

THE CALIFORNIA STATE UNIVERSITY AND COLLEGES
Office of the Chancellor
400 Golden Shore
Long Beach, California 90802
(213) 590-5512

Date: February 7, 1977

To: Presidents

From: Harry Harmon *Harry Harmon*
Executive Vice Chancellor

Subject: Executive Order No. 262, Grievance Procedure for Nonacademic
and Administrative Employees of The California State University
and Colleges

I am transmitting to you five copies of the Executive Order No. 262 which establishes a new grievance procedure for nonacademic and administrative employees. This procedure was established following extensive consultation with Presidents, campus administrators, staff councils, employee organizations, and was discussed at several Board of Trustees' committee meetings.

Pending issuance of a Classification Appeal Procedure, provision has been made in the Executive Order to allow classification appeals to be processed under existing procedures until the Classification Appeal Procedure is issued.

The Employee's Notice of Grievance form (Appendix) shall be reproduced by the campuses and made available upon request to individual employees and representatives of verified employee organizations. Grievances filed on forms which have been reproduced by persons or organizations other than the campuses shall be treated as formal grievances so long as the form is identical to that shown in the Appendix to the Grievance Procedure.

Distribution:

Chancellor's Staff

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Please see that copies of this procedure are made available to nonacademic and administrative employees.

Paragraph three of the Executive Order assigns responsibility to the Vice Chancellor of Faculty and Staff Affairs for review and evaluation of this procedure and for issuing directives respecting this procedure. Any questions concerning this Executive Order should be directed to Dr. Marjorie Downing Wagner, Vice Chancellor, Faculty and Staff Affairs, Office of the Chancellor.

It is your responsibility as President to implement Executive Order No. 262 where applicable and to maintain the campus repository and index for all Executive Orders.

HH:md

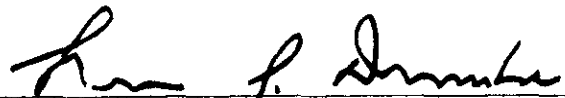
Enclosures

THE CALIFORNIA STATE UNIVERSITY AND COLLEGES
400 Golden Shore
Long Beach, California 90802

Executive Order No.: 262
Title: Grievance Procedure for Nonacademic and
Administrative Employees of The California
State University and Colleges
Effective Date: February 15, 1977
Supersedes: No Prior Executive Order

This Executive Order is issued pursuant to Section 43775 of Title 5 of the California Administrative Code.

1. The Grievance Procedure for Nonacademic and Administrative Employees of The California State University and Colleges supersedes all other grievance procedures for nonacademic and administrative employees previously in force in The California State University and Colleges except that grievance proceedings under any prior grievance procedure for nonacademic and administrative employees which were commenced but not concluded by the effective date of this Executive Order may continue under those prior grievance proceedings. A copy of this Procedure is attached to and made a part of the Executive Order.
2. Pending issuance of a Classification Appeal Procedure, appeals involving the classification of a position shall be processed through the procedure in effect for handling such appeals on the day prior to the effective date of this Executive Order.
3. The Vice Chancellor, Faculty and Staff Affairs, shall be responsible for review and evaluation of this Procedure and for issuing directives respecting this Procedure.
4. Each campus President is responsible for maintaining records of grievances filed and the final disposition of each grievance filed under this Procedure and from time to time will be required to report to the Vice Chancellor of Faculty and Staff Affairs concerning such grievances.
5. The Vice Chancellor, Faculty and Staff Affairs, shall be responsible for conducting an evaluation of this Procedure after it has been in effect for one year. This evaluation shall provide for input by representatives of covered CSUC employees and others as appropriate. The results of this evaluation shall be provided the Chancellor together with any recommended changes to the Procedure.
6. Files relating to grievances shall be maintained separately from an employee's official personnel file.



Glenn S. Dumke, Chancellor

Date: February 7, 1977

THE CALIFORNIA STATE UNIVERSITY AND COLLEGES
GRIEVANCE PROCEDURE FOR NONACADEMIC
AND ADMINISTRATIVE EMPLOYEES

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**GRIEVANCE PROCEDURE FOR NONACADEMIC
AND ADMINISTRATIVE EMPLOYEES**

I. Purpose

The purpose of this grievance procedure is to provide employees the opportunity to settle problems arising in the course of their employment in a fair and orderly fashion if such problems cannot be settled informally.

