



POLICY: 6Hx28:3E-09

Responsible Executive: Vice President,
Organizational Development & Human
Resources

Policy Contacts: Director, HR Policy and
Compliance Programs

Specific Authority: 1001.41, F.S.

Law Implemented: 1001.64, F.S.

Effective Date: 12-12-18

Date of Last Policy Review: 12-12-18

Employee Dispute Resolution

Policy Statement:

- I. Valencia 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 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 personnel as defined in Policy 6Hx28:3C-01 Total Rewards: Compensation & Hours of Work for Employees of the College.) The grievance process option of the formal dispute resolution process is available to part time faculty employees solely with respect to the termination of an employment contract or violations of academic freedom. 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.

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 involves 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:

- A. Mediation - This approach manages the dispute beyond informal interpersonal discussions and facilitated conversations and provides additional opportunities to find mutually agreeable solutions.
 - B. 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.
- 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 such 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.

Retaliation against an employee because they engaged in good faith any of the employee dispute resolution processes is prohibited. Any report of retaliation should be made to an Organizational Development and Human Resources (ODHR) representative from a Regional Solution Center or Equal Opportunity and Employee Relations (EO/ER) for further evaluation and action as deemed necessary.

Policy History:

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

Related Documents/Policies:

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

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

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

6HX28:3E-08 Disciplinary Action

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 any 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 an ODHR representative from a Regional Solution Center or EO/ER. 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 EO/ER to discuss the appropriateness of mediation in a given dispute. The EO/ER 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 EO/ER representative determines that the matter should be addressed using mediation, with the agreement of the parties, the EO/ER 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, which provides the opportunity for fulltime employees to register a complaint concerning adverse employment actions (including written warning, suspension, demotion, or termination), and/or violations of academic freedom, 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 policies or practices. The grievance process option of the formal dispute resolution process is available to part time faculty employees solely with respect to termination of an employment contract or violations of academic freedom. The formal Grievance Process at Valencia allows the employee to receive a College hearing on the issue, receive an impartial recommendation and involves four steps including 1) if appropriate, the attempt to resolve differences using informal or less formal means; 2) the qualification for hearing (review of the case to determine whether or not it will be heard); 3) the hearing, and 4) the review of and decision regarding the grievance

committee's recommendation by the designated College official. The person filing a grievance may not simultaneously maintain two separate grievance procedures on the same issue nor can they initiate any further process on the same issue.

1. Grievance Coordinator – Representatives from the HR Policy & Compliance Programs Office or EO/ER are responsible for implementing the grievance process and ensuring that all elected hearing committee members are properly trained before they participate in the grievance process. In addition, HR Policy & Compliance Programs and EO/ER representatives provide neutral support and guidance to all participants in the process. These representatives, acting as a neutral party, may render advisory assistance regarding procedural matters and interpretation of applicable policies to either/both the grievant or respondent.

2. Grievable Employment Matters (Matters eligible to be considered by the grievance committee, include):
 - a. Disciplinary actions including Written Reprimand, Suspension (without pay), Demotion, Termination of Employment (for employees not employed with a contract), or Termination of Employment Contract/Return to Annual Contract (in accordance with Policy 6Hx28:3F-03). Also grievable is the proposed placement of an employee on an administrative leave without pay.
 - b. Violations of academic freedom
 - c. Arbitrary and capricious treatment (For example, an employment decision is arbitrary if it is not supported by logic or made without regard for the facts and circumstances presented; an employment decision is capricious if it is made without thought or a reasonable basis or in the absence of a rational connection between the facts of the matter and the choice made. Typically, arbitrary and capricious decision making involves bad faith or the failure to exercise honest judgment.)

3. 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 the Office of HR Policy and Compliance Programs or EO/ER for additional guidance on other applicable avenues for addressing concerns. These matters include and are not limited to:
 - a. Allegations of prohibited conduct – Refer to College Policy 6Hx28:2-01 (Discrimination, Harassment and Related Misconduct)

- b. Allegations of improper activities or retaliation involving whistleblower(s) (Refer to College Policy 6Hx28:1-10 Policy Against Improper Activities; Whistleblower Protection)
- c. Counseling or individual action plan (IAP) (Refer to College Policy 6Hx28:3E-08 Disciplinary Action.)
- d. Annual performance review process or performance improvement plans (PIP)
- e. Administrative Leave of Absence or suspension 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. Layoff or proposed layoff
- n. Voluntary resignation, resignation without notice, or abandonment of position as defined in College Policy 6Hx28:3F-05.2
- 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/Medical Leave
- u. A matter that has been resolved using the mediation procedure

