

# Student and Employee Grievance Policy

*Policy Number: HR – 009*

## **Purpose**

- I. To describe the procedure to be followed when a student, employee, or visitor files a conduct complaint with the College. This process will be used in all complaints, including gender-based and sexual misconduct, harassment and discrimination, and the Student Code of Conduct complaints.
- II. Surry Community College will use the Civil Rights Investigation Model to handle all grievance issues pertaining to student and employee misconduct. This process will ensure a prompt, thorough, impartial, and equitable investigation and resolution for all parties involved.
- III. During the grievance process, the complainant and the respondent are entitled to have a support person/advisor of their choice at any proceeding or related meeting. The complainant and the respondent also have the right to present any relative witnesses and other evidence including having similar and timely access to any relevant information.
- IV. Before a formal investigation takes place, the complainant must inform and consent to having an investigation into the allegations. If the complainant is under the age of 18, the College will inform the complainant's parent(s) or legal guardian(s) to request and obtain consent before beginning a formal investigation.
- V. When students and employees violate College regulations and policies, they are subject to disciplinary action by the College whether or not their conduct violates the law. If the conduct simultaneously violates both College regulations and the law, the College will investigate independently of any criminal investigation. In cases involving gender-based and sexual misconduct, harassment and discrimination, the complainant has the right to file a criminal complaint against the respondent.

## **Standard of Evidence**

During the formal investigation and resolution, the standard of proof the College will use to assess the complaint is a *preponderance of evidence*. This standard means that the alleged incident more likely happened, than not happened. This standard is different from the level used in a criminal investigation. Most criminal investigation will use a standard of *beyond a reasonable doubt*, or *clear and convincing*.

## **Grievance Process**

### **Notification of Complaint**

Prompt reporting of alleged conduct incidences is encouraged so that timely and constructive action can be taken to ensure a safe and nondiscriminatory environment for students and employees. Reporting all alleged conduct incidents and/or perceived incidents including gender-based and sexual misconduct, harassment and discrimination is encouraged, regardless of the offender's identity or position. Any mandatory reporter informed of a gender-based or sexual misconduct incident involving students and/or other College employees is expected to inform the Title IX Coordinator immediately. Please refer to the Mandatory Reporters Guide in the Faculty Staff Handbook for more information.

### **Making a Conduct Complaint**

Complaints concerning employees of the College can be made directly to the Director of Human Resources, located in the A-building. Complaints concerning students can be made to the Vice President of Academic Affairs, also located in the A-building. In the event the complaint involves both students and employees, the Director of Human Resources and the Vice President of Academic Affairs will work together to evaluate the complaint.

Complaints could be verbal and/or written, but should include the following:

1. Name of alleged offender(s).
2. Date, time, and place of the incident.
3. Description of the incident.
4. Names of witnesses to the incident.

## **Privacy and Confidentiality of the Complainant**

### **Privacy**

Privacy generally means that information related to a report under this policy will only be shared with a limited number of employees that “need to know” in order to provide support for the individuals involved in the report and to ensure the safety of the individuals and the College community. While not bound by confidentiality, these employees will be discrete and respect the privacy of all individuals in the process.

### **Confidentiality**

Confidentiality means information shared by an individual with designated campus or community professionals cannot be revealed to any other entity without the express written consent of the individual, unless required by law. These campus and community professionals include mental health and health care providers (within established patient-client privilege), ordained clergy, and attorneys (within established professional-client privilege), all of whom must keep information confidential by virtue of their professional licenses.

The complainant can seek confidential guidance, counsel, or advice from one of the counselors in the **Office of Health, Wellness, and Development**. If the complainant reports an incident, but requests confidentiality, the College will evaluate the request in terms of the College’s ability to provide a safe and nondiscriminatory environment for students and employees. The College will take all reasonable steps to investigate and respond to the complaint while keeping the confidentiality of the complainant and all parties involved, but it may limit the response by the College.

If the complainant decides not to pursue the allegations, the College will determine if the alleged incident impairs the ability of the College to provide a safe and nondiscriminatory environment for students and employees. The College may decide to proceed with an investigation, even though the complainant decides not to pursue the allegations, if it determines the incident impairs the ability of the College to provide a safe and nondiscriminatory environment.

If the College decides to proceed with an investigation, or it cannot ensure confidentiality of the complainant, it will notify the complainant and all parties involved.

The College will assist any individual who reports conduct incidences to find confidential support services on campus and/or in the community. Such services include advocacy, counseling, academic support, medical support and/or mental health services. Some sources of confidential support can happen without triggering an investigation by the College.