II. Application

This procedure shall apply to:

- (1) Current employees of a campus who are members of the Public Employees Retirement System and who are in positions in the nonacademic and the administrative job categories as defined in the CSUC Salary Schedule and Section 42700(m) and (o), Title 5, California Administrative Code; and
- (2) Persons who were employed by a campus 14 calendar days immediately preceding the filing of the grievance and who were members of the Public Employees Retirement System during their actual employment and who were in positions in the nonacademic and the administrative job categories as defined in the current CSUC Salary Schedule and Section 42700(m) and (o), Title 5, California Administrative Code.

III. Time Limits

When a stated time period expires on a day which is not a regular state workday, the time period shall be extended through the close of business on the next regular state workday.

All time periods specified herein may be extended by written agreement of the grievant and the President.

IV. Definitions

- A. All terms used in this procedure have the definition given them in Sections 40000 and 42700 of Title 5, California Administrative Code, unless such terms are inconsistently defined herein.
- B. "President" means the President or acting President of a campus or such persons as the President may designate to act for the President. In the case of the Office of the Chancellor, President shall mean the Chancellor or acting Chancellor or such persons as the Chancellor may designate to act for the Chancellor.
- C. "Attorney" means a person admitted to the practice of law before any state or federal court.
- D. "Action" means any final action or failure to take final action in a timely manner.
- E. "Campus" includes the Office of the Chancellor.
- F. "Promotion" does not mean classification or reclassification.

- G. "Appeal Officer" means a Hearing Officer from the State Office of Administrative Hearings or a person mutually agreed upon by the President and the grievant.
- H. "Delivery" means delivery by hand or by depositing in U.S. Mail first class postage prepaid.

V. Scope

This procedure may be used whenever an employee believes he/she has been personally adversely affected by any action taken by her/his appointing authority in the following matters:

- A. Violation of CSUC or campus policies governing working conditions
- B. Promotion
- C. Retention
- D. Layoff
- E. Performance Evaluation
- F. Merit Salary Adjustment
- G. Discrimination Prohibited by Law

This procedure shall not be used to appeal a procedural or final decision in a classification matter, a grievance, or a dismissal, demotion, or suspension or other disciplinary action for cause following a hearing pursuant to Education Code Section 24306 or 24306.1, a separation (AWOL) pursuant to Education Code Section 24311, or in any other action for which a separate appeal is provided by the Education Code or Title 5, California Administrative Code.

VI. Informal Resolution of Complaints

Before filing a grievance, an employee who has a complaint should attempt to resolve the matter through informal discussion with the appropriate supervisor without undue delay. It is the policy of the CSUC to settle complaints at the lowest possible level.

VII. Time Limits for Filing a Grievance

Notice of a grievance (see Appendix) must be filed within 45 calendar days after the grievant has discovered or reasonably should have discovered the action, and not more than one calendar year following the action regardless of the time of discovery.

VIII. Grievance Review Process

A grievance does not exist until reduced to writing, on a grievance form provided by the campus, and filed at the first level of review with an information copy filed with both the President and the Personnel Officer. The form shall be completed in its entirety. The grievance review process shall consist of three levels of review except as otherwise provided by this procedure. If at any time in the proceedings it is determined that (a) the grievant is not entitled to use the procedure, or (b) the matter grieved is outside the scope of this procedure, the grievance shall be returned to the grievant with a written explanation and the proceedings shall be terminated.

A. First Level of Review

The person conducting the review at this level shall be the lowest supervisor who has the authority to adjust grievances. Either the person with whom the grievance is filed or the grievant may request a conference with the other. If such a conference is requested by the grievant, it shall be granted. At such a conference, the parties may exchange written and

oral information. The person conducting the review shall render a written decision, including rationale therefor, and deliver such decision to the grievant, with a copy to both the President and the Personnel Officer, within 14 calendar days following receipt of the grievance.

