpersonal discussions occur when parties involved in a dispute have one-on-one conversations in which both parties can reach mutual understanding and resolution. These discussions may take place over several conversations and may require or be improved by seeking assistance from a neutral party such as a member from ODHR Employee Relations. This neutral party may further assist in the process by helping to facilitate the dialogue to ensure both parties have the

opportunity to share perspectives, listen actively, and seek mutual understanding.

B. Discussions with Supervisor: If, for any reason, the employee does not feel comfortable, would like assistance in raising the concern with the other party, or if interpersonal conversations have not been successful, the employee(s) may bring the concern to the attention of their supervisor or next level of supervision. Supervisors may assist in providing additional information about the issue at hand, provide a sounding board and feedback for employees attempting to resolve a difference, and can provide an alternative perspective on the circumstances and/or possible solutions.

II. Formal Dispute Resolution Procedure – Based upon the information provided, there may be sufficient reason to engage the formal dispute resolution process (i.e., mediation or grievance) in order to bring resolution to the issues presented. When such hearings or conferences are held during working hours, all employees whose presence is required shall be excused from their regular duties for the purpose of attending such hearings or conferences and be considered “on duty” for purposes of overtime, travel reimbursement, etc.

A. Mediation (Formal Dispute Resolution): Mediation is a process for full-time employees in which an internal or external third-party, neutral, trained professional assists parties to reach a mutually agreeable resolution to their dispute. This process is best utilized for resolving interpersonal disagreements and conflicts.

This process is not intended for alleged violation, misinterpretation, or misapplication of established College policies or practices; employee behavior concerns; or employee performance concerns. The mediator sets the agenda for discussion, facilitates the meeting through exploration and validation of each party’s point of view, searches for interests underlying each parties’ position, manages group dynamics, summarizes and records information discussed, and assists with building consensus and finding solutions to their dispute. Mediation is a voluntary process; either party can decide to end the mediation at any time and all parties should work in good faith towards resolution.

1. Mediation Procedure: A full-time employee may contact ODHR Employee Relations to discuss the appropriateness of mediation in a given dispute. The ODHR Employee Relations representative will evaluate the circumstances to determine if the matter is suited for resolution using mediation or some other method of dispute resolution. If the ODHR Employee Relations representative determines that the matter should be addressed using mediation, with the agreement of the parties, the ODHR Employee Relations representative will be responsible for the identification of the trained mediator and coordination logistics of the process.

2. Mediation sessions are not public meetings and are closed to the public. The parties are expected to speak for themselves and representatives are not allowed to be present or to participate. While practical solutions are encouraged, the mediation outcome must comply with College policies.

3. A matter that is resolved using mediation may not be grieved thereafter.

B. Grievance (Formal Dispute Resolution) – If informal attempts to resolve a conflict are not successful or are not appropriate given the nature of the issue, another option in the formal dispute resolution process is the grievance process.

1. The grievance process provides the opportunity for full-time employees to register a complaint concerning:
 - a. A failure to observe, or a misinterpretation or misapplication of established College policies and/or procedures which has or is likely to have an impact on the ability of an employee to undertake their duties or similar impact on their career;
 - b. A termination of an employment contract prior to the contract expiration date (Note: The appeal process for other disciplinary action issued to full-time employees may be found in College Policy 6Hx28: 3E-08 Disciplinary Action);
 - c. A formal challenge to a decision to dismiss employment/contract termination or a decision to return to an annual contract by a faculty member on a continuing contract (Note: The appeal process for other disciplinary action issued to full-time employees on a continuing contract may be found in College Policy 6Hx28: 3E-08 Disciplinary Action);
 - d. Arbitrary and capricious treatment, arising from a failure to observe established College policies or procedures; or which results from a misinterpretation or misapplication of said College policies or practices (Typically, arbitrary and capricious decision making involves bad faith or the failure to exercise honest judgement);
 - e. Violations of academic freedom; or
 - f. The placement of an employee on an administrative leave of absence without pay that is not included as part of a disciplinary action, as the result of medical or personal reasons, or due to an employee exhausting their accrued and available leave balance.
2. The grievance process provides the opportunity for part-time faculty employees to register a complaint solely with respect to:
 - a. the termination of an employment contract prior to the expiration date; or
 - b. violations of academic freedom.
3. The grievance process involves four steps including:
 - a. if appropriate, the attempt to resolve differences using informal or less formal means;

