

## STAFF GRIEVANCE RESOLUTION POLICY

### 1. Purpose

To provide the College, affiliated colleges and their staff with a clear set of principles in relation to the resolution of staff grievances.

### 2. Scope

This policy and the procedure apply to all staff of the College and affiliated colleges.

### 3. Definitions

**Grievance:** behaviour or action of another member or members of staff, which has or is likely to have an unreasonable negative impact on the ability of a staff member to undertake their duties.

### 4. Policy Statement

As part of the approach by the College and affiliated colleges to providing a fair, safe and productive work environment, consideration of grievances will be dealt with fairly, consistently, promptly and with sensitivity to all parties.

### 5. Responsibility

In the College:

the Quality Manager is responsible for provision of the advice and promulgation of this Policy.

the Dean has overall responsibility for the implementation and review of this policy.

In an affiliated college:

the college Registrar is responsible for the provision of advice and promulgation of this Policy.

the college Principal has overall responsibility for the implementation and recommendation for amendment of this Policy.

### 6. Legislative Context

*State Freedom of Information Act*

*State Ombudsman Act*

*State Equal Opportunity Act*

### 7. Associated Documents

*Staff Grievance Resolution Procedure*

*Commonwealth Workplace Relations Act 1996*

*ACTh Staff Dispute Resolution Policy and Procedure (AWA related)*

Other relevant documents in your college

## **STAFF GRIEVANCE RESOLUTION PROCEDURE**

### **1. Purpose**

To state a clear and fair process for staff to raise a grievance, and to identify the member of staff responsible for settling the grievance.

### **2. Scope**

The procedure described in this document applies to staff of the College and affiliated colleges and is designed for the settlement of grievances.

This procedure does not apply if the subject of the grievance relates to:

- (a) a matter covered by alternative formal review, appeal, grievance or other dispute settling procedures, nor to the outcome of a merit-based selection process;
- (b) a decision of the ACTh Board of Delegates or college Council (or equivalent);
- (c) the content of approved policies of the ACTh or the college;
- (d) decisions of the Dean or college Principal or any Review or Appeal Committee which are stipulated as final in the college or ACTh policy or Enterprise Agreement clauses;

### **3. Definitions**

**Complainant:** the staff member lodging the grievance.

**Grievance:** behaviour or action of another member or members of staff, which has or is likely to have an unreasonable negative impact on the ability of a staff member to undertake their duties. Any grievance must be made in good faith and without frivolous, malicious or vexatious intent.

**Investigator:** means an impartial person appointed by the Dean or college Principal to conduct an investigation into the substance of the grievance, who may be external or internal to the college and shall not have any prior involvement in the subject matter of the grievance, and if internal, shall be a senior officer not employed in the same Department or Section of either the complainant or respondent.

**Party:** means the Complainant and/or Respondent.

**Principles of Natural Justice:** general procedural fairness in the handling of a grievance that involves all of the following elements:

- (a) the right to a fair hearing
- (b) the right to attend hearings with a friend or support person, if required, provided the person is not a practising solicitor or barrister
- (c) the opportunity for all parties involved to be heard
- (d) the respondent having full knowledge of the nature and substance of the grievance
- (e) the complainant not determining the outcome, but may be a party to it
- (f) the right to an independent, unbiased decision-maker
- (g) a final decision that is based solely on the relevant evidence with all submissions considered

**Respondent:** the staff member or members against whom the grievance has been lodged.

**Senior Management:** the Dean or college Principal (and Vice-Principal)

**Senior Officer:** means senior management, a Head of Department or Section, a Head of Program, the Chair of Academic Board, a Head of Campus, such other roles as the Dean of the College or Principal of an affiliated college designates

**Supervisor:** normally the management position to which the staff member reports. However, this position must be no less than a Head of Department or Head of Section.

**Grievance Officer:** staff member appointed by the Dean or affiliated college Principal.

#### **4. Principles**

Grievances should be resolved wherever possible by informal means including discussion, mediation and/or conciliation. Formal procedures for the resolution of grievances will normally only be invoked when a matter cannot be resolved by informal means.

