

**BLUEFIELD STATE COLLEGE
BOARD OF GOVERNORS
POLICY NO. 40**

TITLE: GRIEVANCE PROCEDURE

SECTION 1. GENERAL

- 1.1 Scope: This policy applies to all full-time and part-time regular employees of Bluefield State College. Temporary and student employees are not covered under this policy.
- 1.2 Authority: West Virginia Code §6C-3-4(b)
- 1.3 Filing Date: December 27, 2007
- 1.4 Effective Date: February 21, 2008

SECTION 2. DEFINITIONS

- 2.1 Days: Working days exclusive of Saturday, Sundays, or official holidays.
- 2.2 Representative: Any employee organization, fellow employee, legal counselor or other person or persons designated by the grievant as the grievant's representative.
- 2.3 Burden of Proof: The grievant bears the burden of proving his or her case by a preponderance of the evidence, except in disciplinary matters, where the burden of proof is on the employer to prove that the action taken was justified. The preponderance standard generally requires proof that a reasonable person would accept as sufficient that a contested fact is more likely true than not.

SECTION 3. POLICY

- 3.1 Employees are entitled to review of concerns in a fair and expeditious manner to obtain resolution at the lowest possible administrative level. Employees have the statutory right to pursue resolution of work-related disputes alleging: inappropriate policy or law application; discrimination; harassment; favoritism; or, adverse effect to classroom instruction, job performance, or health or safety of students or employees; or reprisal, as defined by State law. Grievance issues do not include: any pension matter or other issue relating to retirement systems; any matter relating to public employees insurance; or any other matter in which authority to act is not vested in the employer.
- 3.2 An employee may have the assistance from a representative in the preparation and presentation of the grievance. Designated representatives may be present at any grievance-related meetings, or disciplinary meetings with the employee.

- 3.3 Grievances must be filed and responded to within the specified time lines* unless extended by mutual written agreement of the parties. All grievance responses will be written, dated, provide decision and rationale, and transmitted to the grievant and designated representative in a timely manner. If the grievant is denied the requested relief, the decision must also include the name of the person at the next level to whom an appeal may be made.
- 3.4 Upon timely request in a grievance, an employee shall be allowed to intervene and become a party to a grievance at any level, when that employee claims the ruling in a grievance may substantially and adversely affect his or her rights or property and his or her interest is not adequately represented by the existing parties.
- 3.5 An employee may withdraw a grievance at any time by written notice to the level at which the grievance is currently at and a copy to Human Resources Office. The grievance may not be reinstated by the grievant unless reinstatement is granted by the grievance evaluator at the level where the grievance was withdrawn.
- 3.6 No reprisals shall be taken by an employer against a grievant, witness, representative, or other participant in the grievance procedure.
- 3.7 The grievant and/or the employee selected by a grievant to represent him or her in the processing of a grievance, are to be granted necessary time off during working hours for the grievance procedure without loss of pay and without charge to annual leave for a maximum of four hours for each person per grievance. This time is in addition to the time spent in grievance conferences and hearings. The day and time to use such leave is discretionary with the employer since his or her first responsibility is the work assigned by the employer as a public employee.
- 3.8 Grievance conference(s) and hearing(s) at Level I shall be conducted at the employee's work site or on other premises mutually agreeable to both parties. Conferences and hearings shall be held during regular working hours when the College normally conducts its external and internal business, with the understanding that conference(s) and hearing(s) might continue beyond normal working hours and that such time is not compensable.

**For specific forms, time lines and procedures see Procedural Rule WV Public Employee Grievance Board Series 1 at <http://pegboard.state.wv.us/> or the Bluefield State College Office of Human Resources.*