4. Grievance Committee Structure and Responsibilities:

- a. An impartial grievance committee is responsible for hearing grievances. The composition of the grievance committee, selected by the grievance coordinator from a pool of duly elected and trained representatives, will include five members plus a committee chair who are regular full-time Valencia employees as defined in Policy 6Hx28:3C-01 Total Rewards: Compensation & Hours of Work for Employees of the College. In addition, each elected member shall have an alternate(s) available in the pool to ensure availability and that hearings are conducted in a timely manner. The committee members shall be elected by their respective employee groups for staggered terms of three years with elections held January of the election year. In alternating years, half of the members shall be elected with the remaining members elected in the subsequent year. In order to be eligible to serve, all committee members shall participate in the training program as developed and implemented by the Organizational Development and Human Resources Office. The composition is as follows:
 - i. The committee chair, or designee, will serve as chair without voting privileges. The chair will be an eligible representative from the same employee group as the grievant (staff, faculty, administrative, or executive) and will be appointed for each grievance in accordance with these procedures by the grievance coordinator.
 - ii. The five (5) committee representatives will be one faculty, one administrator, one exempt staff member, one non-exempt staff member plus one additional member from the grievant's employee group (staff, faculty, administrative, or executive). Before the hearing, one of the committee members will also be identified as alternate chair for the respective grievance should the committee chair become unable to complete their duties. The alternate chair will be based upon the same employee classification as the grievant.
 - iii. The grievance committee chair shall be an eligible faculty member and the five (5) committee representatives will be three (3) faculty members and two (2) administrative members in the case of a grievance filed by:
 - 01. a part time faculty; regular full time annually appointed faculty; or full time tenure or tenured faculty member with respect to the termination of the employment contract;

02. a tenured faculty returned to annual contract; or
03. violations of academic freedom

II. If a conflict of interest with respect to a committee member's ability to participate in an impartial manner becomes apparent, the committee member may be recused from further participation by the grievance coordinator in their sole discretion.. Any member of the committee may recuse themselves by notifying the grievance coordinator. Should any member be recused, it is the responsibility of the Office of HR Policy and Compliance Programs or EO/ER to designate an alternate member from the affected employee group and notify the grievant.

5. Grievance Rules: The following rules will govern the conduct of the hearing:

- a. The grievant is responsible for supporting their complaint that a College policy or procedure has been violated by a preponderance of the evidence.
- b. The respondent will be permitted to present testimony or documentation in support of their actions regarding the issue.
- c. Only the grievant and respondent(s) will be permitted to present to the grievance committee. Either party may request a witness(es) who may provide additional testimony or documentation to support the party's claim and the grievance committee will determine the final list of witnesses for the hearing (if applicable). The grievance committee may request specific documentation, additional information, or call witnesses as necessary.
- d. The grievance process is not a criminal or civil court proceeding and should not be regarded as such.
- e. The grievant and respondent may 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, and the advisor may be excused if their presence disrupts the hearing in any way in the sole discretion of the committee chair. If either party wishes to have an advisor present at a hearing, they must advise the College via the Office of HR Policy and Compliance Programs/Human Resources at least three (3) business days prior to the hearing.
- f. In the hearing, the grievant and respondent shall be given an opportunity to state their position and there will be no cross-examination by either party. Only the grievance committee will be permitted to ask questions of both parties and witnesses, as applicable.

- g. The hearing is not a public meeting and 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.

6. Grievance Process Steps:

- a. To ensure the opportunity for timely and equitable solutions to alleged grievances of full-time personnel, the College requires the following procedural steps be followed:
 - i. Step 1 – A grievance must be filed in writing using the designated “HR Full-Time Grievance” form (HR Form #301), which must be signed (electronic or handwritten) and dated by the grievant in the designated area. The employee must submit the completed grievance along with required documents to the Office of HR Policy and Compliance Programs/Human Resources through hard copy or sent scanned via email and received within ten (10) business days after the date the employee had knowledge of or should have had knowledge of the incident, act, employment action or omission that is the basis for the grievance. (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.)

01. If the employee attempted to go through any of the informal options, then the employee has ten (10) business days after the date of the final attempt through which informal means were not successful to submit the grievance along with official documentation of participation in any of the informal processes. If the form and related documentation are scanned and sent via email, the date/time of the sent email will be identified as the filing date/time of the grievance. The grievance form must include the following information (attach supporting documentation as needed):

- a) a detailed, factual written description of the issue(s) that includes the incident, act, or omission the grievant alleges is the basis for the grievance, including date(s) of occurrence; if informal means were attempted, include a description of the attempts made and parties involved, including date(s);
- b) the specific section(s) of policy(ies) or procedure(s) alleged to have been violated, misapplied, or misinterpreted by the College to include how the policy(ies) or procedure(s) was(were) not followed;

- c) name(s) and contact information of any witness(es) or those who have direct knowledge of the alleged incident, act or omission and a description as to how the witness knowledge correlates to the grievance;
- d) steps taken to date to resolve the complaint;
- e) the resolution the grievant is seeking to resolve the matter or remedy the situation; and
- f) other documents the grievant believes support the grievance.

02. Grievances filed by the deadline date shall be reviewed by the grievance coordinator to determine whether the complaint involves a grievable or non-grievable matter. If grievable, the grievance coordinator shall inform the grievant and respondent of the grievance. 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 determination and if applicable, provided more detailed information as to the process regarding the appropriate policy.

