AGENDA

1) Discontinue Policy E0707 Non-Academic Code of Conduct Hearing Process
   - Denise Vujnovich

2) Add Non-Academic Code of Conduct Hearing Procedure under Policy
   E0700 Student Code of Conduct – Denise Vujnovich

3) College Complaint Resolution Processes – John Heath | Wade Hackbarth
E0707 NON-ACADEMIC CODE OF CONDUCT HEARING PROCESS

When the College believes that a student, as defined as any person who attends and/or is enrolled in any classes or program at the College, has engaged in behavior which potentially violates the Student Code of Conduct, the conduct hearing procedure will be implemented.

Allegations of violations of the Student Code of Conduct shall be reported to the Student Development Office at which time an investigation shall be pursued by the Student Development Manager or his or her designee. Once an alleged violation is reported, the investigation shall immediately begin in accordance to due process. As part of the investigation, the student shall be notified of the possible violation specific to the Student Code of Conduct, and be notified in writing of the place, time and date of a conduct hearing to review the allegations. The student shall receive said notification by mail or personal delivery.

The conduct hearing committee will be assembled by the Vice President of College Relations and Student Services, or his or her designee, and will be composed of a dean or associate dean from the division area of concern, or his or her designee, and two additional non-biased staff members. The hearing shall commence no less than 48 hours nor more than seven (7) calendar days from the date the student receives the above notice. Formal rules, such as applied in civil or criminal courts, are not utilized in conduct hearings. The hearing shall commence at the notified date and time whether or not the alleged student violator is present.

At the hearing before the panel, the student shall have the right to present testimony on his or her behalf, call witnesses, and be represented in an advisory capacity by legal counsel if the student chooses. Advisory capacity is defined as the ability to provide advice directly to the student only, and not advocate on behalf of the student to the conduct panel or any witnesses. Students who choose to be represented by legal counsel are responsible for retaining their own counsel, as well as informing the College in a timely manner about their intent to bring counsel to the hearing. Should a student fail to notify the College in a timely manner, defined as at least 2 days prior to the hearing, the College reserves the right to postpone the hearing for up to seven (7) calendar days so that arrangements can be made for legal representation of the College to be present. An advocate, other than legal counsel, (for alleged student violator and/or complainant) with nonspeaking participation shall be allowed for support.

Based upon the preponderance of the information presented, the hearing panel will determine whether it is more likely not the student violated the Student Code of Conduct. If it is determined that a violation did occur, the panel will decide as to what, if any, sanctions, suspensions and/or dismissals should be imposed. The panel will issue a written statement to the student informing him or her of the decision. Student conduct outcomes shall not be changed if any pending related criminal charges are dismissed or altered.

A student shall not be suspended or dismissed prior to the written statement of the committee except by order of one of the Vice Presidents of the College or his or her designee. Immediate suspension, pending the hearing, may be authorized for the safety of the student or for the protection of other students, faculty, staff or college property.

No appeal shall be permitted unless specific allegations are set forth in the appeal alleging a lack of due process or other specific error or omission. The appeal is limited to issues that were raised at the hearing. No new information or statements shall be introduced for the first time on appeal. A record of the hearing (tape recording or stenographer's notes, etc.) shall be provided by the College to the parties in the event of an appeal.

The appealing party shall file with the Office of the President a written appeal, setting forth with specificity the grounds on which the appeal is based. The written appeal shall bear the original signature of the appealing party.
The appeal shall be filed with the Office of the President within ten (10) calendar days of the date the suspension or dismissal order was personally delivered or was postmarked if served by mail. Otherwise the appeal shall not be heard and is barred.

The appeal shall be decided by the President or his or her designee no later than thirty (30) days after the appeal has been filed with the Office of the President. If, during the thirty-day period, the President or his or her designee determines that a hearing would be beneficial, then he or she shall give written notice to the Vice President of College Relations and Student Services and to the appealing party.
NON-ACADEMIC CODE OF CONDUCT HEARING PROCEDURE

When the College believes that a student, as defined as any person who attends and/or is enrolled in any classes or program at the College, has engaged in behavior which potentially violates the Student Code of Conduct, the conduct hearing procedure will be implemented.

Allegations of violations of the Student Code of Conduct shall be reported to the Student Life Office at which time an investigation shall be pursued by the Dean of Students or designee. Once an alleged violation is reported, the investigation shall immediately begin in accordance to due process to determine if the alleged behavior may violate college policies. As part of the investigation, the responding student shall be notified of the possible violation specific to the Student Code of Conduct, and be provided the option of having the allegation heard in an administrative hearing with one hearing officer, or by the Student Code of Conduct hearing panel. The responding student shall be notified in writing of the place, time and date of the conduct hearing to review the allegations. The student shall receive said notification by mail, student email, or personal delivery.

