

STUDENT GRIEVANCE PROCEDURE
MASSACHUSETTS COMMUNITY COLLEGES

Revised 2013

POLICY GOAL: CONFLICT RESOLUTION

Before invoking the Student Grievance Procedure, a reasonable effort shall be made by those involved in a dispute to resolve it amicably. A dispute is most effectively handled and resolved by those closest to the problem, having the best understanding of the issues, and having the ability to formulate a mutually acceptable resolution. Therefore, it is in the best interest of the student, the potential subject of a Grievance, and the College to resolve disputes through open and cooperative dialogue. Only when such efforts are unsuccessful should the Student Grievance Procedure be invoked. Throughout all phases of the Student Grievance Procedure, all reasonable efforts shall be made to maintain confidentiality in accordance with applicable law.

DEFINITIONS

- 1) **COMPLAINT**: the informal, unwritten stage of an allegation of mistreatment.
- 2) **DAY**: as used in this policy, shall mean a calendar day.
- 3) **GRIEVANCE**: a written grievance filed by a student with the person designated by the President as the Student Grievance Officer specifically alleging an abridgment of his or her rights as a student.
- 4) **GRIEVANT**: the student filing the Grievance. The Grievant must have been a registered student of the College at the time of the alleged mistreatment.
- 5) **INSTRUCTIONAL PERIOD**: the academic semester, summer session or intersession when a grievable act or omission occurs. The Instructional Period shall end on the last day of final exams.
- 6) **RESPONDING PARTY**: the person against whom a complaint or Grievance is directed.
- 7) **SENIOR OFFICER**: senior level employee who reports to the President for the Responding Party's work area.
- 8) **STUDENT GRIEVANCE OFFICER**: a College employee assigned responsibility for administering the Student Grievance Procedure, including the maintenance of specified records. The Student Grievance Officer shall ordinarily be the Senior Student Affairs Officer. If this individual is the person against whom the Grievance is filed, the President shall designate another College official to act as the Student Grievance Officer.
- 9) **SUBSTANTIAL EVIDENCE OF ERROR OR INJUSTICE**: for purpose of Grade Appeals, substantial evidence of error or injustice is defined as:
 - a. The assignment of a course grade to a student on some basis other than performance in the course;
or
 - b. The assignment of a course grade to a student by resorting to unreasonable standards different from those which were applied by the same instructor to other students in that course; or
 - c. The assignment of a course grade by a substantial, unreasonable and unannounced departure from the instructor's previously articulated standards.

- 10) **TIME:** the number of days indicated at each level shall be considered as a maximum. All reasonable efforts shall be made to expedite the process, but the President or his/her designee may extend the time limits in extenuating circumstances with notice to both parties in writing, or by mutual written agreement between the Grievant and the Responding Party.

UTILIZING THE STUDENT GRIEVANCE PROCEDURE

The Student Grievance Procedure may be used by a student to address alleged abridgment of the student's rights, as stated in the College's Student Handbook and/or Policy Guide. *“Student rights include the opportunity to pursue higher education; freedom to exercise the rights of citizenship, association, inquiry, and expression; and privacy and confidentiality in counseling relationships, health care, financial matters, and matters of record. Students will have the right of voting representation on all recommendations to the President on such matters as academic standards, student activities and curricula. Most importantly, students have the right to quality education. This includes, but is not limited to, competent instruction, assistance in overcoming educational, cultural, emotional, and economic disadvantages which hinder the educational process, and fair and equal treatment in such areas as instruction, evaluation, and services by faculty, staff, students and administrators. Students have the right to receive in writing from faculty members during the first week of classes a brief course description, requirements, and a specific list of information and techniques which the student is expected to acquire. Also, what grading system and attendance policy will be utilized? Students will also have the right to procedural due process in grievance and disciplinary hearings. Student responsibilities include knowledge of and compliance with directives, regulations, and laws as established by the Board of Higher Education, the Board of Trustees, the College, the student government, and the duly constituted civil authorities. The goal of the statement of student rights and responsibilities is to provide an atmosphere for sound intellectual and academic development.”* The student Grievant or the Responding Party may consult with the Student Grievance Officer at any time. **The College's Student Grievance Officer is the Dean of Learning Resources and Student Success, David B. Ziemba. Dean Ziemba's office is located on the top floor of the M. M. Wilkens Hall (formerly the South Hall) in Room 216A, phone extension 4345.**

