

NORTHWOOD TECHNICAL COLLEGE



ADMINISTRATIVE PROCEDURE: G-125A

TITLE: [Complaint Resolution](#)

CROSS-REFERENCE(S):

General Employee Handbook (current)
G-112 & J-120 (Administrative Policy – Non-Discrimination/Non-Harassment Compliance)
G-113 & J-121 (Administrative Policy – Unlawful Discrimination/Harassment/Sexual Harassment/Sexual Misconduct/Sexual Violence Complaints)
G-113A & J-121A & J-220A (Administrative Procedure – Title IX Unlawful Discrimination/Harassment/Sexual Harassment/Sexual Misconduct/Sexual Violence Complaints)
G-113B (Administrative Procedure - Unlawful Discrimination/Harassment/Sexual Harassment/Sexual Misconduct/Sexual Violence Complaints Grievance Procedure)
G-166A (Administrative Procedure – Supervisor-Staff Working Relationships)
Wisconsin Statute § 66.0509

The College has established a complaint resolution procedure to provide a timely and orderly review of decisions concerning a) workplace safety; b) employee discipline; and c) employee termination in compliance with Wisconsin Statute § 66.0509. The College has also established separate complaint procedures to provide review of allegations of unlawful discrimination/harassment/sexual harassment/sexual discrimination/sexual misconduct/sexual violence. See G-113A, G-113B, J-121A & J-220A. Employees with concerns or issues that do not qualify within the three categories of this formal Complaint Resolution Procedure or the Complaint Procedure for unlawful discrimination/harassment/sexual harassment/sexual discrimination/sexual misconduct/sexual violence are expected to bring such matters to their supervisor, their supervisor's supervisor and/or their division member of the College Leadership Team (CLT).

Human Resources staff is available to assist employees and supervisors with resolution of concerns on an informal basis or on a formal basis if the complaint qualifies under this procedure or G-113A, G-113B, J-121A & J-220A.

Definitions

- a) **“Workplace Safety”**: For purposes of this procedure, “workplace safety” includes any practice or condition affecting the safety of persons, property or equipment. “Workplace safety” shall be narrowly construed and not be construed to include basic conditions of employment unrelated to physical health and safety. “Workplace Safety” means conditions of employment related to the physical health and safety of employees, as long as such conditions are not enforceable under state or federal law, and includes safety of the physical work environment, the safe operation of workplace equipment and tools, provision of protective equipment, warning requirements, workplace violence and accident risk. “Workplace safety” does not include conditions of employment such as hours, overtime, sick, family, or medical leaves, work schedules, or breaks.
- b) **“Employee Discipline”**: For purposes of this procedure, “discipline” includes a personnel action taken as a result of violation of rules or policies, misconduct and/or poor performance and that negatively impacts an employee’s base pay and/or impacts an employee’s employment status provided base pay is negatively affected. “Employee Discipline” does not include verbal notices, verbal discipline, verbal counseling, written counseling, written reprimands, Performance Improvement Plans (PIPs), plans of correction, performance evaluations or reviews, or documentation of employee acts and/or omissions in an employment file, provided base pay is not reduced. “Employee discipline” also does not include administrative leave (with pay) pending investigation of alleged misconduct or nonperformance, administrative leave (without pay) pending investigation of alleged misconduct or nonperformance if such further discipline is subject to the terms of this complaint procedure, non-disciplinary wage, benefit or salary adjustments, reorganization of work, nondisciplinary demotion, position elimination, layoff, reduction in work time, workforce reductions, changes in assignment or assignment location, loss of employment at the end of a project or limited term assignment.
- c) **“Employee Termination”**: “Termination” means a separation from employment by the College for disciplinary reasons as defined in this policy. “Termination” does not include layoff, furlough, reduction in workforce, failure to meet licensure qualifications, retirement, nonrenewal under Wis. Stat. 118.22, separation as a result of disability, completion of temporary employment, seasonal employment,

contract employment, or assignment; "termination" also does not include voluntary termination including, resignation, end of employment due to disability, job abandonment, or death.

- d) "Independent Hearing Officer": For purposes of this procedure, the "Independent Hearing Officer" (IHO) shall be designated by Administration. The role of the IHO will be to define the issues, identify areas of agreement between the parties and identify the issues in dispute, and to hear the parties' respective arguments.
- e) "Complaint": The written signed complaint shall give a clear and concise statement of the alleged complaint personally affecting the reporting party, including the facts upon which the complaint is based, the issue involved, the specific policies alleged to have been violated, if any, and the relief sought as well as the employee's personal email address and the acknowledgment that the College may email a reply to the employee's email address and that will constitute receipt by the employee.
- f) "Reporting Party": Means any full-time, part-time, student worker, project or limited term employee on the payroll of the College who has a personal complaint as defined in this policy. At the discretion of the Director, Human Resources, written complaints with the same or sufficiently similar underlying facts, and policy issues may be combined at any step in the proceeding.

Costs

The IHO is selected by, and paid for by, the College. Each party will be responsible for its own costs for witnesses and all other out-of-pocket expenses, including possible attorney fees, in investigating, preparing, presenting, or defending a complaint.