Administrative Hearing Process: An administrative hearing will be heard by the Dean of Students or designee. The responding student shall have the right to present a statement on his or her behalf and identify potential witnesses. Based upon all the information provided regarding the allegation, the administrative hearing officer will determine whether it is more likely than not that the student’s behavior violated college policies. If the responding student accepts the finding of the administrative hearing officer, the hearing officer will decide what, if any, any sanctions will be imposed. The hearing officer will issue a written follow-up to the student stating the findings and corresponding sanctions. If the student does not accept the finding of the administrative hearing officer, the allegation will be referred to the Student Code of Conduct Hearing process.

Student Code of Conduct Hearing Process: The conduct hearing committee will be assembled by the Vice President of Student Development and Success, or designee, and will be composed of a dean or associate dean from the division area of concern, or designee, and two additional non-biased staff members. The hearing shall commence no less than 48 hours nor more than seven (7) calendar days from the date the student receives the above notice. Formal rules, such as applied in civil or criminal courts, are not utilized in conduct hearings. The hearing shall commence at the notified date and time whether or not the responding student is present.

At the hearing before the panel, the student shall have the right to present a statement on his or her behalf, call witnesses, and be represented in an advisory capacity by legal counsel if the student chooses. The student has the right to ask questions of any person presenting information at the hearing. If the presenter is uncomfortable with direct questioning, all questions will proceed through the hearing facilitator. Advisory capacity is defined as the ability to provide advice directly to the student only, and not advocate on behalf of the student to the conduct panel or any presenters. Students who choose to be represented by legal counsel are responsible for retaining their own counsel, as well as informing the College in a timely manner about their intent to bring counsel to the hearing. Should a student fail to notify the College in a timely manner, defined as at least 2 days prior to the hearing, the College reserves the right to postpone the hearing for up to seven (7) calendar days so that arrangements can be made for legal representation of the College to be present. An advocate, other than legal counsel, (for responding student and/or reporting party) with nonspeaking participation shall be allowed for support.

In hearings involving allegations of sexual assault, interpersonal violence or stalking, the reporting party is entitled to the same supports and rights as the responding student.

Based upon all the information provided regarding the allegation, the hearing panel will determine whether it is more likely than not that the student’s behavior violated college policies. If it is determined that a violation did occur, the panel will decide as to what, if any, sanctions, suspensions and/or dismissals should be imposed. The panel will issue a written statement to the student informing him or her of the decision. In hearings regarding sexual assault, interpersonal violence or stalking, the decision will be delivered to both the reporting
party and the responding student simultaneously. Student conduct outcomes shall not be changed if any pending related criminal charges are dismissed or altered.

A student shall not be suspended or dismissed prior to the written statement of the panel except by order of one of the Vice Presidents of the College or designee. Immediate suspension, pending the hearing, may be authorized for the safety of the student or for the protection of other students, faculty, staff or college property.

No appeal shall be permitted unless specific allegations are set forth in the appeal alleging a lack of due process or other specific error or omission. The appeal is limited to issues that were raised at the hearing. No new information or statements shall be introduced for the first time on appeal. A record of the hearing (tape recording or stenographer’s notes, etc.) shall be provided by the College to the parties in the event of an appeal.

The appealing party shall file with the Office of the President a written appeal, setting forth with specificity the grounds on which the appeal is based. The written appeal shall bear the original signature of the appealing party.

The appeal shall be filed with the Office of the President within ten (10) calendar days of the date the suspension or dismissal order was personally delivered or was postmarked if served by mail. Otherwise the appeal shall not be heard and is barred. In appeals regarding sexual assault, interpersonal violence or stalking, both the reporting party and the responding student shall be informed about the process and outcome of the appeal.

The appeal shall be decided by the President or designee no later than thirty (30) days after the appeal has been filed with the Office of the President. If, during the thirty-day period, the President or designee determines that a hearing would be beneficial, then he or she shall give written notice to the Vice President of Student Development and Success and to the appealing party.

Revised April 19, 2016
Revised July 15, 2015
Revised August 21, 2007
Revised January 26, 2007
Adopted February 19, 2002
A. College Complaint Resolution Processes

Employee Complaint Resolution - Discipline, Workplace Safety, and Termination

The College encourages employees and supervisors to resolve work standards and performance issues outside of this procedure. If more serious complaints and concerns involving discipline, workplace safety, and termination from employment cannot be resolved, a more formal process for an employee to utilize is available.