03. Grievances that do not include the required information or are not filed by the deadline date may not be processed. If the item(s) presented in the grievance fall under the parameters of non-grievable matters, they do not include the required information, or the grievance is not submitted by the deadline date, the grievant will be notified of such determination and the grievance not processed. This determination is final.

04. All notifications to the grievant and respondent will be communicated through a representative of the Office of HR Policy and Compliance Programs/Human Resources.

ii. Step 2 – Formal written notifications of a hearing date will be made within ten (10) business days from receipt of the required grievance documentation. The Office of HR Policy and Compliance Programs is responsible for coordinating the grievance date, time, and location with the grievant, appropriate supervisory personnel and/or respondent, grievance committee, and witnesses (as applicable and identified by the grievance committee). Notification of the scheduled hearing date is

delivered via email to the respective parties.

01. Document Requests - The grievant or respondent may request relevant document(s) to support their position in preparing for the hearing. The employee should request documents from the grievance coordinator. The request(s) should be specific and provide the date by which said documents are needed. Confidential information may be redacted. The College will make reasonable efforts to accommodate the document requests; however, requests for documents with a response time of less than one (1) working day/24 hours may not be possible to honor. The grievant may request the documentation prior to and independent of placing it on their evidence list that is submitted to the committee. Note: With the exception of documents requested by and presented by the grievance committee, only documents listed on their respective evidence lists may be presented by the grievant or the College representative at the hearing.
02. Grievance Information and Evidence to Be Presented – A representative from the Office of HR Policy and Compliance Programs will supply the committee, grievant, and respondent with the grievance information and a list of evidence to be presented at the hearing no later than three (3) business days prior to the scheduled hearing date. The list may include witnesses identified by the grievance committee to provide testimony at the hearing.
- iii. Step 3 – The grievance committee will hear the grievance during which the grievant and respondent have an opportunity to clarify the information supporting their cases. Each party will have an opportunity to provide opening statements, responses, and closing statements. The grievance committee and/or grievance coordinator may ask questions of the grievant, respondent, and any witness(es). In addition, the grievance committee and/or grievance coordinator may request additional documentation from either party to include additional witnesses at any time during the process. The grievance committee and/or grievance coordinator may request additional documentation or witnesses prior to or during the course of the hearing. Prior to and during the hearing, the committee chair may rule that evidence or testimony presented is not applicable to or relevant to the basis of the hearing.

After the hearing is completed, the grievance committee has ten (10) business days to provide a recommendation(s) to the grievance coordinator, who will distribute the recommendation(s) to all relevant parties. The report and recommendation(s) will be provided to the Vice President/Campus President responsible for the respective area. If the grievance involves the Vice President/Campus President responsible for the respective area, or the termination of a tenured faculty member, the report and recommendation(s) will be provided to the College President. The recommendation(s) must be supported by a preponderance of evidence provided (more probable than not), affirmed by a majority of the committee members, and signed by all committee members. The grievance committee may consult with the grievance coordinator regarding the content and composition of the recommendation prior to submittal to the Vice President/Campus President (or College President, if applicable); however, the grievance committee determines the recommendation for the case.

- iv. Step 4 – Based upon the grievance committee recommendation, the respective Vice President/Campus President (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). (If the grievance committee recommendation is to the VP, ODHR, then the VP, ODHR will consult with the College President or designee. If the grievance involves the VP, ODHR, the College President will consult with the Executive Vice President or another College Vice President.) The respective Vice President/Campus President (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) business days. In the case of termination of a contract of employment, the grievant may appeal the final written decision to the College President (except when the grievance committee recommendation goes directly to the College President) on the following grounds:
 01. New information that could affect the decision by the Vice President/Campus President and that was not reasonably available to the Vice President/Campus President at the time of the decision;
 02. Material deviation(s) from written procedures that significantly affected the outcome.

This appeal must be submitted in writing to the College

President within five (5) business days of the grievant's receipt of the final written decision. Following the issuance of the final written decision, or the College President's decision in the case of an appeal of a termination of a contract of employment, as the case may be, the decision is the final action of the College's grievance process on the matters presented. If the Vice President/Campus President's (or College President, if applicable) supports the recommendation of an employee's termination of employment at the college, this matter will be placed on the Organizational Development and Human Resources agenda for the next regular meeting of the District Board of Trustees for its appropriate action.

III. Dispute Resolution Resources

A. Equal Opportunity and Employee Relations or Regional Solution Center Representative – Along with supervisors, representatives from an ODHR Regional Solution Center or EO/ER are a primary resource for all employees who may have difficulty resolving conflicts. ODHR representatives 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. A human resource representative 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, ODHR 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 representative at 407-582-5000 x4748 (HR4U) or HR4U@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 discreet, 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. The Faculty Association shall solicit faculty ombuds nominations and one faculty ombuds representative shall be selected in collaboration with ODHR. The selected faculty ombuds representative will serve a one year term coinciding with the fiscal year.

Procedure History:

Adopted 2-26-14; Amended 3-27-14; Amended 2-26-14; Amended 12-12-2018; Formerly 6Hx28:3E-09.1 and 6Hx28:3E-09.2

Date of Last Procedure Review: 12-12-2018