

TEXAS STATE TECHNICAL COLLEGE SYSTEM  
**SYSTEM OPERATING STANDARD**

<b>No.HR.2.4.14</b>	<b>Page 1 of 10</b>	<b>Effective Date: 02/19/09</b>
<b>DIVISION:</b>	<b>Human Resources</b>	
<b>SUBJECT:</b>	<b>Conflict Resolution</b>	
<b>AUTHORITY:</b>	<b>Minute Order #97-02</b>	
<b>PROPOSED BY:</b>	<i>Original Signed by Jonathan Hoekstra</i>	
<b>TITLE:</b>	<b>Vice Chancellor, Human and Organization Development</b>	<b>Date: 02/19/09</b>
<b>RECOMMENDED BY:</b>	<i>Original Signed by Jonathan Hoekstra</i>	
<b>TITLE:</b>	<b>Vice Chancellor, Human and Organization Development</b>	<b>Date: 02/19/09</b>
<b>APPROVED BY:</b>	<i>Original Signed by Bill Segura</i>	
<b>TITLE:</b>	<b>Chancellor</b>	<b>Date: 02/19/09</b>

**STATUS:** Approved by consent of LA February 2009 (via email)

**HISTORICAL STATUS:** Revised Fall 2008  
 Approved by Executive Cabinet 12/19/07  
 Revised 2007, Subject renamed from Non-contract, Non-faculty Employee Grievance Process to Conflict Resolution  
 Approved by MC 6/24/02.

**POLICY**

It is the policy of Texas State Technical College (TSTC) that all employees shall be treated fairly.

**PERTINENT INFORMATION**

The TSTC Conflict Resolution operating standard is an internal process available to all college employees for the good faith review and resolution of conflicts. Nothing in this operating standard is intended to limit the college's right to manage and direct its workforce and operations, including the right to adopt or alter any rule, regulation, policy, or practice. The intent of this operating standard is to create an internal method for addressing conflicts and will be applied equally for all employees without regard to race, color, religion, gender, national origin, age, disability, or veteran status. No employee will be penalized, disciplined or prejudiced for exercising the right to resolve a conflict through the process described in this operating standard. The following types of issues are not grievable under this policy:

- Due to their sensitive nature, complaints relating to the investigation of and decisions concerning cases of sexual harassment are not covered under this policy. See System Operating Standard HR

2.4.3 for due process afforded those accused of sexual harassment.

- Instances of employment contract non-renewals, whether faculty or staff, are not covered by this policy; however, faculty contract non-renewals will be handled separately in accordance with Texas Education Code, Chapter 51.960.
- The termination of any faculty or staff member on employment probation of any sort or whose continued employment is conditional on meeting certain standards of behavior or performance, shall not be grievable under this policy. This provision does not prevent supervisors and other TSTC officials from hearing any complaint from an employee on probation or conditional employment if the official so chooses. It is not, however, mandatory.

The TSTC Conflict Resolution standard begins with disputing parties informally discussing concerns with the appropriate immediate supervisor. This step may include use of mediation, a process facilitated by either the System Resolution Coordinator or the Campus Resolution Coordinator. If mediation is unsuccessful, the dispute may be submitted to a Peer Review Board and the President or Chancellor (for System Operations personnel) for resolution and final review. Only employment termination decisions may be appealed beyond the Peer Review Panel and President to the Chancellor. During this conflict resolution process, any party to a dispute, including mediators, the Grievance Board, disputants, the President, or the Chancellor, may request an extension of a time limit from the System Resolution Coordinator, who, upon finding sufficient cause, may grant an extension of a specific length of time.

## **DEFINITIONS**

### **System Resolution Coordinator (SRC)**

- Selection: Appointed by Vice Chancellor for Human and Organization Development
- Qualifications: A full-time employee of Texas State Technical College for no less than two years and not a party to an active case.
- Training: The SRC will attend and successfully complete the 40-hour, state-mandated training for professional mediators.
- Duties: The SRC will monitor the procedures and processes authorized in this policy for statistical purposes and compliance. He/She will provide support to campus-level employees facilitating conflict resolution. The SRC will perform CRC functions at the system level for system employees.

### **Campus Resolution Coordinator (CRC) and Alternate**

- Selection: Appointed by Vice Chancellor for Human and Organization Development after consultation with the respective campuses.
- Qualifications: A full-time employee of Texas State Technical College for no less than two years at the designated campus and not a party to an active case.
- Training: The CRC will attend and successfully complete the 40-hour, state-mandated training for professional mediators.
- Duties: The CRC will monitor the procedures and processes authorized in this policy for statistical purposes and compliance and report statistical information to the SRC as needed. He/She will provide support to campus-level employees facilitating conflict resolution.