This policy is intended to comply with Wis. Stat § 66.0509 (1m), relating to appeals of discipline, workplace safety, and termination issues. This policy and accompanying procedures are limited to such issues. The College reserves the right to determine whether a complaint appropriately falls within the scope of this policy.

Employee Complaint Resolution – College Actions that are in Violation of College Policy

The College encourages employees and supervisors to resolve work concerns and/or complaints on an informal basis. If the employee has a more serious complaint and/or concern involving actions that are in violation of college policy that cannot be resolved informally, a more formal process is available.

EXCLUSIVE REMEDY

This procedure constitutes the exclusive process for the redress of any employee complaints as defined herein. However, nothing in this complaint procedure shall prevent any employee from addressing with the administration any concerns regarding matters not subject to the complaint procedure, and employees are encouraged to do so. Matters that are raised by employees but are not subject to the complaint procedure shall be considered in a manner deemed appropriate by the administration and/or District Board.

DEFINITIONS:

“Complainant” is defined as an employee of the College who is no longer on probation and has a “complaint” as defined in this procedure.

“Complaint” is defined as a dispute concerning the application of College policies regarding an employee’s discipline, workplace safety, termination, or actions that are in violation of college policy. No complaint shall be processed under this policy unless it is in writing and contains all of the following:

1. The name and position of the Complainant
2. A clear and concise statement of the complaint
3. The issue involved
4. The relief sought
5. The date the incident or alleged violation took place
6. The specific section(s) of the policy/policies or workplace safety rule alleged to have been violated; and
7. The signature of the complainant and date

“Working days,” for purposes of processing a complaint, are defined as Monday through Friday. Weekends, holidays, and days when the College is closed are excluded. The time within which an act is to be done under this policy shall be computed by excluding the first day and including the last day.
“Discipline” means suspension, or demotion. Discipline does not include any oral or written warnings, reprimands, coachings, performance improvement plans, performance reviews, work plans, or corrective actions.

“Termination” means discharge from employment. Termination does not include a voluntary quit, completion of seasonal employment, completion of temporary assignment, completion of contract or adjunct assignment, temporary or permanent total or partial elimination of a position, retirement, job abandonment, termination of employment due to medical condition (subject to applicable law), lack of qualification or license, non-renewal of an employment contract governed by Wis. Stat. § 118.22, or any other cessation of employment not involving involuntary termination of an employee meeting the definition of “Complainant.”

“Workplace safety” means those conditions related to the physical health and safety of employees enforceable under federal or state law, or College rule related to safety of the physical work environment, the safe operation of workplace equipment and tools, provision of protective equipment, training and warning requirements, workplace violence, and accident risk.

“Impartial Hearing Officer” (IHO) means a neutral third party and shall be consistent with state statutes.

GUIDELINES:

This policy may be revised, updated, or repealed at any time.

A complaint shall be considered waived and no action shall be required by the College if the complaint is not filed or appealed within the designated timeline. No party or decision maker shall have the authority to modify this requirement.

Complainants and the College are allowed representation of their choosing for any hearings before an IHO or the District Board during this process, but complainants must promptly notify the College if they will be represented and by whom.

An employee’s formal complaint must be in writing and signed by the employee. The Complaint Resolution Form can be obtained online or from Human Resources. The complaint must include:

1. The name and position of the Complainant
2. A clear and concise statement of the complaint
3. The issue involved
4. The relief sought
5. The date the incident or alleged violation took place
6. The specific section(s) of the policy/policies or workplace safety rule alleged to have been violated; and
7. The signature of the Complainant and date

Refer to: Complaint Process Resolution Form

C0101(a): Employee Complaint Resolution - Discipline, Workplace Safety, and Termination
C0101(b): Employee Complaint Resolution – College Actions that are in Violation of College Policy

The following diagram illustrates the two complaint processes:
Written Complaint to Supervisor (Step 1)

The Complainant shall initiate the written complaint using the Employee Complaint Resolution Form with his/her immediate supervisor within ten (10) working days of the incident that gave rise to the complaint. The supervisor will meet and discuss the matter fully with the Complainant and provide a written response to the complaint within ten (10) working days of receipt of the written complaint, and shall advise the Complainant of the individual to whom he/she may appeal. Complainants may be accompanied by another employee representative of their choosing (including a fellow employee), and supervisors may include a Human Resource representative in the meetings. The Complainant may contact Human Resources directly, and if both parties agree, Step 1 can be waived.