- b. the qualification for a grievance hearing (review of the case to determine whether the grievance is heard via a committee, reviewed through another appropriate policy/procedure, or if no further action would be appropriate);
- c. the grievance hearing with the grievance committee (if applicable); and
- d. the review of and decision by the designated College official (if applicable) regarding the grievance committee's recommendation.

The employee filing a grievance may not simultaneously maintain multiple separate grievance procedures on the same issue nor can they initiate any further College process on the same issue.

4. ODHR Employee Relations Representatives are responsible for coordinating and implementing the grievance process and ensuring that all grievance hearing committee members are properly trained before they participate in the grievance process. The Assistant Vice President, Human Resources (or under limited circumstances, a designee) will serve as the Grievance Coordinator and also provide neutral support and guidance to all participants in the process. This individual, acting as a neutral party, may render advisory assistance to either/both the grievant or respondent regarding procedural matters and interpretation of applicable policies.

5. Non-Grievable Matters: There are matters not eligible to be addressed under this Formal Dispute Resolution Procedure and are either addressed by informal dispute resolution procedures, other policies as referenced or may be clarified and resolved by contacting an ODHR Employee Relations Representative at 407-582-4748 (HR4U) or employeerelations@valenciacollege.edu for additional guidance on other applicable avenues for addressing concerns. These matters include and are not limited to:

- a. Allegations of prohibited conduct under College Policy 6Hx28:2-01 (Discrimination, Harassment and Related Misconduct) including disciplinary action imposed for violations of Title IX Sexual Misconduct under this policy
- b. Allegations of improper activities or retaliation involving whistleblower(s) (Refer to College Policy 6Hx28:1-10 Policy Against Improper Activities; Whistleblower Protection)
- c. Corrective Actions or formal disciplinary action other than termination of an employee contract prior to the contract expiration date or return to annual contract (only applicable to employees on a continuing contract). (Refer to College Policy 6Hx28:3E-08 Disciplinary Action for appeal procedures on applicable formal disciplinary actions for full-time employees.)

- d. Annual performance review process or performance improvement plans (PIP)
- e. Administrative Leave of Absence with pay
- f. Interpersonal disagreements or treatment that falls short of arbitrary and capricious
- g. Contract non-renewals or decisions pertaining to the award of continuing contracts (tenure)(Refer to College Policy 6Hx28:3F-03 Suspension, Dismissal, Return to Annual Contract or Non-Renewal of Contracts)
- h. Benefits
- i. Selection or non-selection for a position
- j. Current position classification or re-classification, salary schedule, or salary within schedule
- k. Work assignments and work schedules that are within established job descriptions and qualifications
- l. Assignment of work outside of the scope of the job description
- m. Employment decisions based on operational and/or budgetary concerns, including and not limited to layoffs, proposed layoffs, or elimination of positions
- n. Voluntary resignation, resignation without notice, or abandonment of position as defined in College Policy 6Hx28:3F-05.2 Abandonment of Position
- o. Requests for discipline of another employee or student
- p. Remedies requested as part of a grievance that are outside the College's scope of authority, ability or control
- q. Voluntary demotions or reductions in pay
- r. Correction of overpayment
- s. College determinations with respect to terminal pay and requests for leave
- t. Allegations of Family and Medical Leave Act (FMLA) retaliation or violations of FMLA rights (Refer to College Policy 6Hx28: 3D-06.1 Family and Medical Leave)

