

3357:13-16-402 Faculty Grievance/Arbitration Procedure (CBA)

Faculty Grievance/Arbitration constitutes Article VI of the Agreement between North Central State College and the chapter of the North Central State Faculty Association-American Association of University Professors (NCSFA-AAUP)

Article VI. Grievance/Arbitration Procedure

Section 6.01 Philosophy and Purpose

- (a) The purpose of the grievance procedure is to secure a decision at the lowest level by the Administrator having the authority to resolve it.
- (b) Every effort should be made to resolve the issue when it arises on an informal basis rather than enter into formal proceedings.
- (c) This procedure will be available to all faculty with the guarantee that no reprisals of any kind will be taken against any employee initiating or participating in the grievance procedure. Any reprisals would also be subject to the grievance procedure.

Section 6.02 Definitions

- (a) A GRIEVANCE shall be defined as the affected faculty member or the NCSFA-AAUP making a formal charge or claim alleging that there has been a violation, misapplication of, or a failure to comply with a provision of this Agreement.
- (b) A GRIEVANT shall be defined as the affected faculty member or the NCSFA-AAUP expressing a grievance. A grievance alleged to be a “group” grievance shall have arisen out of identical or nearly identical circumstances that arise out of the same operative facts affecting each member of said group.
- (c) WORKDAY, any day (excluding Saturdays and Sundays) when the College, according to the official calendar, is open and conducting College business and classes are in session.

Section 6.03 Procedures

- (a) The procedures of the grievance system are divided into informal and formal methods. Regardless of the method, it is important that the grievance be processed as quickly as possible at each administrative level, so as to render a decision to the grievant as soon as possible.
- (b) The number of days indicated herein, should be considered maximum.
- (c) Time limits specified may be extended by mutual written agreement of all parties involved.

Section 6.04 Informal Procedure

The College and NCSFA-AAUP agree that a number of potential grievances may be avoided if the affected bargaining unit member and the appropriate College administrator (lowest level administration with ability to resolve the grievance) are able to discuss and resolve problems by these means. These informal discussions may include representation by NCSFA-AAUP. If the potential grievance is not resolved by this informal procedure within fifteen (15) working days of when the affected faculty member knew or should have known about the alleged violation, misapplication or failure to comply with a provision of this Agreement, then a formal written grievance may be filed. Members of the bargaining unit and College are encouraged to work out grievances on an informal basis wherever possible. While an individual grievant has the right to be advised or assisted by the NCSFA-AAUP in attempting to secure informal resolution, such advice or assistance is not required. However, any resolution achieved without the NCSFA-AAUP's assistance shall not be binding upon the NCSFA-AAUP or another bargaining unit member. Nothing shall be construed as limiting the right of the grievant or of the NCSFA-AAUP to present a formal grievance within the 15 work days as specified in the formal procedure of this article.

Section 6.05 Formal Procedure (Step 1)

- (a) The grievant who wishes to file a formal grievance shall submit a completed copy of the Grievance Report Form, to the NCSFA-AAUP, who will, along with the grievant, submit the form to the divisional Assistant Dean within fifteen (15) working days of the act or occurrence giving rise to the grievance or no later than fifteen (15) working days after the grievant knew or should have known of the act or occurrence. The form shall be complete and contain a concise statement of the grievance and must cite specific sections of this Agreement being grieved.
- (b) The Dean (after review with the Assistant Dean) shall meet with the grievant and the NCSFA-AAUP and render a decision, including rationale, in writing. The grievant is entitled to have 2 representatives present at the hearing. This entire process must be completed within fifteen (15) working days of receipt of the grievance. Copies shall be provided to the grievant, NCSFA-AAUP President, and the Director of Human Resources.

Section 6.06 Chief Academic Officer Review (Step 2)

- (a) If the grievance is not resolved at this point, the NCSFA-AAUP may submit to the Chief Academic Officer, a completed copy of the Grievance Report Form within ten (10) working days after the Dean renders a decision.
- (b) The Chief Academic Officer (or acting CAO) shall meet with the grievant and the NCSFA-AAUP and render a decision, including rationale, in writing. The grievant is entitled to have 2 representatives present at the hearing. This entire process must be completed within fifteen (15) working days of receipt of the grievance. Copies shall be provided to the grievant, NCSFA-AAUP President, and the Director of Human Resources.