The complainant has the right to fair treatment and not to be victimised because of the grievance. At all stages of the procedure the complainant shall continue to work in accordance with the legal direction of their nominated supervisor.

Anyone associated with the grievance or its resolution will not be coerced or intimidated in any way

The grievance will be resolved as promptly and as close to the source as possible as long as equity and due process can be assured.

The investigation will be thorough and just.

Confidentiality will be respected and maintained at all times within the constraints of the need to investigate the matter, subject to any legal requirements for disclosure and consistent with the principles of natural justice.

The complainant may withdraw a grievance at any stage in the process. If the grievance is withdrawn, the matter will be deemed to be closed.

Information about the grievance will only be communicated to those persons who have a right under college and ACTh policy and procedures to be given the information.

Where two or more complainants have a common grievance, this may be dealt with as a single grievance.

#### **5. Actions**

##### **A. Preliminary Action**

A1. Before initiating the following procedures, complainants are encouraged to try to settle any grievance directly with the person(s) concerned.

A2. A complainant should raise their grievance with the respondent as early as possible.

A3. At any time while trying to settle the grievance, a complainant or respondent may consult confidentially with anyone they choose, and may seek advice from the Grievance Officer

##### **B. Informal Procedure**

B1. The informal procedure for the settlement of grievances will not normally be invoked unless the complainant has attempted to settle the grievance directly with the respondent as outlined in the Preliminary Action above.

B2. A complainant may refer the grievance to their supervisor for settlement of the grievance. When a complainant has a grievance against their supervisor the Complainant may refer the grievance to their supervisor's supervisor.

B3. To commence the Informal Procedure the complainant must provide in writing to their supervisor:

- a clear statement of the grievance, including the parties to the grievance;
- a process for trying to settle the grievance, which will be considered by the supervisor;
- a suggested solution which the Complainant believes would settle the grievance. An appropriate solution will focus on achieving a productive working environment or relationship, rather than apportioning blame.

B4. Within ten (10) working days of receiving the notification of the grievance the supervisor will determine whether the subject matter, prima facie, falls within the definition of a grievance.

Where it is determined that the subject matter falls within the definition, the supervisor will:

- (a) gather such other information as required to assist with the settlement of the grievance, including providing the respondent with the statement of the grievance and the opportunity to respond; and
- (b) attempt to settle the grievance by using the process outlined by the complainant for settlement (if appropriate) or through discussion; or arranging counselling; mediation and/or conciliation ("the Informal procedure").

Where it is determined that the subject matter of the grievance falls outside the definition of a grievance, the supervisor will advise the complainant accordingly, giving reasons. The supervisor may dismiss a grievance if in the Supervisor's view the grievance is ill-advised, misguided, frivolous, malicious or vexatious.

Where the supervisor determines the matter should be investigated but declines to act for reasons such as a conflict of interest, the supervisor will refer the grievance to the Dean or affiliated college Principal. In the event that the Dean or affiliated college Principal declines to act he/she will identify another senior member of staff to act to resolve the grievance.

B5. If the complainant's supervisor does not supervise the respondent, the supervisor will determine the appropriateness of including the respondent's supervisor in seeking to settle the grievance, recognising the importance of keeping the grievance as close to the source as possible.

B6. After the conclusion of the Informal procedure, the supervisor will write to both the complainant and respondent indicating the outcome of the process and specifying any action that has been agreed by the parties as part of that process.

### **C. Formal Procedure**

The formal procedure for the settlement of grievances will not normally be invoked unless the matter has been first referred for settlement under the Informal Procedure.

C1. If settlement of the grievance has not been achieved for any reason, including as a result of a determination by the supervisor that the subject matter falls outside the definition of a grievance or as a result of the grievance being dismissed under the Informal Procedure, a party may seek settlement of the grievance through the Formal Procedure. The Formal Procedure will normally be invoked within five working days of the supervisor notifying the parties of the outcome of the Informal Procedure or from the date of the conclusion of the unsuccessful mediation and/or conciliation.