- u. A matter that has been resolved using the mediation procedure
 - v. Separation from employment:
 - i. after the College's interactive process and determination of an employee's inability to perform the essential job functions with or without reasonable accommodation; or
 - ii. in circumstances when an employee's medical documentation indicates their inability to perform the essential job functions and the employee is unable or unwilling to engage or participate in the College's interactive process.
- (Refer to College Policy 6Hx28: 02-02 Workplace Accommodations for Applicants and Employees and/or actions taken under College Policy 6Hx28: 3D-06.2 Fitness for Duty.)
- w. Decisions about flexible work arrangements for work locations and work schedules.

6. Grievance Submission: A grievance must be filed by submitting the online grievance form and required information. The grievance form is located via Atlas or by contacting the Assistant Vice President, Human Resources. The grievance form and required information must be submitted within ten (10) College business days of:

- a. the dismissal;
- b. the decision to dismiss the employment contract prior to the contract expiration date;
- c. the notice of the decision to return the employee on a continuing contract to an annual contract; or
- d. when the employee had knowledge of, or should have had knowledge of the incident, act, action, or omission that is the basis for the grievance.

(College business day is defined as a day where the College is open for business. It shall exclude Saturdays, Sundays, College holidays, and other official College closures, as applicable.)

7. Review of Grievance Submission: Grievance filed by the deadline date shall be reviewed by the grievance coordinator to determine whether the complaint involves a grievable or non-grievable matter.

- a. Grievable Matter: If the complaint is grievable, the grievance coordinator shall inform the grievant and respondent(s) of the grievance. Formal written notifications of a grievance hearing date will be made within ten (10) College business days from the

determination by the grievance coordinator that a grievance hearing is appropriate. All notifications to the grievant and respondent(s) will be communicated through the grievance coordinator or their designee.

b. Non-Grievable Matters:

- i. Grievances that are determined by the grievance coordinator to be non-grievable or eligible to be presented, pursued, and reviewed under a more specific policy or procedure provided by the District Board of Trustees may not be presented or processed under this policy. This determination is final and is not appealable. The grievant will be notified of such a determination and if applicable, provided more detailed information as to the process regarding the appropriate policy.
- ii. Grievances that do not include the required information or are not filed by the deadline date may not be processed. This determination by the grievance coordinator is final, is not appealable, and the grievant will be notified of such a determination.

8. Preparation for the Grievance Hearing

- a. Scheduling of the grievance hearing date: The grievance coordinator, or designee, is responsible for coordinating the grievance date, time, and location with the grievant, appropriate supervisory personnel and/or respondent(s), grievance committee, and witnesses (as applicable and identified by the grievance committee.) Notification of the scheduled grievance hearing date is delivered via email to the respective parties.
- b. Document requests: The grievant or respondent(s) may request relevant document(s) to be provided via the grievance coordinator to support their position in preparing for the grievance hearing. The request(s) to the grievance coordinator should be specific and provide the date by which said documents are needed. The College will make reasonable efforts to accommodate the document requests; however, requests for documents with a response time of less than one (1) College business day/24 hours may not be possible to honor. The requestor may request the documentation before and independent of placing it on the evidence list that is submitted to the grievance committee.
 - i. Confidential information and/or information regarding non-grievable matters may be redacted by the grievance coordinator before providing documents to the parties and/or grievance committee.
 - ii. Except for documents requested by and presented by the grievance committee, the grievant or the respondent(s) may only

present the documents listed on the evidence list.

- c. Witness(es) and submittal of documentation: Either party may provide documentation to support the party's claim and/or request a witness(es) who may provide additional testimony. The grievance committee may request specific documentation, may request additional information, will determine the final list of witnesses for the grievance hearing (if applicable), and/or call witnesses as necessary.
- d. Grievance hearing information and evidence list: The grievance coordinator or designee will supply the grievance committee, grievant, and respondent(s) with the grievance information and a list of evidence to be presented at the grievance hearing no less than three (3) College business days before the scheduled grievance hearing date. The list may include witnesses identified by the grievance committee to provide testimony at the grievance hearing.