If the grievance is denied, the grievant may file the grievance with the next designated level of review within 14 calendar days following either receipt of the denial or the deadline for response, whichever comes earlier. For the grievance to be accepted for review by the next level, a second signature by the grievant is required.

Failure by the grievant to take further action within 14 calendar days from receipt of the decision or expiration of the period within which the decision should have been delivered shall constitute automatic withdrawal of the grievance and no further proceedings may be taken regarding the action grieved.

B. Second Level of Review

The grievance shall be filed together with any determination made at a prior level of review with the person who will conduct the second level of review.

The person conducting the review at this level shall be designated by the President. This designee shall be a supervisor of the person who conducted the review at the first level and the grievant shall be notified of the designation. Either the person with whom the grievance is filed or the grievant may request a conference with the other. If such a conference is requested by the grievant, it shall be granted. At such a conference the parties may exchange written and oral information. The reviewer shall render a written decision including rationale therefor and shall deliver such decision to the grievant, with a copy to both the President and Personnel Officer, within 14 calendar days following receipt of the grievance.

If the grievance is denied, the grievant may file the grievance with the next level of review within 14 calendar days following receipt of the denial or the deadline for response, whichever comes earlier. For this purpose a third signature is required by the grievant.

Failure by the grievant to take further action within 14 calendar days from receipt of the decision or expiration of the period within which the decision should have been delivered shall constitute automatic withdrawal of the grievance and no further proceedings may be taken regarding the action grieved.

C. Third Level of Review: Hearing by Grievance Committee

The grievance shall be delivered together with any determinations made at prior levels of review to the President with an information copy to the Personnel Officer. Following selection of the members of the Grievance Committee as provided below, the President shall refer the grievance to the Grievance Committee to determine findings of fact and make recommendations. The Grievance Committee shall file its report with the President with an information copy to the Personnel Officer within 21 calendar days following receipt of the grievance from the President.

Grievance Panel

Service on the Panel, Executive Committee, and Grievance Committee shall be a part of the normal and reasonable duties of an employee's position.

An Administrative Grievance Panel shall be composed of all permanent campus administrative employees. An Executive Committee composed of three members of the

Panel shall be selected by the President and the Chairperson of the Staff Council to serve for one year.

A Nonacademic Grievance Panel shall be composed of all permanent campus nonacademic employees. An Executive Committee composed of three members of the Panel shall be selected by the President and the Chairperson of the Staff Council to serve for one year.

Grievance Committee

A Grievance Committee composed of three members of the appropriate Panel shall be selected by lot. The Grievance Committee selection process shall be completed within seven calendar days following receipt of the grievance at the third level. The three members shall select one to act as chairperson. A quorum shall consist of two Committee members. No one shall be eligible to serve on a Grievance Committee who is:

- (1) A member of the Executive Committee;
- (2) Under the supervision of the grievant's immediate supervisor.

Each party to the grievance shall be permitted to exercise challenges as follows:

- (1) For cause: if by reason of bias or other prejudice the person selected could not participate in a fair and impartial grievance hearing – unlimited number;
- (2) Peremptory – limit: three each;
- (3) Challenges, if any, shall be exercised by the close of the second calendar day following the day of selection.

The Executive Committee shall rule by majority vote on challenges for cause; such rulings shall be final. Any Grievance Committee member who is peremptorily challenged or disqualified for cause shall be replaced in the same manner as the original Committee members were selected.

The Grievance Committee is empowered to:

- (1) Request assistance from the campus;
- (2) Establish such rules of procedure as it considers necessary to conduct the hearing;
- (3) Request witnesses to give evidence at the hearing and limit the number of witnesses to that number necessary to establish the facts.
- (4) Rule on the presentation of evidence. The hearing shall not be conducted according to technical rules relating to evidence and witnesses. In making such ruling the Committee shall admit any relevant evidence if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs; that evidence which is merely repetitious or cumulative may be excluded.

Prior to the hearing the grievant may request an open hearing, in which case the hearing shall be open. Once the hearing commences the decision shall be irrevocable. A quorum shall consist of two members of the Committee and all actions of the Committee shall be by majority vote of the Committee. In order to prevail, the grievant shall demonstrate by

a preponderance of the evidence that he/she was directly wronged by the action which gave rise to the grievance.