Time Limits

The term "days" as used in this procedure means calendar days, excluding holidays as defined in the General Employee Handbook (Handbook). The College and the employee may mutually agree to waive time limits, in writing. If the last day on which a complaint is to be filed or a decision is to be appealed is a Saturday, Sunday or holiday as defined in the Handbook, the time limit is the next day which is not a Saturday, Sunday or holiday. If the complaint is not answered within the time limits, the employee may proceed to the next available step within 7 days.

If the employee fails to comply with the time limits specified in this procedure, the complaint will be deemed dismissed, with prejudice.

Written Appeal to the Board of Trustees

An appeal shall be in writing and explain the reasons for the appeal. The request shall be filed with the Director, Human Resources within 7 days of receipt of the IHO's decision.

Use of Designee

The College official named in any part of this policy may designate another party to fulfill the required role or responsibility, except members of the Northwood Technical College Board of Trustees (Board).

Procedure for Complaints Concerning Employee Workplace Safety:

Step 1: Any employee who identifies a workplace safety issue or is given information about an incident must notify his/her supervisor of the issue or incident within 24 hours of when the employee knew about the incident or issue. Upon receipt of the complaint, the Director, Human Resources or President's designee shall determine whether this procedure applies. The Director, Human Resources or designee shall find that this procedure does not apply upon determining any of the following:

- a) That even if the reporting party's allegations or issues are true, the complaint does not involve a safety issue as defined in this procedure.
- b) That the alleged conduct did not occur on College-owned, College-leased or College-controlled property or did not otherwise have a significant connection to the employment of the individual reporter and activities of the College.
- c) That the reporting party is not an employee as defined in this procedure.
- d) That the reporting party was not the party involved with the issue, activity or action set forth in the complaint.

This list is not exclusive, and other situations may result in the Director, Human Resources or designee determining that the procedure does not apply.

If the Director, Human Resources or designee determines that this complaint is covered by the procedure, an Incident Report, completed by the employee, with assistance from his/her supervisor as necessary, outlining the facts of the complaint and a proposed remedy/resolution, as specified in this procedure, shall be signed by all concerned parties and submitted to the Collegewide or Campus Safety Committee, depending on the nature of the complaint, with a copy to the Vice President, Administrative Services for review and consideration within 7 days of the incident or issue.

Step 2: After receipt of the completed Incident Report, under the direction of the Vice President, Administrative Services, the Collegewide or Campus Safety Committee will conduct an investigation, as required, and normally issue a final report on its findings and conclusions within 30 days of receipt of the completed Incident Report. All reasonable non-financial efforts shall be considered, recommended and/or expended prior to recommending any financial remedies. Copies of the Collegewide or Campus Safety Committee's final report with findings and conclusions will be given to the persons who signed the Incident Report, as well as to the Vice President, Administrative Services and College Leadership Team.

Step 3: The employee may appeal the findings and conclusions of the Collegewide or Campus Safety Committee and request the appointment of an IHO by submitting a written complaint to the Director, Human Resources within 7 days after receipt of the Safety Committee's report. No new complaint information may be submitted following the issuance of this report.

If filed within the prescribed time requirements, the Step 3 hearing by the IHO will normally be scheduled within 30 days of receipt of the request for hearing. Prior to the hearing, the parties will participate in a mandatory conciliation meeting facilitated by the IHO who shall not be disqualified for involvement in the conciliation process. The IHO may require the parties to submit documents and witness lists in advance of the hearing in order to expedite the hearing. At the conclusion of the hearing, the IHO shall record one of four outcomes: 1) Sustaining the conclusions of the Safety Committee, 2) Denying the conclusions of the Safety Committee, 3) Modifying the conclusions of the Safety Committee, or 4) Recommending additional investigation prior to a final determination. All reasonable non-financial remedies shall be considered, recommended and/or expended prior to recommending any financial remedies. The decision of the IHO is limited to the precise issue raised in the complaint and the information provided at the formal or informal proceedings.

Step 4: The College or employee may appeal the decision of the IHO to the Board by filing a request within 7 days of receipt of the written decision of the IHO.

Level of Review: The Board shall review the written decision of the IHO and the reasons for the appeal only. The role of the Board, in reviewing the decision of the IHO, is to consider the following questions:

1. Did the IHO follow a fair and impartial process?
2. Is there evidence of corruption, fraud, or misconduct by the IHO?
3. Did the IHO make an error of law which makes his/her decision invalid?
4. Did the IHO make an error of fact which makes his/her decision invalid?

After considering the above questions, the Board will decide to uphold, modify, or reverse the decision of the IHO. The Board will issue its written decision based solely on the record established in the Step 3 proceeding within sixty (60) days from receipt of the appeal. The Board decision is final.

Procedure for Complaints Concerning Employee Terminations and Employee Discipline:

Step 1: A written complaint, as specified in this procedure, shall be submitted to Human Resources within 7 days after the discipline was imposed or termination became effective.

