

## Procedures for Student, Staff, and Faculty Grievances Arising From Actions of Staff Members

### *A. Purpose*

Claremont McKenna College ("College") adopts policies designed to serve the educational function of the College, to protect academic freedom and academic due process, to protect the health and safety of individuals, to promote responsible social interaction within the college community, and to maintain a hospitable and productive working environment.

### *B. Covered grievances*

All students, faculty, and staff shall resolve grievances arising from actions by all exempt and non-exempt staff employees, including all administrators ("Staff") in accordance with the procedures set forth in these Procedures for Student, Staff, and Faculty Grievances Arising From Actions of Staff Members Policy (the "Policy"). Provided, however, the following grievances shall not be covered by this Policy.

- (1) Issues involving benefits (e.g., services provided by insurance carriers);
- (2) worker's compensation claims;
- (3) probationary releases (except for complaints of harassment and discrimination);
- (4) conflicts between co-workers (except for complaints of harassment and discrimination);
- (5) request for discipline of another employee (except for complaints of harassment and discrimination);
- (6) background investigations;
- (7) actions such as garnishments and tax withholdings; and
- (8) other grievances explicitly assigned elsewhere.

### *C. Confidentiality*

The College shall use reasonable efforts to maintain the confidentiality of any grievance filed under this policy. However, the College shall have the right, subject to applicable law, to disclose any information that the College deems necessary to conduct an investigation of the underlying facts, or to otherwise comply with this Policy.

### *D. Time limits*

In complaints involving an employee's allegation of harassment or discrimination, the Complainant has one year to initiate the informal or formal grievance process from the time of the incident. In complaints involving a student's allegation of harassment or discrimination, the Complainant has 180 days to initiate the informal or formal grievance process from the time of the incident. All other complaints must be initiated through the formal or informal process within 90 days. However, prompt initiation of the grievance process is strongly urged, because facts often become more difficult to establish as time passes after an action, lack of action, or decision has occurred. For good cause, the President or the Director of Human Resources (the "Director") shall have the discretion to extend any of the time limits described in these procedures. In addition, Complainants may choose to file complaints with outside agencies. Filing a complaint with the College does not relieve the Complainant of the responsibility to meet the time limits and follow the procedures established by outside agencies or applicable law for filing complaints.

### ***E. Procedures: Informal resolution***

In cases alleging discrimination, including sexual or other unlawful harassment, a Complainant may proceed directly to the Formal Resolution Procedures. In all other cases, a Complainant must attempt informal resolution of his/her grievance before filing a formal grievance.

#### **1. Informal Resolution**

The Complainant shall give the Assistant Vice President of Human Resources a written statement detailing the issue at complaint and the requested remedy. The Director of Human Resources shall provide a copy of the statement to the Respondent, who shall have the option to respond in writing. The Director of Human Resources will work with applicable parties to attempt to devise a solution satisfactory to both parties. This may include meeting with the applicable parties, the Dean of Students (if a Student is involved), the Dean of the Faculty (if a Faculty person is involved), and any other person deemed necessary in an attempt to resolve the matter amicably. Often times a complaint may be rectified by the parties meeting and discussing the complaint, with a third person facilitating the discussion. The Complainant may request not to have a face-to-face meeting with the Respondent. If such a request is made, it will be honored and the Director of Human Resources, the Dean of Students (if a Student is involved) or the Dean of the Faculty (if a Faculty person is involved) will mediate the discussion through separate meetings with both parties. If the parties are unable to arrive at such resolution after using reasonable efforts (usually no later than within 15 working days of receiving the complaint), the Complainant may proceed to the Formal Resolution Process set forth below.

### ***F. Procedures: Formal Resolution***

#### **1. General**

Except when the Complainant claims discrimination, including sexual or other unlawful harassment, he/she must first use the Informal Resolution process described above. If the Informal Resolution process produces no mutually satisfactory solution, and the Complainant wishes to proceed further, he/she must file a complaint (as described below) in a timely fashion, which shall be no later than 14 working days after the conclusion of the Informal Resolution process.