The Student Grievance Procedure may not be used to address allegations of discrimination, including sexual harassment. When a student believes that he/she has been discriminated against due to his/her race, creed, religion, color, sex, sexual orientation, gender identity, age, disability, veteran status, genetic information or national origin, the College's Affirmative Action Grievance Procedure is a mechanism for resolution. The College's Affirmative Action Grievance Procedure is contained in the College's Affirmative Action Plan. **The College's Affirmative Action Officer is the Associate Vice President of Human Resources, P. Paul Alexander. Mr. Alexander's office is located in the Nickerson Administration Building, Room 106, phone extension 4307.**

If a Grievance involves a grade dispute, a student shall process the Grievance in accordance with the Student Grievance Procedure. However, if a grade dispute raises issues of discrimination or sexual harassment, the Grievance should be processed in accordance with the College's Affirmative Action Grievance Procedure and the Affirmative Action Officer shall conduct the process in collaboration with the Senior Academic Officer or designee.

Claims of physical or sexual assault shall not proceed under the Student Grievance Procedure. A claim of physical assault alleged against a student shall be reported to the Code of Conduct Officer. A claim of physical assault alleged against an employee shall be reported to the Human Resources Office. In both cases, law enforcement authorities shall also be notified. A claim of sexual assault shall be reported to the College's Affirmative Action Officer and/or Title IX Coordinator and law enforcement authorities and shall

proceed under the College's Affirmative Action Plan. In matters involving physical or sexual assault, alleged victims are strongly encouraged to independently report the incident to the law enforcement authorities. The College's Campus Police/Security Department can assist with the reporting process.

At any Level of the Student Grievance Procedure, either party may request mediation by contacting the Student Grievance Officer. Mediation shall be mutually agreed upon, and not unreasonably refused by either party. The Student Grievance Officer shall select an impartial mediator who shall be mutually agreed upon and not unreasonably refused by either party, make the arrangements, determine the timetable for the mediation process, and inform the parties of the timetable in writing. Where practicable, a mediation session shall be conducted no later than thirty (30) days after requested and agreed to by the parties. The purpose of mediation is to resolve the dispute to the satisfaction of both parties. If a mediated resolution cannot be achieved, the Grievant may proceed with the Grievance Process. The Grievant has the right to be accompanied by any advisor of his/her own choosing and at his/her own expense throughout the grievance process. The advisor may be an attorney. An advisor's role is limited to personally advising the Grievant only. An advisor is not permitted to participate directly in any aspect of the grievance process.

Except for under extenuating circumstances, as determined by the President or his/her designee, failure by a party to comply with the Student Grievance Procedure during the course of a Grievance may result in the waiving of the noncompliant party's rights under the Procedure.

GRADE APPEALS

Complaints or Grievances filed in connection with assigned grades represent a special case within the Grievance procedure. Grading reflects careful and deliberate assessment of a student's performance by the instructing professional(s). As such decisions are necessarily judgmental the substance of those decisions may not be delegated to the Grievance process. Nevertheless, the College recognizes that in rare cases the process of grading may be subject to error or injustice.

Except as otherwise provided by a separate appeal procedure for a clinical program as approved by the President of the College, a student who alleges an error or injustice in the grading process may file a Grievance under the Student Grievance Procedure. A grade appeal Grievance shall proceed no further than Level Two, Step Two. For purposes of a grade appeal, the Senior Academic Officer of the College, or his/her designee, shall serve as the Student Grievance Officer throughout the grade appeal process.

If the faculty member who assigned the challenged grade is no longer employed by the College or is not available within the timelines specified (see "Time" definition), the student may initiate his/her Level One complaint with the chief administrator of the appropriate instructional division (who shall be identified by the Senior Academic Officer).

If at any level substantial evidence of error or injustice is produced, the grading process may be remanded to the instructor of record for reassessment. If after reassessment, the dispute remains unresolved, the matter shall be referred to the Senior Academic Officer, or his/her designee, for final review. If the instructor of record is no longer available, the Senior Academic Officer or his/her designee shall instead reassess the grading process.

LEVEL ONE - INFORMAL PROCEDURE

This is the informal stage where most complaints are resolved. The Grievant and the Responding Party should consult with the Student Grievance Officer at this time.

A Grievant initiates the informal phase of the Grievance process. The Grievant shall first present his/her complaint orally and informally to the Responding Party. This shall be done in a reasonable period of time, not exceeding thirty (30) calendar days following the instructional period when a grievable act or omission occurs.

