

THE CITY UNIVERSITY OF NEW YORK

Personnel Policy Number: **6-96** Date: **10/10/96**

Regulation Reference No.: **8.6.2 [SEE 8.1.1(b) governing inclusion]**

Index Reference: **Grievance Procedure for Employees Without
Negotiated Provisions**

Policy:

An employee, serving in a title that is not represented by a collective bargaining agent or in a title which, although represented, has no negotiated grievance procedures, who believes that a regulation is:

- (a) in violation either of the law or a Rule,
- (b) inequitably applied, or
- (c) not enforced

can notify the college of the grievance.

Procedures:

- (A) An employee may at any time informally discuss with his/her supervisor a matter which may become a grievance*. If the results of this discussion are not satisfactory**, or in the absence of such a discussion, the employee may present the grievance in writing to the President or the President's designee no later than 60 calendar days after the date on which the alleged grievance first occurred. A meeting shall be held with the President's designee within 15 work days of the date of receipt of the grievance. The President's designee shall take such steps as the designee deems necessary to a proper disposition of the grievance and shall issue a report to the President within 15 work days, recommending what action should be taken. The College President may accept, modify, or reject the designee's recommendation. The President or President's designee will confer with the Vice Chancellor for Faculty and Staff Relations or Vice Chancellor's designee prior to issuing a final decision in writing to the grievant. Correspondence documenting the decision will be issued within 25 work days following the meeting with the designee, and will reflect the Vice Chancellor's concurrence, if the Vice Chancellor concurs with the President's decision. In such cases, the decision shall be treated as coming from both the President and the Vice Chancellor, and no request for review to the Vice Chancellor is permissible. The decision of the President, or concurred decision of the President/Vice Chancellor is final.

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(B) When the Vice Chancellor's concurrence is not indicated in the President's decision, an employee may request a review of the President's decision by the Vice Chancellor for Faculty and Staff Relations. All documents submitted by the grievant will be made available for review by the college prior to a decision being rendered. At the discretion of the Vice Chancellor, a meeting may be held with the grievant. A decision shall be rendered by the Vice Chancellor within 30 work days of receipt of the request for review.

Appeals:

An employee who elects to appeal the decision of the Vice Chancellor may submit such appeal in writing to the Secretary of the CUNY Civil Service Commission as provided in the Rules (see Regulation 3.1).

NOTES:

- * Any grievances presented to the President's designee concerning issues which are outside the domain of a responsibility delegated to the college must be forwarded to University Personnel for review prior to a response by the President's designee. Such grievances would include those which emanate from administration of policies or procedures which have not been delegated to the colleges, or those which derive from questions of out of title work and which following a college investigation might result in a recommendation to University Personnel that reclassification be considered.
- ** If a determination recommended by the designee and satisfactory to the grievant at any level within the process is not implemented within a reasonable time, as previously defined and agreed to by both parties, the grievant may reinitiate the original grievance and continue the process to the next higher level for determination.

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Section VI: Grievances By Unrepresented Employees

8.6.1: Definition

A grievance results from the dissatisfaction that occurs when an employee not covered by a negotiated contract believes that a regulation is in violation either of the law or a Rule, is inequitably applied, or is not enforced.

Suspensions, involuntary reductions in pay, involuntary reassignments, fines, layoffs, demotions, and dismissals shall not be subject to the grievance procedure, such actions being handled in accordance with the provisions of this chapter governing disciplinary actions (8.7.1).

8.6.2. Procedures

Procedures for appeals of decisions regarding employee grievances made by unrepresented employees shall be issued by the Vice Chancellor.

Section VII: Disciplinary Actions Against Unrepresented Employees

8.7.1. Scope

The provisions of this section apply to employees not covered by negotiated contracts. Employees covered by such contracts shall exercise their rights under their collectively bargained agreements. No employee as defined in Article 5, Section §75 of the State Civil Service Law shall be disciplined except for incompetency or misconduct. The College Appointing Officer shall have discretion to determine if a situation involving incompetency or misconduct threatens personnel or property. If so, the employee may be suspended without pay pending disciplinary decisions for a period not to exceed 30 days.

8.7.2. Procedures

(a) An employee who is subject to Section §75 of the State Civil Service Law and against whom charges are being brought by the President, must be notified by the College in writing of the official charges and the date and location at the College when a disciplinary hearing will be held and of the employee's right to representation. Such notification shall be witnessed, by personal delivery, by signed receipt, or by certified mail at the address of record. The hearing will be held within thirty (30) days of the date of notification. The President may designate a hearing officer. The hearing officer designated by the College President shall report to the President about any negotiated settlement of the charges or shall issue a recommendation within ten (10) work days after the hearing to the President, recommending what disciplinary penalty shall be given, if any. The College President may accept, modify or reject the hearing officer's report on recommendation. The

employee shall be notified directly of a decision not to discipline or a decision to accept the negotiated settlement.

(b) A President's decision to counsel, reassign at the same college with no change in pay or status, train, closely supervise, remove lead worker duties, alter work shifts, or revise duties within the scope of the title are not disciplinary actions under Section §75 of the Civil Service Law and shall not be subject to further appeal. The President shall notify the employee directly of such a decision.

(c) A recommendation by the President to reprimand, fine, reduce pay or status, suspend without pay, reassign to another college, demote, or terminate a permanent employee must be referred for consultation to the Vice Chancellor within ten (10) days of receiving the recommendation of the hearing officer. After consultation with the Vice Chancellor, the President shall notify the employee of the President's final decision. In accordance with Section §76 of the State Civil Service Law, the employee may appeal to The City University of New York Civil Service Commission, under procedures of 8.7.3., or to the courts. An employee who is reinstated by the President or the Commission after an unpaid leave shall receive the salary or compensation to which he or she would have been entitled by law for the period of removal including any prior period of suspension without pay, less the amount of compensation earned from any unemployment insurance benefits or other legal offsets received during such period.

8.7.3. Appeals to the Commission.

An employee who elects to appeal the President's decision to the Commission shall submit an appeal in writing to the Secretary of the Commission as provided in the Rules. The college shall furnish the Secretary a record of

the disciplinary proceedings. The employee may also request a conference with the Commission under Rules established by the Commission. The employee may be represented at such a conference under Rules of the Commission.