9. Grievance Committee Structure and Responsibilities:

- a. An impartial grievance committee is responsible for hearing grievances. The composition of the grievance committee will include five members plus a committee chair who are regular full-time Valencia employees as defined in College Policy 6Hx28:3C-01 Total Rewards: Compensation & Hours of Work for Employees of the College. All grievance committee members shall participate in the training program as developed and implemented by ODHR. The grievance committee composition is as follows:
 - i. The committee chair appointed for each grievance committee hearing, serves without voting privileges. The chair will be an eligible representative from the same employee group as the grievant (staff, faculty, administrative, or executive).
 - ii. The five (5) additional committee representatives will be one faculty member, one administrator, one exempt staff member, one non-exempt staff member, and one additional member from the grievant's employee group (staff, faculty, administrative, or executive).
 - iii. In the following situations, the grievance committee chair shall be an eligible faculty member and the five (5) additional grievance committee representatives will be three (3) faculty members and two (2) administrative members:
 - 01. a part-time faculty; regular full-time annually appointed faculty; or full-time tenure track or tenured faculty member grieving the termination or recommendation to terminate their employment contract prior to the contract expiration date (as

applicable);

02. a tenured faculty grieving the recommendation to return to an annual contract; or

03. a grievance regarding violations of academic freedom

iv. If, in their sole discretion, the grievance coordinator determines that a conflict of interest exists with respect to a grievance committee member's ability to participate in an impartial manner, the grievance committee member may be recused by the grievance coordinator from further participation in the grievance hearing process. Additionally, any member of the committee may recuse themselves by notifying the grievance coordinator. Should any member be recused, it is the responsibility of grievance coordinator or designee to designate an eligible alternate member from the affected employee group and notify the grievant and respondent(s) of such action.

10. Grievance Hearing Procedures: The grievance committee will hear the grievance during which the grievant and respondent(s) have an opportunity to clarify the information supporting their cases.

a. Each party will have an opportunity to provide opening statements, responses, and closing statements.

b. Only the grievant, respondent(s), and approved witness(es) will be permitted to present to the grievance committee. Only the grievance committee and grievance coordinator are permitted to ask questions of the grievant, respondent(s), and any witnesses. There will be no cross-examination by either party (grievant or respondent).

i. The grievant is responsible for supporting their grievance that a College policy or procedure has not been followed by a preponderance of the evidence.

ii. The respondent(s) will be permitted to present testimony or documentation in support of their actions regarding the issue.

iii. The grievant and respondent(s) may each have an advisor, who may be an attorney, attend the hearing; however, the advisor may not address the committee directly or directly participate in the proceeding. The role of the advisor is to quietly advise the person who invited them. At the discretion of the grievance committee chair or grievance coordinator (who is typically the Assistant Vice President, Human Resources, or designee), the advisor may be excused if their presence disrupts the hearing in any way. If either party wishes to have an advisor present at a hearing, they must inform the Assistant Vice President, Human Resources, with the name of the advisor at least three (3) College business days

prior to the grievance hearing.

- c. The grievance committee and/or grievance coordinator may request additional documentation from either party to include additional witnesses at any time during the process (prior to or during the hearing).
- d. Prior to and/or during the grievance hearing, the grievance committee chair may rule that the evidence or testimony presented is not applicable to or relevant to the basis of the grievance hearing and therefore not considered by the grievance committee in making their recommendation.
- e. The grievance hearing is not a criminal court proceeding, civil court proceeding, or public meeting and should not be regarded as such. The conduct of the hearing will be kept confidential to the extent permissible by law and as necessary and appropriate to protect the rights of the parties.