C2. A formal grievance may only be commenced by lodging a Grievance Lodgement Form with the Grievance Officer within ten (10) working days of the notification of the outcome of the informal resolution process.

C3. Within ten (10) working days of receipt of the Grievance Lodgement Form the Dean or Principal must appoint an Investigator to hear and investigate the grievance.

C4. The Investigator will, within ten (10) working days of appointment,:

(a) interview both the complainant and respondent and such other persons or seek any further information the Investigator considers necessary and will conduct any investigation in accordance with Principles of Natural Justice;

(b) determine whether the grievance is justified; and

(c) recommend to the Dean or Principal appropriate action which may include, but is not limited to: counselling for either or both parties; arranging for conciliation of the grievance; recommending disciplinary action; or that no further action be taken. The recommended action may also cover matters such as a proper division of work, the appropriate level of tasks and/or appropriate workplace behaviour and where appropriate, ongoing monitoring arrangements.

If, in the Investigator's view, the grievance is ill-advised, misguided, frivolous, malicious or vexatious, the Dean or Principal will advise the complainant, and where appropriate other parties, in writing of this finding and the reasons for the finding and where appropriate take action in accordance with relevant staff provisions against the complainant.

C5. On receipt of the Investigator's report, the Dean or Principal will:

(a) take such action as the Principal deems appropriate; and

(b) notify in writing both the complainant and respondent of the outcome of the process, the reasons for the decision and specify any action to be taken.

C6. The decision of the Dean or Principal is the final step in the grievance process and is not open to challenge via any other dispute settling procedures of the College or affiliated college.

#### **D. Senior Management**

D1. If a grievance is between a staff member and a member of the Senior Management, the matter will be taken directly to the college Grievance Officer who will refer the matter to the Chair of the ACTh Board of Delegates or Chair of the college Council (or equivalent).

D2. The Chair of the ACTh Board of Delegates or the Chair of the college Council (or equivalent), after consultation with one Deputy Chair (or equivalent), will have discretion as to the appropriate procedure to be used in determining whether a grievance has substance and the appropriate process within the spirit of this procedure for settling the complaint.

#### **E. Confidentiality**

All persons associated with the informal and formal procedures should maintain confidentiality and only discuss the grievance with those who have responsibility for dealing with the grievance.

#### **F. External Agencies**

Complaints about administrative actions and decisions of the College or affiliated college can be made to the state Ombudsman (or equivalent). The Ombudsman is, generally, the office of last resort. If the complainant has not followed the steps laid down in the relevant University procedures, the Ombudsman may ask that this be done before accepting the complaint.

Other external agencies to which complaints may be referred include the Australian Industrial Relations Commission, the Equal Opportunity Commission, the Human Rights and Equal Opportunity Commission, the Police.

## **6. Responsibilities**

**All staff** are expected to conduct themselves in a manner which respects the rights and welfare of other members of the college and to show competence, care, good faith and compliance with instructions, policies and procedures in the performance of their duties.

**Supervisors** are responsible for trying to prevent problems and settling grievances in the workplace.

It is the **complainant's** responsibility to raise the issue(s) of the grievance as soon as possible with the other party/parties and agree to be involved in settling the issue(s) prior to making a formal complaint.

The college Grievance Officer is responsible for providing procedural guidance to all parties during any Action Procedure.

The Registrar is responsible for the provision of advice and promulgation of this Procedure.

The Principal has overall responsibility for the implementation and review of this Procedure.

## **7. Policy Base**

Commonwealth *Workplace Relations Act 1996*

*State Freedom of Information Act*

*State Ombudsman Act*

*State Equal Opportunity Act*

## **8. Associated Documents**

Grievance Lodgement Form

## **9. Forms/Record Keeping**

A brief summary of the grievance along with an account of the informal and formal process (if any) and the settlement shall be recorded by the Complainant's Supervisor and the College Grievance Officer and held in a confidential file to be held by the Registrar. If the grievance is taken outside the University this record may be used to demonstrate what steps were taken to settle the grievance.

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