#### **2. Complaint**

- 2.1 To initiate a formal grievance, the Complainant shall file a written request for a hearing (the "Complaint") with the Director of Human Resources, which shall include a detailed description of the issue and the requested remedy. When filing the Complaint, Complainant may also file any documentation believed relevant for the Grievance Committee's consideration as to whether to convene a hearing.
- 2.2 Upon receipt of the Complaint, the Director shall convene a Grievance Committee to review the complaint as soon as is reasonably practicable (taking into account whether the

College is on a semester break) but no later than 5 working days of receipt of the complaint.

2.2.1. Members of the Grievance Committee shall be appointed as follows:

**Student Complaint Against a Staff Member:** The Committee shall consist of two students and three staff members. One of the three staff members will chair the committee, as selected by the Committee. The students will be selected by the Dean of Students from the pool of student justices who serve on the Judicial Board. The Dean of Students may serve on the Committee in an advisory position. The staff members will be selected by the Director of Human Resources from a pool of six appointed by the President.

**Faculty Complaint Against a Staff Member:** The Committee shall consist of one tenured full-time faculty member and two staff members. One of the two staff members will chair the Committee, as selected by the Committee. The faculty member will be either the chair of the Administration Committee or a tenured full-time faculty member selected by the Dean of the Faculty. The staff members will be selected by the Director of Human Resources from a pool of six appointed by the President.

**Staff Complaint Against a Staff Member:** The Committee shall consist of three staff members. One of the three staff members will chair the Committee, as selected by the Committee. The staff members will be selected by the Director of Human Resources from a pool of six appointed by the President.

2.3 Any member of the Grievance Committee who has a direct conflict of interest in a grievance action, shall reuse himself/herself from the Grievance Committee. The Director of Human Resources, the Dean of the Faculty (if a Faculty person is involved), and the Dean of Students (if a Student is involved), will select a replacement to fill the vacancy on the Committee.

### 3. Hearing and assignment of penalty and/or remedy

- 3.1 Where two or more members of the Grievance Committee agree that the grievance is not frivolous, the Committee shall grant a hearing to the Complainant and establish any necessary internal procedures to govern such a hearing (see Appendix I, "Grievance Committee Hearing Procedures"). If the Grievance Committee decides that the grievance is frivolous, the Committee shall, within 5 working days after so convening, inform the Complainant in writing of the basis for its determination, and that the Complainant may appeal to the President under the Appeals process described below.
- 3.2 The Grievance Committee shall complete the hearing process within 21 working days of the Committee's initial meeting, excluding breaks in the College calendar.
- 3.3 Upon the hearing's completion, the voting members of the Grievance Committee shall meet in closed session, without the parties, and shall reach decisions by majority vote. It shall deliver to the Director of Human Resources a written report of its findings and its recommendations for a remedy, if any, or dismissal of the complaint. These findings and recommendations shall also be reported to the Complainant, the Respondent, the Dean of

the Faculty (when a Faculty person is involved) and the Dean of Students (when a Student is involved).

- 3.4 The Director of Human Resources shall review the record of the Grievance Committee's proceedings, findings and recommendation, and shall determine an appropriate resolution of the matter. The Director of Human Resources may consult with the supervisor, Dean of Students (if a Student is involved), Dean of the Faculty (if a Faculty person is involved), or legal counsel. The Director of Human Resources shall notify relevant parties and explain his/her decision in writing within 10 working days of receiving the Grievance Committee's findings and recommendations.