## **Preliminary Investigation**

Once a complaint of misconduct has been filed with either the Director of Human Resources and/or the Vice President of Academic Affairs, a preliminary investigation will begin within two (2) business days to determine the following:

- Is there reasonable cause to believe a policy and/or policies have been violated?
- Does the complaint against the respondent fall under Title IX, or does it involve harassment and discrimination, or does it involve a Student Code of Conduct infraction?
- Do initial remedies (restrictions on contact between the complainant and the respondent (“No-Contact Order”), interim suspension(s) of the respondent, academic course change(s), employment schedule change(s), campus escort, and counseling support, etc.) need to be put in place to protect the complainant?
- Does a comprehensive investigation need to take place, or can the complaint be resolved through an informal administrative resolution?
- If the determination is made to do a comprehensive investigation on the alleged misconduct, the complainant will be contacted to complete a formal written report and give consent to an investigation. Once this report and consent has been obtained, an investigator or an investigation team will be assigned to begin the comprehensive investigation. A written Notice of Investigation will be sent to the complainant and the respondent within four (4) business days.

## **Comprehensive Investigation**

The College will investigate each complaint in a thorough, fair, and impartial manner. Any notes, memoranda, or other records created by College employees or agents conducting an investigation shall be deemed confidential and/or privileged to the extent allowed by law. If either the complainant, the respondent, or both are students these records will be protected under Family Educational Rights and Privacy Act (FERPA). The investigation should be completed within fourteen (14) business days, unless the process is delayed by a criminal investigation, or both parties agree to a delay.

If the investigator or investigating team finds there is enough evidence to support that the misconduct likely happened more than the misconduct not likely happened (preponderance of the evidence), a written Notice of Charge will be sent to the respondent and the complainant specifying the actual charge against the respondent within two (2) business days after the comprehensive investigation has concluded. This written notice of charge will include the information and next steps leading to the hearing process on the alleged charges.

### **Conduct Hearing**

During the hearing process, the Director of Human Resources and/or the Vice President of Academic Affairs reviews all the information from the comprehensive investigation with the respondent and a determination is made whether a violation of policy actually has occurred. If a violation of policy has occurred, then the sanctions will be placed on the respondent. Possible sanctions that could be placed on the alleged perpetrator are, but not limited to receiving education or counseling, warnings, reprimands, probation, suspension, termination (if the respondent is an employee), or expulsion (if the respondent is a student.) The hearing process will be completed within five (5) business days of the receipt of the Notice of Charge by the respondent.

### **Notice of Outcome**

The written Notice of Outcome will be sent simultaneously to the complainant and the respondent within three (3) days after the completion of the hearing. The notice shall include the decision and sanctions, if any are imposed, a brief summary of the factual findings, and whenever possible, shall include a summary of any remedial measures that have been or will be taken by the College. This written Notice of Outcome will include the information about the appeals process.

- A. In cases where the respondent is a College employee, the Director of Human Resources and the President will make the final decision regarding the sanctions imposed on the employee; therefore, the written Notice of Outcome will come from the President.
- B. In cases where the respondent is a student, the Vice President of Academic Affairs will make the final decision regarding the sanctions imposed on the student; therefore, the written Notice of Outcome will come from the Vice President of Academic Affairs.

### **Appeals**

Any complainant or respondent who wishes to appeal the procedures which the College followed in investigating a complaint may do so within ten (10) business days of the receipt of the notice of outcome. Untimely submission shall not receive consideration.

For College employees, such appeal must be made in writing to the Board of Trustees by submission to the Office of the President. The appellant shall be entitled to a hearing before the Board of Trustees or a panel of its membership selected by the Board's Chairperson. At the hearing the appellant may be represented by counsel at his or her expense and present evidence as to why the decision of the President should be reversed or modified. Following a review of the evidence, as well as the information obtained in the investigation process and conclusions derived therefrom, the Board of Trustees shall issue a decision within fourteen (14) business days following the completion of the hearing. The decision of the Board of Trustees shall be final.

For students, such appeal must be made in writing to the Office of the President. The appellant shall be entitled to a hearing with the President. At the hearing the appellant may be represented by counsel at his or her expense and present evidence as to why the decision of the Vice

President should be reversed or modified. Following a review of the evidence, as well as the information obtained in the investigation process and conclusions derived therefrom, the President shall issue a decision within fourteen (14) business days following the completion of the hearing. The decision of the President shall be final.

### **Notice of Final Determination**

A written notice of final determination will be sent to the appellant within three (3) business days following the final decision of the appeals process.

### **Retaliation Prohibition**

Retaliation is strictly prohibited by law against anyone who in good faith reports a suspected violation of campus policy, who assists in making such complaint, or who cooperates in the investigation. Retaliation means taking any adverse action in response to a complaint being made. Written complaints of retaliation should be brought directly to the attention of the Director of Human Resources or the Vice President of Academic Affairs. The written complaint should specify the following:

1. Name of alleged offender(s).
2. Date, time, and place of the incident.
3. Description of the incident.
4. Names of witnesses to the incident.

Such complaints will be promptly investigated in a separate investigation from the initial complaint of misconduct. If retaliation is found, the person retaliating will be subject to corrective action up to and including termination from employment, in cases involving employees, or in the case of a student up to and including suspension and/or expulsion.

*Adopted by the Board of Trustees, June 08, 2015.*