The Responding Party must respond to the Grievant's complaint within ten (10) days. Though this phase of the process is informal, the parties may present their positions in writing. If the matter is not resolved informally within ten (10) calendar days from the date a response to the complaint was due, the Grievant may proceed to Level Two.

LEVEL TWO - FORMAL PROCEDURE

Prior to filing a written Grievance at Level Two, a Grievant must consult with the Student Grievance Officer. The Responding Party should also consult with the Student Grievance Officer at this phase of the process.

L2 - STEP ONE

The Student Grievance Officer shall notify the parties in writing when a complaint is not resolved informally at Level One.

The Grievant may, within ten (10) calendar days after receipt of the Student Grievance Officer's written notice, file with the Student Grievance Officer a Grievance. The Grievance shall contain the following information: the name and title of the person(s) against whom the Grievance is directed, a statement of all known facts, documents and materials supporting the grievance, a list of individuals who have information pertinent to the grievance, and the relief sought by the Grievant. All supporting documents, if any, shall be attached to the grievance as part of the Grievance. The Grievance shall also state the date it is filed and that it is being filed at "Level Two, Step One."

The Grievance may be filed with the Student Grievance Officer by email, regular mail, certified mail, or in hand. Thereafter, the Student Grievance Officer shall deliver the Grievance, and all supporting documents, if any, to the Responding Party within five (5) calendar days. If the Responding Party is unavailable at the time the Grievance is filed, the Student Grievance Officer shall use reasonable means to deliver the Grievance within a reasonable period of time.

The Responding Party shall forward a written Level Two - Step One response to the Student Grievance Officer within ten (10) calendar days of his/her receipt of the Grievance. The Student Grievance Officer shall deliver the written response to the Grievant within five (5) calendar days of receipt.

L2 - STEP TWO (Supervisor Level)

If the Grievance is not resolved to the satisfaction of the Grievant within ten (10) calendar days after his/her receipt of the Step One response, or if no written response is submitted, the Grievant may within ten (10) calendar days after the written response was received or due, request the Student Grievance Officer to

forward the Grievance and response, if any, to the supervisor of the Responding Party, with a copy to the Senior Officer of the work area of the Responding Party.

The supervisor shall investigate the Grievance and confer with the Senior Officer. The supervisor shall forward his/her written decision to the Student Grievance Officer, within ten (10) calendar days after receipt of the Step Two Grievance. Thereafter, the Student Grievance Officer shall deliver the decision to the Grievant and the Responding Party within five (5) calendar days.

At any time before the issuance of the Supervisor's Step Two decision, the Senior Officer may request that the parties meet to discuss the issue and attempt to resolve it.

Grade appeals do not go beyond this Step (Level Two - Step Two) per the section on Grade Appeals.

No new issues or allegations may be raised by either party after Step Two.

L2 - STEP THREE (Student Grievance Committee Level)

If the Grievance is not resolved to the satisfaction of the Grievant within the period allowed at Level Two - Step Two, the Grievant may request a hearing before a Student Grievance Committee. Such a request must be in writing and presented to the Student Grievance Officer within ten (10) calendar days from the issuance of the Supervisor's Level Two - Step Two decision.

Within ten (10) calendar days of the Student Grievance Officer's receipt of the Grievant's request for a hearing, the Student Grievance Officer shall arrange a hearing before a Student Grievance Committee. The Student Grievance Officer shall use reasonable efforts to schedule the hearing at a time mutually convenient to the parties. At least twenty-four (24) hours prior to the hearing, the Student Grievance Officer shall provide each member of the Committee and all parties to the Grievance with copies of the Grievance, responses to the Grievance, decisions issued, and all relevant supporting documentation and materials. The Committee's make-up and hearing rules are discussed later in this policy.

The Committee shall deliver its findings and recommendations to the Student Grievance Officer within ten (10) calendar days following the hearing. A copy of the Committee's findings and recommendations shall be delivered to the President or his/her designee, within five (5) calendar days of receipt.

Within ten (10) calendar days of the President's receipt of the Committee's findings and recommendations, the President or his/her designee, shall issue a written statement accepting, modifying or rejecting the Committee's recommendations.

The decision of the President, or his/her designee, shall be final and binding on all parties.

MEMBERSHIP OF THE STUDENT GRIEVANCE COMMITTEE

The composition of the College's Student Grievance Committee shall consist of five members: one student, one unit professional, one faculty member, one non-unit professional and one unit classified employee. The President or his/her designee shall appoint each member from among the recommendations submitted by the Student Grievance Officer.