At the conclusion of the hearing the Grievance Committee shall prepare written findings of fact based upon the evidence presented. The findings of fact and recommendation(s) including **rationale therefor**, shall be submitted to the President with a copy to the grievant and an information copy to the Personnel Officer. Based upon those findings the Committee shall recommend that the grievance be granted, denied, or other resolution be made. If the grievance involves multiple issues, the Committee shall prepare a recommendation on each issue.

The President shall deliver to the grievant a written decision on the grievance within 30 calendar days following receipt of the recommendation of the Grievance Committee with an information copy to the Personnel Officer. If the Grievance Committee does not provide the President with a recommendation within the 21 days specified, the President shall provide the grievant with a written decision on the grievance within 30 calendar days from the latest day on which the recommendation of the Grievance Committee could have been filed with the President with an information copy to the Personnel Officer.

If the grievance matter involves promotion, retention, or layoff and the recommendation of the Grievance Committee is to deny the grievance and the President agrees, the decision is final. If the Committee recommends in favor of the grievant and the President rules against the grievant, the grievant can go to the fourth level of review by filing a written request with the President within 14 calendar days following receipt of the President's denial, with an information copy to the Personnel Officer. If the grievance involves multiple issues, only that part or those parts of the grievance dealing with promotion, retention or layoff may go to the fourth level of review and then only if the President's ruling is to deny the grievance regarding promotion, retention or layoff.

D. Fourth Level of Review: Appeal

Following receipt by the President of a request for a fourth level of review, which request meets the requirements previously specified, he/she shall arrange for an Appeal Officer who shall conduct a review of the Grievance Committee's report and the President's decision and decide whether the President's disagreement with the recommendation of the Committee on matters of promotion, retention or layoff was justified. The Appeal Officer shall notify both the President and the grievant upon his designation. No new evidence shall be submitted or presented to the Appeal Officer nor shall a hearing be conducted.

Within 14 calendar days of acceptance of the case by the Appeal Officer, the grievant and the President may each deliver to the Appeal Officer two copies of written arguments based only upon this procedure and evidence in the record. Upon the expiration of the 14 calendar days the Appeal Officer shall provide to each a copy of the other's argument. There shall be no other communication by, or on behalf of, the parties with the Appeal Officer except as provided for below.

The Appeal Officer shall provide the President and the grievant with a written decision. If the Appeal Officer rules in favor of the grievant and that decision is not contrary to an established campus policy, Trustee policy, or applicable law, the President shall implement the decision of the Appeal Officer in an expeditious manner. Costs of the Appeal Officer shall be borne by the campus.

Powers and Limitations of the Appeal Officer

The Appeal Officer shall first determine if there is a disagreement between the President and the Grievance Committee. If the Appeal Officer determines that there is a disagreement, the report of decision ultimately to be written in the matter shall so state, and the Appeal Officer shall proceed to decide whether the President's disagreement with the recommendations of the Committee was justified. The disagreement shall be justified if:

1. The Committee recommendations were not consistent with, and supported by, the findings; or
2. This procedure was so departed from, or erroneously applied, as to have had a substantially prejudicial effect upon the Committee's findings of fact, conclusions, or recommendations, or all of these; or
3. The Committee has recommended a remedy or remedies beyond the authority of the President or contrary to the laws of California or the United States; or
4. Any or all of these.

The Appeal Officer may refer the grievance to the Grievance Committee for further proceedings on specific issues on which the Appeal Officer requires additional information in order to render a decision.

On each issue presented to the Appeal Officer, if he/she does not find the President's disagreement with the Committee recommendation justified, the Committee recommendation shall be adopted as the Appeal Officer's decision. If the Appeal Officer finds the President's disagreement justified, the President's decision shall be adopted as the Appeal Officer's decision. If, however, the Appeal Officer finds that this procedure was so departed from, or erroneously applied, as to have had a substantially prejudicial effect upon the Committee's findings of fact or recommendations, then the Appeal Officer may either adopt the President's decision as the Appeal Officer's decision, or through the President with a copy to the grievant direct the Grievance Committee to reconvene to partially or fully rehear the grievance absent the departure from, or erroneous application of, the grievance procedure specified by the Appeal Officer. Following such rehearing, the grievance shall proceed as though it had not previously proceeded beyond the hearing stage, except that if it once again proceeds to the fourth level, the same Appeal Officer shall be utilized as before.