Written Appeal to Individual (Step 2)

In the event the matter is not satisfactorily resolved at Step 1, the Complainant may submit a written appeal to the appropriate individual identified by his/her immediate supervisor within ten (10) working days of receiving the Step 1 response. If the College is aware of other similar complaints, the College may consolidate those matters and process them as one complaint. To initiate the appeal, the Complainant must submit:
1. A copy of the formal complaint
2. A copy of the supervisor’s response
3. A written statement of his/her reason(s) for disagreeing with the supervisor’s response

This individual will investigate as appropriate, will meet to discuss the matter fully with the Complainant and other relevant parties, if applicable, and will provide a written response to the Complainant within ten (10) working days of receipt of the written materials set forth as 1, 2 and 3 above. Complainants may be accompanied by another employee representative of their choosing (including a fellow employee), and supervisors may include a Human Resource representative in the meetings.
Written Complaint to HR Dir/EEO Mgr (Step 3)
If the Complainant believes the matter has not been satisfactorily resolved at Step 2, he/she may submit a written appeal to the Human Resources Director and/or the Employment, Benefits and EEO Manager within ten (10) working days of receiving the Step 2 written response. All information and documentation from the initial complaint and previous appeals must be included.

The appeal will then be referred to an impartial hearing officer (IHO). The IHO will be designated by the College. Any fees/costs incurred by the (IHO) will be paid by the College. The IHO will convene a hearing in the manner the IHO determines necessary. The IHO shall have the authority to administer oaths, issue subpoenas at the request of the parties, and decide if a transcript is necessary. The IHO may require the parties to submit complaint documents and witness lists in advance of the hearing to expedite the hearing. The burden of proof shall be carried by a preponderance (weight) of the evidence. In termination and discipline cases, the College shall have the responsibility of going forward. In workplace safety cases, the Complainant shall have the responsibility of going forward. The IHO may request oral or written arguments and replies. The IHO shall provide the parties a written decision.

The IHO may only consider the matter presented in the initial complaint filed by the Complainant. The IHO shall have no power to add to, subtract from, or modify the terms of the District Board policy or rule that forms the basis for the complaint, nor any authority to suspend the application of any policy, rule, or provision of this complaint procedure.

Written Appeal to HR/Board of Directors (Step 4)
If the Complainant believes the matter has not been satisfactorily resolved in Step 3, he/she may appeal to the Western Technical College District Board by filing a written appeal to Human Resources within ten (10) working days of receiving the Step 3 written response. All information and documentation from the initial complaint and previous appeals must be included.

The appeal will then be referred for final review to the College’s District Board. All appeals that are directed to the District Board will be reviewed in closed session unless otherwise required by law. The Human Resources Director and/or the Employment, Benefits and EEO Manager will present the District Board with all relevant documents. The District Board shall, within thirty (30) days after submission of the appeal, schedule the review of the IHO decision.

The Complainant will have the opportunity to be present. The Complainant may also choose to be accompanied and/or represented by a representative of his/her choosing.

If a meeting is requested, the Complainant and the College have the opportunity to meet with the District Board to explain the complaint, review the proceedings before the IHO and to state their respective positions on the complaint. Neither the Complainant nor the College may present additional witnesses, nor may either party question individual District Board members.

If a meeting is not requested, the District Board shall review the evidence from the hearing before the IHO and the decision of the IHO. No new evidence may be offered at this step in the procedure.

The District Board will make the final decision on the submitted complaint. The determination of the District Board will be final and binding. This is the final step in the process.

Written Appeal to President (Step 4)
Either party may appeal an adverse determination from Step 3 to the Western Technical College District Board by filing a written appeal to the President within ten (10) working days of receiving the Step 3 written response. All information and documentation from the initial complaint and previous appeals must be included.

The appeal will then be referred for final review to the College’s District Board. All appeals that are directed to the District Board will be reviewed in closed session unless otherwise required by law. The Human Resources Director and/or the Employment, Benefits and EEO Manager will present the District Board with all relevant documents. The District Board shall schedule the review of the decision within thirty (30) days after submission of the appeal.

The Complainant will have the opportunity to be present. The Complainant may also choose to be accompanied and/or represented at the review by a representative of his/her choosing.

If a meeting is requested, the Complainant and the College have the opportunity to meet with the District Board to explain the complaint and to state their respective positions with regard to the complaint. Neither the Complainant nor the College may present additional witnesses, nor may either party question individual District Board members.

If a meeting is not requested, the District Board shall review all information and documentation from the initial complaint and appeals. No new evidence may be offered at this step in the procedure.

The District Board will make the final decision on the submitted complaint. The determination of the District Board will be final and binding. This is the final step in the process.