Service on the Committee shall be voluntary, provided that a member who has a personal interest in a particular Grievance shall be ineligible to serve on the Grievance Committee. All College employees serving on the Student Grievance Committee, and acting within the scope of their official duties on the

Committee, shall be protected from liability to the full extent provided under Massachusetts General Laws, Chapter 258, and eligible for indemnification as provided for pursuant to M.G.L. Chapter 258, Section 9.

All Student Grievance Committee members, as well as all others in attendance at a student Grievance proceeding, shall maintain the confidentiality of the proceedings. The Student Grievance Officer shall attend all Committee hearings but shall not vote.

STUDENT GRIEVANCE COMMITTEE HEARING & DECISION GUIDELINES

The following guidelines provide the framework for conducting a Student Grievance Committee Hearing:

- 1) Prior to the hearing, the newly impaneled Committee shall meet to elect a Committee Chairperson. The Chairperson shall be selected by a simple majority vote.
- 2) The Chairperson on the Committee shall be responsible for conducting the hearing and drafting the decision of the Committee, but shall vote only in the event of a tie.
- 3) All hearings shall be closed and deliberations of the Committee shall be confidential and conducted in private.
- 4) The Grievant and the Responding Party shall be in attendance at the hearing. Each party may be accompanied by an advisor at the hearing. The advisor, however, may not participate in the hearing or question witnesses. Either party may at anytime during a hearing consult in private with his/her advisor.
- 5) Witnesses may be asked by the Committee to remain outside of the hearing room until they are called to testify.
- 6) The Grievant will address the Committee first. The Grievant will state the nature of his/her Grievance and may present relevant evidence and/or witnesses in support of the Grievance.
- 7) The Responding Party may respond to the Grievant's allegations and present relevant evidence and/or witnesses in opposition to the Grievance.
- 8) Once the parties have presented their respective positions, the Committee may question the parties and/or witnesses.
- 9) After the Committee has questioned the parties, each party will be given the opportunity to question the other party and their respective witnesses. All questions must be directed through the Committee. If the Committee determines that a question is relevant to the Grievance, the party or witness to whom it is addressed will be asked to respond.
- 10) Following the parties' questioning of each other, the Committee will have another opportunity to question the parties and witnesses.
- 11) Hearings before the Committee shall not be subject to the formal rules of evidence. In all cases, the hearing shall be conducted in a fair and impartial manner.
- 12) If a party to a Grievance fails to appear for a scheduled hearing, the Committee has the discretion to proceed with the hearing and issue its findings and recommendations in the party's absence.

13) The decision of the Committee shall be based on the relevant evidence presented at the hearing. The decision shall be in writing and include: a list of all documentary evidence and witnesses presented; a summary of the testimony offered by both parties and their respective witnesses; the findings of the Committee and its recommendations. Copies of the decision and recommendations of the Student Grievance Committee shall be forwarded by the Student Grievance Officer to the President or his/her designee for review and final disposition. The President or his/her designee shall accept, reject or modify the Committee's decision and/or recommendations and issue a final written decision.

14) All findings and decisions reached under this Procedure shall be based on a "preponderance of evidence" standard (i.e.; more likely than not). Any action taken hereunder shall be reasonable under the circumstances, in accordance with applicable College rules and procedures and be grounded in fundamental fairness.

WITHDRAWAL

A student may withdraw his/her complaint or Grievance at any time. Withdrawal must be accomplished in writing or by oral agreement confirmed in writing.

RETALIATION

No member of the College community shall retaliate or threaten to retaliate against, interfere with, restrain, or coerce any student in the exercise of his/her rights under the Student Grievance Procedure or his/her participation in any Grievance proceedings.

COLLATERAL RIGHTS OF PERSON GRIEVED BY STUDENT

If the recommendations made at any level of the Grievance procedure result in sanctions against a college employee, the sanctions shall be regarded as administrative actions subject to all conditions of applicable collective bargaining agreements and College or Board of Higher Education personnel policies.

ALTERNATIVE FORUMS

Filing a Grievance in accordance with the Student Grievance Procedure in no way abrogates a student's right to file a complaint with an appropriate state or federal agency or in another forum.

Last Revised: June 4, 2013

Students/Student Grievance Procedure/2013 revised policy/SGP Revised 2013-#t