#### 4. Appeals

- 4.1 Either the Respondent or the Complainant may appeal the decision of the Director to the President of the College.
- 4.2 To request a review, an Appellant (either the Respondent or the Complainant) must submit a written petition to the President within 5 working days after the Director of Human Resources issues his/her decision. The petition must state and explain the grounds for appeal. The President shall, within 5 working days of receipt, forward a copy of the petition to the other party.
- 4.3 In all appeals, the President may accept or reject the Grievance Committee's original findings and may approve or disapprove the decision by the Director of Human Resources. In the event that an appeal, or any issue on appeal, is brought to the President more than once, the President shall have the authority to approve, disapprove, dismiss, or modify the decision. Within 15 working days of receiving the Appellant's petition, the President shall in writing notify the Complainant, the Respondent, the Director of Human Resources, the Dean of the Faculty (if a Faculty person is involved), the Dean of Students (if a Student is involved), and the Grievance Committee of his/her decision or of the date when the decision is expected (which shall not normally exceed 15 working days after the President's such notification). Once the President reaches a decision, the President shall in writing notify the relevant parties listed above.

## Appendix I

### Grievance Committee Hearing Procedures

These procedures establish basic guidelines for the Staff Grievance Committee to use when considering a grievance. For good cause, the Staff Grievance Committee shall have the discretion to modify (by majority vote) any of these procedures as it deems appropriate, as long as the modified procedures provide for a prompt and equitable resolution of the complaint.

#### *Grievance Process*

If, after reviewing all documents submitted, at least two members of the Grievance Committee agree that the grievance is not frivolous, the Committee shall grant a hearing to the Complainant, and shall develop a tentative schedule for the grievance process. If the Grievance Committee decides that the grievance is frivolous, the Committee shall, within 5 days after so convening, inform the Complainant in writing of the basis for its determination, and that the Complainant may appeal to the President under the Appeals process described the "Procedures for Student, Staff, and Faculty Grievances Arising From Actions of Staff Members."

- The Committee will appoint a chair as outlined in section 2.2.1 in the "Procedures for Student, Staff, and Faculty Grievances Arising From Actions of Staff Members."
- The Grievance Committee shall attempt to complete the hearing process within 21 working days of the Committee's initial meeting, excluding breaks in the College calendar. The Grievance Committee shall allow the Complainant and the Respondent reasonably sufficient time to prepare for the formal hearing(s).
- The Grievance Committee's hearings shall be closed, and the Grievance Committee shall keep a taped or other verbatim record of all sessions or portions of sessions in which it receives oral evidence (but not of its deliberations). This record or a copy of it shall be made available to the Complainant and the Respondent.
- The Complainant and the Respondent shall each be permitted to make statements to the Grievance Committee. Witnesses may be called by the Complainant, the Respondent, and the Committee. All Committee members may ask questions of any of the parties or witnesses to clarify the issues. All participants shall conduct themselves in a professional, respectful manner.
- The Complainant and the Respondent may each be accompanied by an individual of his/her own choosing who is an employee of Claremont McKenna College. In cases where a student is involved, he/she may be accompanied by an individual of his/her own choosing who may or may not be an employee of the College. Because this is not a criminal investigation or hearing, legal counsel will not be permitted at the hearing, except in cases in which any party to the grievance faces potential criminal charges or if required by applicable law. In such cases an attorney will only be permitted in a non-participatory advisory role for each involved Complainant and Respondent. The College may have legal counsel present if one or more parties have legal counsel in attendance at the hearing.
- The Grievance Committee may ask for statements from other parties and for relevant College records. It is the responsibility of the Grievance Committee to reasonably ensure that all relevant evidence is available and considered at the hearing.
- Upon completion of the hearing, the voting members of the Grievance Committee shall complete the consideration of the grievance in closed session without the parties present and shall reach decisions by majority vote. It shall deliver to the Director of Human Resources a written report of its findings within 10 working days of the completion of the hearing process and, if appropriate, its recommendations for a penalty

and/or other remedy, if any, or dismissal of the complaint. These findings and recommendations shall also be reported to the Complainant, the Respondent, the Dean of the Faculty (when a Faculty person is involved) and the Dean of Students (when a Student is involved).

- Confidentiality: Committee members are prohibited from discussing any grievance with those involved (before or after the hearing) or with other employees or friends (either inside or outside of the College).