IX. Representation

Both the grievant and the campus may have a representative. The campus representative shall be designated by the President. If at any time the grievant designates an attorney as her/his representative, the proceedings under this procedure shall be suspended for a reasonable period of time so that the campus may obtain the services of counsel. The grievant may authorize her/his representative to take any action required by this procedure and such authorization may be revoked by the grievant at any time.

X. Access to Information

At each level of review the grievant shall have access to the materials comprising the record of the grievance.

XI. State Time for Preparation and Meetings

After the grievance has been filed, the grievant and any representative, if employed by the CSUC, are entitled to use a reasonable amount of work time in preparing and presenting the grievance. The immediate supervisor of the employee(s) must be notified in advance, and reasonable time off shall be granted. If the grievant does not agree with the supervisor as to what constitutes a reasonable amount of time off, the final determination shall be made by the President.

XII. Group Grievance

When a group of employees has a complaint on essentially the same issue, a grievance may be filed on behalf of the group provided that all the employees sign the grievance form. The President may combine grievances that the President considers essentially the same. The President may also sever dissimilar grievances.

XIII. No Reprisals

No employee will be discriminated against in her/his employment because of the employee's utilization of this procedure. Complaints regarding allegations of reprisals should be submitted to the President.

XIV. Reconsideration of a Grievance

Once a grievance has been reviewed under this procedure it shall not be reopened or reconsidered under this procedure except by mutual consent of the grievant and the President.

SJB:MLM:RJS:md

CSUC University or College

INSTRUCTIONS: Grievant(s) must complete this side of form to initiate a grievance. See Sections III, V, VII and VIII, CSUC Grievance Procedure for Nonacademic and Administrative Employees, for applicable time limits and scope.

NAME (last, first, middle)	SCHOOL or DEPARTMENT; PHONE EXTENSION	PRESENT POSITION TITLE

Description of specific grounds of the grievance, including names, dates and places necessary for complete understanding of the grievance:

Date(s) complaint discussed with immediate supervisor:

Listing of reasons why immediate supervisor's proposed resolution of the problem is unacceptable.

Listing of specific action requested of university/college which will remedy grievance:

FIRST LEVEL OF REVIEW Filed on _____ with First Level Reviewer
cc: President; Personnel Officer

I desire a conference with the First Level Reviewer Yes _____ No _____
 I wish to designate a representative Yes _____ No _____
 My representative's name is _____
 My representative is an attorney Yes _____ No _____

Grievant's signature _____ Date _____

(USE ADDITIONAL SHEETS IF NEEDED)

DECISION AT FIRST LEVEL

Delivered to grievant on _____
cc: President; Personnel Officer

Signature _____ Title _____

SECOND LEVEL OF REVIEW Filed on _____

with Second Level Reviewer
cc: President; Personnel Officer

I desire a conference with the Second Level Reviewer

Yes _____ No _____

I wish to designate a representative (if different from First Level)

Yes _____ No _____

My representative's name is _____

My representative is an attorney Yes _____ No _____

Grievant's signature _____ Date _____

DECISION AT SECOND LEVEL

Delivered to grievant on _____
cc: President; Personnel Officer

Signature _____ Title _____

THIRD LEVEL OF REVIEW Filed on _____

with President
cc: Personnel Officer

I wish to designate a representative (if different from First/Second Levels)

Yes _____ No _____

My representative's name is _____

My representative is an attorney Yes _____ No _____

Grievant's signature _____ Date _____

RECOMMENDATION TO PRESIDENT

Delivered to President on _____
Delivered to grievant on _____
cc: Personnel Officer

Signature _____ Grievance Committee Chairperson

PRESIDENT'S DECISION

Delivered to grievant on _____
cc: Personnel Officer

Signature _____ President _____