## **Mediation**

Mediation is an informal, confidential and voluntary process in which a neutral third party(s) assists disputing parties reach a resolution. The primary purpose of the Mediation Program is to provide a

responsive, informal, confidential, effective means of resolving conflicts as an alternative to formal proceedings. The mediation process allows the parties to explore options and solutions to resolve issues at the lowest possible level. Mediation seeks to achieve a “Win-Win” resolution by empowering parties to formulate a mutually agreeable resolution while maintaining management and employee rights. The mediator and either party involved in the mediation may end the mediation session at any time if it is felt that a positive effort is not being made to resolve this issue. Mediation will allow employees the opportunity to discuss the issues raised and clear up misunderstandings, determine the underlying interests or concerns, find areas of agreement and, ultimately, place a resolution to those issues into a written agreement.

## **DELEGATION OF AUTHORITY**

The Board of Regents delegates to the Chancellor or his designee the authority to implement this System Operating Standard. The Vice Chancellor for Human and Organization Development will have primary responsibility to establish procedures to implement this conflict resolution standard.

## **OPERATING REQUIREMENTS**

### **A. Informal Resolution**

This period provides time for employees to seek solutions to perceived issues without the need for formal hearings. This period is designed to extend 10 workdays from the date of the action or decision being disputed or when an employee could reasonably be expected to become aware of the action or decision (e.g., the employee returns from vacation two weeks after a decision concerning her duties). During this time, parties are expected to work with the person or persons who made the decision or took the action being disputed. Either party may request mediation during the informal period. Mediation requests must be made in writing to either the CRC or SRC. On the day any party to the dispute requests a mediation, the clock stops for any conflict resolution deadline or date. Given the required notice, the Grievance Board hearing will be postponed.

Note: If a Grievance Board hearing has been scheduled, the mediation request must be received no later than 2 working days prior to the hearing date. Please see Appendix A for a graphic representation of the steps involved in the informal and formal periods of the conflict resolution process, including mediation.

### **Mediation**

The SRC will work with the CRC to make arrangements for mediation and may use in-house, TSTC expert mediators from the same or different TSTC campuses or may contract with outside mediators, depending on the situation. Mediations will be conducted as soon as possible consistent with the schedules of the mediators and the disputants. If mediation cannot be held within 10 workdays, the CRC will inform and explain the circumstances to the SRC and the Vice Chancellor for Human and Organization Development.

- Resolution: The CRC will inform the SRC of a resolution within one workday after the conclusion of any mediation.
- Non-Resolution: The CRC will inform the SRC of a non-resolution within one workday after the conclusion of any mediation and whether or not the disputants desire to proceed with a hearing.

On the day after a mediation, the day-count for any deadline resumes at the count that existed the day the

request for mediation was transmitted in writing to the SRC or CRC. For instance, three workdays after an employee's supervisor made a decision being contested, the employee requests mediation in a written communication to the CRC. The "count" for determining the deadline for requesting a formal hearing (see paragraph B below) will be frozen at three days until such time as the mediation has been conducted or the other party declines mediation in writing. If the other party declines mediation or if mediation occurs but no agreement is reached, the count will resume on day 3 the following workday.

## **B. Formal Resolution Procedures**

### **Requesting a Grievance Board Hearing:**

- Employees must notify either the SRC or the CRC in writing that they desire a hearing within 10 workdays of becoming aware of the action or decision being challenged.
- Employees who chose to mediate disputes during the informal period must request a hearing in writing before 10 workdays have expired after their day-count resumes. The SRC, in consultation with the CRC, may waive this 10 workday limitation in exceptional cases, whether mediation has occurred or not.
- Though the formal hearings are only available for recent action (as described in the 10-day reporting period above), mediation is available for resolving grievances that are not eligible for resolution through the formal grievance process.

### **Grievance Board**

The Grievance Board will consist of faculty and staff from each campus and the Systems Office.

**Qualifications:** Must be full-time employee of TSTC with at least two years of service.

**Selection:** Employees may volunteer for service or be invited to serve.

**Appointment:** Campus board members will be screened and approved by the CRC and the presidents of the faculty and staff senates. System Operations board members will be screened and selected by the SRC, the Vice Chancellor for Strategic Initiatives, and the Vice Chancellor for Human and Organization Development.

**Training:** Members will complete refresher or advanced training annually.

**Meetings:** Once annually for training and orientation. Replacement members will be trained and oriented as they join the board.

**Number of Members:** The Grievance Board will require a minimum number of members but not a maximum.

- Waco: No less than eight (8) members
- Harlingen: No less than eight (8) members
- West Texas: No less than eight (8) members
- Marshall: No less than six (6) members
- System Operations: No less than six (6) members

**Annual Review:** Members' participation will be reviewed annually by the CRC/SRC and senate

presidents.

**Removal:** Board members may

- remove themselves, or
- be removed for cause as determined by the CRC/SRC and senate presidents.