11. Grievance Hearing Committee Recommendations

- a. After the grievance hearing is completed, the grievance committee has ten (10) College business days, from the date of the grievance hearing, to provide a recommendation(s) to the grievance coordinator, who will distribute the recommendation(s) to all relevant parties.
 - i. The grievance committee may consult with the grievance coordinator regarding the content and composition of the recommendation; however, the grievance committee determines the recommendation for the case.
 - ii. The recommendation(s) must be supported by a preponderance of evidence provided (more probably than not), affirmed by a majority of the grievance committee members, and signed by all grievance committee members.
- b. The grievance documentation presented at the grievance hearing and the grievance committee recommendation(s) will be provided to the Vice President/Provost responsible for the respective area.
 - i. If the grievance involves the Vice President/Provost responsible for the respective area, involves the recommendation to dismiss employment for an employee on a continuing contract (tenured faculty), or involves the recommendation to return a continuing contract employee (tenured faculty) to an annual contract, the grievance documentation presented at the hearing and committee recommendation(s) will be provided to the College President.

12. Grievance Outcome

- a. Based upon the grievance committee recommendation, the respective Vice President/Provost (or College President, if applicable) in consultation with the Vice President of Organizational Development and Human Resources (VP, ODHR), has the authority to accept or modify the recommendation(s).
 - i. If the grievance committee recommendation is to the VP, ODHR, then the VP, ODHR will consult with the College President or designee.
 - ii. If the grievance involves the VP, ODHR, the College President will consult with another College Vice President.
- b. The respective Vice President/Provost (or College President, if applicable) will issue the final written decision to the grievance coordinator, who will distribute the decision to all relevant parties normally within ten (10) College business days.
- c. Following the issuance of the final written decision, or the College President's written decision in the case of an appeal of a termination of a contract of employment or return to annual contract, as applicable, the decision is the final action of the College's grievance process on the matters presented.
 - i. For employees on a continuing contract where a final written grievance decision upholds either the recommendation to terminate an employment contract or recommendation to return to annual contract, as applicable, the recommendation will become final upon the next meeting of the District Board of Trustees.

III. Dispute Resolution Resources

- A. Employee Relations: Along with supervisors, representatives from the ODHR Employee Relations Office are a primary resource for all employees who may have difficulty resolving conflicts. ODHR Employee Relations staff are trained to provide support, guidance, and feedback to employees who are having difficulty resolving conflicts. These human resource representatives may serve as advocates for the dispute resolution process, ensuring that employees are aware of and have access to the tools, processes, and policies in place to resolve disputes. An ODHR Employee Relations staff member may be engaged at any point of the informal dispute resolution process. It may include the coordination and support of the activities of the Employee Dispute Resolution System and the preparation and maintenance of necessary records. Based upon the information provided, an ODHR Employee Relations staff member may have sufficient reason to recommend referrals to the formal dispute resolution process or to conduct a review in order to bring resolution to the issues presented. For support and navigation through these processes, employees should contact an ODHR Employee Relations representative at 407-582-4748 (HR4U) or employeerelations@valenciacollege.edu.

- B. Faculty Ombuds Representative: An additional resource for faculty who are having difficulty resolving interpersonal conflicts is the faculty ombuds representative, who is a colleague/peer in the College trained to provide guidance on available resources. This representative is not part of the College's dispute resolution process nor do they represent or advocate for faculty in these processes. The Representative is familiar with dispute resolution practices, available resources, and is able to direct faculty to appropriate resources upon request. While not a confidential resource, this representative shall be discrete, respects the privacy of the individual(s) involved, and shares related information only with those College employee(s) who need to know in order to assist in resolving the conflict. ODHR Employee Relations, in collaboration with the Faculty Association, shall solicit faculty ombuds nominations and select faculty ombuds representative(s). The selected faculty ombuds representative(s) will serve a one year term coinciding with the fiscal year with the opportunity to continue in the role for additional terms.

Procedure History:

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