Upon receipt of the complaint, the Director, Human Resources or President's designee shall determine whether this procedure applies and, if so, at what step of the procedure shall apply (for example, an appeal from G-113B would start at Step 2). The Director, Human Resources or designee shall find that this procedure does not apply upon determining any of the following:

- a) That even if the reporting party's allegations or issues are true, the complaint does not involve discipline or termination as defined in this procedure.
- b) That the alleged conduct did not occur on College-owned, College-leased or College-controlled property or did not otherwise have a significant connection to the employment of the individual reporting party and activities of the College.
- c) That the reporting party is not an employee as defined in this procedure.
- d) That the reporting party was not the party harmed by the activity or action set forth in the complaint.
- e) That the complaint is not timely.

This list is not exclusive, and other situations may result in the Director, Human Resources or designee determining that the procedure does not apply.

Upon finding that the complaint is valid, the Director, Human Resources or designee shall refer the matter to the immediate supervisor of the reporting employee's supervisor, an appropriate member of the College Leadership Team, or legal counsel who will conduct an investigation and will normally issue a final report in writing to the employee with a copy to Human Resources within 7 days after receipt of the written complaint. If necessary, the investigator may review documents, policies and witness statements as appropriate. Such review shall be conducted in coordination with Human Resources. Copies of the investigator's final report shall be provided to the reporting employee and this employee's immediate supervisor.

Step 2: If the complaint is not settled in Step 1, and the employee wishes to appeal the decision of the investigator, the employee shall submit the written appeal within 7 days after the receipt of the Step 1 report to the Director, Human Resources, to request a Step 2 hearing before an IHO. If the appeal is not filed within this timeframe, the matter will be considered ended.

The IHO will meet with the parties' representatives to determine the hearing parameters. The IHO will assist the parties in identifying areas of agreement and areas of dispute. The IHO will hear the parties' respective arguments. The hearing may be informal if agreed to by all parties and the IHO, however depending on the issue, the IHO may require a formal hearing, sworn witness statements and require briefs. The IHO may require the parties to submit documents and witness lists in advance of the hearing in order to expedite the hearing. No new complaint information may be submitted following the issuance of the supervisor's report in Step 1.

The hearing will be scheduled within 30 days of receipt of the request for hearing or as soon as administratively possible. In the event the reporting employee wishes to have College employees testify or participate in the hearing preparation or hearing on his/her behalf, these employees must utilize personal leave or vacation for such time. Within 30 days from the conclusion of the hearing, unless more time is required, the IHO shall render a written decision indicating the reasons for one of two decisions: 1) Sustaining the discipline/termination, or 2) Denying the discipline/termination. The decision of the IHO is limited to the precise issue raised in the complaint and the information provided at the formal or informal proceedings.

Step 3: The College or employee may appeal the written decision of the IHO to the Board by filing a written appeal within 7 days of receipt of the written decision of the IHO. If the appeal is not filed within this timeframe, the matter will be considered ended.

Level of Review: The Board shall review the written decision of the IHO and the reasons for the appeal only. The role of the Board, in reviewing the decision of the IHO, is to consider the following questions:

1. Did the IHO follow a fair and impartial process?
2. Is there evidence of corruption, fraud, or misconduct by the IHO?
3. Did the IHO make an error of law which makes his/her decision invalid?
4. Did IHO make an error of fact which makes his/her decision invalid?

After considering the above questions, the Board will decide to uphold, modify, or reverse the decision of the IHO. The Board will attempt to issue its written decision based solely on the record established in the Step 3 proceeding within sixty (60) days from receipt of the appeal. The Board decision is final.

Limitations of the Scope of the Complaint Resolution Procedure

1. The scope of a complaint that is subject to any other policy or ordinance statute for formal or informal investigation or dispute resolution procedures may not be brought forth under this Complaint Resolution Procedure.
2. All procedures and hearings shall be closed session except where, in the event of a matter relating to discipline, the reporting party specifically requests that any hearing before the Board be held in open session.
3. All participants in all proceedings under this procedure will observe confidentiality to the extent reasonably possible. However, appropriate College officials may be provided relevant information. The College may also use any information obtained in the proceedings to defend itself against any claims, complaints or allegations brought against it or as may be required by law.
4. Consistent with this procedure, the employee may utilize one designated representative at their own expense to assist in processing the complaint at any step. The designated representative shall be identified to the College at least three (3) days in advance of any proceeding under this procedure. The College reserves the right, at any stage of the proceeding, to reasonably specify who may be present.
5. At each stage of the appeal process the appealing party must state the reason(s) why the appealing party disagrees with the action or decision. The written complaint will only be processed if all of the required information is provided by the reporting party. The written complaint may not be amended following the decision at Step 1.
6. The authority to interpret this procedure rests with the Director, Human Resources and Vice President, Administrative Services.

Questions regarding this procedure should be directed to Human Resources.

Policy Adopted: September 19, 2011

Policy Revised: August 19, 2013 (Revisions reviewed by Legal Counsel
Approved by Board)
August 18, 2014
August 2, 2022

Policy Reviewed: August 6, 2019



PRESIDENT
NORTHWOOD TECHNICAL COLLEGE