### **Pre-Hearing**

The SRC or CRC will meet with the disputants within two (2) workdays of determining that an employee desires a hearing and provide copies of the hearing procedures and ensure the parties understand them. At this time the SRC/CRC will also present a list of campus/system Grievance Board members. Disputants will be asked to select three members (the panel) to hear their case. If both disputants do not agree on all three panel members, the SRC or CRC will select the remaining hearing panel members to constitute a panel of three. In extraordinary cases, at the discretion of the CRC/SRC, members from another campus may be asked to hear a case. Board members may recuse themselves from sitting on a specific panel, and no board member associated with any case will be seated on a panel hearing that case. Once three members are selected, they will elect a chair who will work with the CRC/SRC to determine the date, time, and place for the hearing.

The SRC or CRC will facilitate the gathering of documentation by employees when requested. Campus and system officials will provide any requested records without delay, provided that the documentation requested would be readily available to employees under the Texas Public Information Act. All documentation to be used in the hearing must be presented at the document exchange discussed below. Other documentation may be provided for the hearing at the discretion of the system or campus, as applicable, provided any such disclosures are in conformance with state and federal law.

When a record would be otherwise unreleasable, the system or campus shall consider redacting any information the law requires to be withheld in order to release as much information as possible to employees. The SRC will monitor hearing scheduling and advise the Vice Chancellor for Human and Organization Development, who will take action as necessary. To facilitate the scheduling of hearings within ten (10) workdays of panel selection, proceedings may be held outside of what may be considered normal working hours.

### **Document Exchange**

At least 5 workdays before the hearing, disputants must provide to the CRC/SRC:

- Summaries of the case written by the disputants. The grievant's summary must include but is not limited to the specific issue(s) being grieved, what informal attempts at solving the problem have been attempted, and desired resolution(s).
- A list of witnesses
- One copy of all documentation to be presented to the hearing panel. If any party to a grievance is "surprised" by documentation received from the opposing party, that party may submit new documentation and witnesses no later than two workdays after the original document exchange. The requirement for a minimum of 5 workdays between the document exchange and the hearing will be determined by the date of the original exchange in cases that involve the submission of additional materials. The hearing panel may, at the chair's discretion, reschedule a hearing outside of the guideline of 10 workdays after panel appointment to give panel members sufficient time to review all submitted documentation, regardless of when received, when the volume of

materials so dictates. In no case will any hearing be held on a date fewer than 5 workdays after the initial document exchange without express, written consent from all parties.

The Panel will read and be familiar with all documentation prior to the hearing. In addition to questioning witnesses, disputants shall be allowed to explain the significance of documentation during the proceeding either during questioning or on their own initiative at the appropriate time in the hearing.

### **Formal Hearing**

The procedures in the paragraphs below govern the conduct of all grievance hearings. The hearing panel chair is responsible for ensuring these procedures are followed by all participants.

### **Outside Representation:**

Employees may choose to have a coworker, colleague, faculty organization representative or even an attorney represent them at the hearing. If anyone other than a coworker or colleague represents a disputant, the other party will be informed in writing during the document exchange. Failure to provide this notification could be cause for rescheduling the hearing if desired by the opposing disputant. Regardless of the type or skill level of representatives, the individuals representing employees, their title, and organization or company shall be identified at that time.

No TSTC institution shall use an attorney at any hearing held under the authority of this policy unless employees/grievants indicate that either a faculty professional organization (not a campus organization) representative or an attorney will represent them.

### **Duties of the Chair**

The chair presides at the hearing and will maintain good order and civility, ensure that the order of presentation is observed, and decide on questions or relevancy. The chair has the discretion to determine the purpose of the examination when anyone is testifying during the hearing.

### **Time**

If, after consultation with other board members, the chair decides to use time limits, all parties must be informed within two (2) workdays after the hearing panel is formed. Said limit will be no less than four (4) hours with each side receiving equal time. The Chair will appoint a timekeeper.

#### **Timed Activities**

The time any party spends making opening or closing statements or arguments, questioning or cross-examining witnesses shall be deducted from that party's total time.

#### **Time-exempt Activities**

Breaks, time spent responding to board questions, or participating in general discussions with the hearing panel shall not count against a party's time allotment.

When either disputant runs out of time, the panel will consider that disputant's presentation complete. During the course of the hearing, the chair will periodically require the timer to provide the parties with the time remaining in their allotments.

Upon request, the chair may seek advice from other panel members, the CRC, or another recognized impartial source at the hearing. While the hearing is nonjudicial, the standards of due process must be observed so as to ensure that the employee has a fair and impartial hearing with the opportunity to verify statements made by college witnesses by careful cross-examination, and to rebut the evidence submitted by the institution.

### **Recording**

The college will arrange for hearings to be videotaped. As an alternative, a court reporter may, at the discretion of the institution, be used to record and transcribe any hearing. Only the original and one copy of either the hearing videotape or court reporter transcript will be produced. After hearings and any appeals are completed, the CRC/SRC will retain the original videotape or transcription; however, to facilitate an appeal, a copy will be made available free of charge to the grievant on the same day any videotape or transcript is provided to the campus president or chancellor (for system personnel) for a decision concerning hearing panel recommendations. The grievant will sign a receipt for these records.

### **Order of Presentation**

1. Opening statements: If the institution opens the proceeding, the grievant shall close the proceeding at the end and vice versa.
2. Testimony: Testimony includes the presentation of witnesses, documents, evidence, and other relevant information or explanation. In consultation with the disputants, the chair will determine who will testify first. Disputants may act as their own witnesses without being listed as such.
3. Each side has the right to cross-examine the other side's witnesses. Disputants may also question each other at the appropriate time in the hearing without the need for either's name to appear on any witness list.
4. Closing statements by disputants.

### **Conclusion and Reports**

Within three (3) workdays of a hearing's conclusion, the chair will submit a written decision to CRC or SRC. The decision will include the findings (e.g., that the grievant's charges are justified or unjustified), recommendations (e.g., resolutions for the grievant and suggestions to prevent such occurrences in the future for other employees), and the panel's rationale for those findings and recommendations for each charge levied by grievants. Minority reports may also be submitted. On the same day the decision is received from the panel, the CRC or SRC will obtain a copy of the videotape of the hearing and deliver both the tape and the panel's decision to the president (or chancellor for system cases).

The president or chancellor will have five (5) workdays to review, concur, and/or modify, and finalize the panel's decision. The president or chancellor will notify the disputant, hearing panel chair, CRC, and SRC in writing of his or her decision and enclose a copy of the panel's original, unmodified decision. If the president or chancellor modifies the panel's majority decision, he or she will provide a detailed justification to the aforementioned parties. The president's decision is final for all campus matters except as noted in the appeals process below. Any decision by the chancellor for system employees is also final. All records, including the hearing videotape, delivered to the president or chancellor for a decision will be returned to the CRC or SRC, as appropriate.

### **C. Appeals**

This step of the process consists solely of a complete review of all related documentation and the hearing videotape. No new hearing will take place at this level. Additionally, only cases relating to terminations are eligible for appeal. All other cases end with the campus president's review of the hearing panel's recommendations. Whether the president upholds the termination of an employee or if a termination decision is overturned, any party may appeal to the chancellor by notifying the SRC in writing within five (5) workdays of receiving the president's final decision. The SRC will request from the CRC all documentation used at the hearing, the videotape, the hearing panel report, and the president's decision, and submit this documentation to the office of the chancellor within two (2) workdays of receipt from the campus. Other than documentation surrounding grievance procedural complaints, no material will be introduced that was not considered by the campus president. The chancellor shall issue a final ruling within ten (10) workdays of receipt of hearing documentation. The chancellor's decision is final.

### **D. Administrative Matters**

All documentation shall be returned to the CRC or SRC, as appropriate, for filing and maintenance in accordance with state records retention laws.

Insofar as the law allows, an employee's entire conflict resolution and/or grievance process and the records associated with that process will remain confidential. The fact that an employee grieved, copies of a grievance, or any documentation related to the grievance will not be recorded on any personnel record, including department records.

When applicable, personnel files and other records should reflect changes required by the hearing panel, the president, or the chancellor.

### **E. Deadlines**

Neither the institution nor employees will automatically lose a case based on missing a deadline; however, unjustified or deliberate delays will be investigated. The SRC or the respective CRC will contact the disputant missing a deadline and determine the nature and cause of the delay. When appropriate, the SRC, after consultation with the CRC, may grant an extension of any deadline. Repeated delays or a determination of unjustified or deliberate delays will result in the other party prevailing.

## **PERFORMANCE STANDARDS**

1. The CRCs and SRC will maintain documentation and records attesting to individual employees' efforts to redress perceived wrongs.
2. All records associated with individual conflict resolution cases will be handled confidentially to the utmost allowed by law and destroyed in accordance with state and system records retention policies.
3. Employees are aware of the conflict resolution process and how to use it. The SRC will periodically gauge employee awareness and attitudes toward the program through campus-wide and department surveys and visits.

**COLLEGE OPERATING PROCEDURE**

<b>COLLEGE</b>		<b>Page 1 of</b>
<b>OFFICE OF RESPONSIBILITY:</b>		
<b>APPROVED BY:</b>		
<b>TITLE:</b>	<b>Date</b>	
<b>FORWARDED TO SYSTEM OFFICE ON</b>		

## APPENDIX A CONFLICT RESOLUTION PROCESS