Section 6.07 Presidential Review (Step 3)

- (a) If the grievance is not resolved at this point, the NCSFA-AAUP may submit to the President (or acting President) a completed copy of the Grievance Report Form within ten (10) working days after the Chief Academic Officer renders a decision.
- (b) The President (or acting President) shall meet with the grievant and the NCSFA-AAUP and render a decision, including rationale, in writing. The grievant is entitled to have a representative present at the hearing. This entire process must be completed within fifteen (15) working days of receipt of the grievance. Copies shall be provided to the grievant, NCSFA-AAUP President, and the Director of Human Resources.

Section 6.08 Binding Arbitration (Step 4)

- (a) If the grievance is not resolved by the President, the NCSFA-AAUP may submit to the President a completed copy of the Grievance Report Form within ten (10) working days of the receipt of the written response by the President, and may request an outside arbitrator.
- (b) Within ten (10) work days of the request for arbitration, representatives of the College and NCSFA-AAUP will conference to select an arbitrator by mutual written consent or request the Federal Mediation and Conciliation Services (FMCS) to supply a list of arbitrators.
- (c) Within ten (10) work days following receipt of a list of arbitrators from FMCS, the parties shall mutually select an arbitrator. If the arbitrator is not selected by mutual agreement, the parties will alternate in striking names until only one (1) name remains. The party to strike first shall be determined by a flip of the coin, or as the parties otherwise agree. If the list of arbitrators is not acceptable to either party, then that party may request a new list of arbitrators. The party that did not request the new list of arbitrators shall have the option to have the parties select from either the second list of arbitrators alone, or to select from the combination of both lists of arbitrators.
- (d) The fees and expenses of arbitration shall be borne equally by the College and NCSFA-AAUP. If a court reporter is requested and a transcript ordered by only one party, the court reporter's attendance fee, and the cost of transcripts for that party and the arbitrator shall be borne by the requesting party. If both sides request a transcript, the attendance fee and transcript costs shall be split equally between the parties.
- (e) The arbitrator shall be requested to render a decision as quickly as possible, but in any event, no later than thirty (30) calendar days either after the filing of post-hearing briefs, if post-hearing briefs are to be filed, or the close of the hearing, unless the parties agree otherwise in writing. The arbitrator's decision shall be final and binding upon the parties. Arbitration shall be limited to one grievance at any one time, unless the parties agree otherwise in writing.
- (f) The arbitrator shall not have the power to add to or subtract from, or modify any of the terms of this Agreement, nor make any award, which is inconsistent with terms of this Agreement or contrary to law. The arbitrator shall expressly confine any decision to the precise issues(s)

submitted for arbitration and shall have no power to make any award that exceeds the remedy requested.

Section 6.09 General Provisions

- (a) All documents, communications, or records dealing with a grievance shall be filed separately from the personnel files of the participants.
- (b) A grievance may be withdrawn at any level by the grievant without prejudice.
- (c) Time limits indicated in this grievance procedure are maximum limits only. Every effort shall be made to resolve the grievance at the earliest possible date. The time limits set forth herein are to be met by the parties; provided however, that the time limits are not jurisdictional due to good cause, such as inadvertent failure to respond within the stated limits, it being the desire of both parties that grievances be heard on the merits. In no event however shall any time limit be extended more than 10 calendar days. However, any grievance not timely presented for disposition at any step herein shall not thereafter be considered a grievance under this Agreement and shall be deemed settled pursuant to the last response of the College and further appeal shall be waived and barred. Failure on the part of the College to timely respond to a grievance at any step shall cause such grievance to proceed to the next step within the appropriate time period.
- (d) Within the above time frames, the parties may agree to hold additional meetings.
- (e) If a grievance must be resolved at a specific administrative level because of the authority vested in that position, preliminary levels may be by-passed by mutual consent of all parties – the College, the grievant and the NCSFA-AAUP.
- (f) The grievant must be present at each and every step herein, and NCSFA-AAUP has the right to be present at each and every step.
- (g) Both parties are to have reasonable access to relevant available information concerning the grievance.
- (h) The grievant, upon request, shall be entitled to NCSFA-AAUP representation at any meeting of the grievance procedure. During the term of this Agreement, no organization other than the NCSFA-AAUP shall be permitted to represent any bargaining unit member in the grievance process.
- (i) All notices of hearings and disposition of grievances shall be first hand delivered, with date of receipt recorded therein, or if hand delivery is not appropriate, mailed by registered letter to the grievant's last known mailing address. It is the responsibility of the grievant to keep the College informed as to current mailing address. Notice under this article will be provided to NCSFA-AAUP and the College in the same manner. 13

(j) All meetings or hearings under the grievance procedure shall be conducted at a mutually agreeable time and place.

Effective: August 23, 2017

Next Review: May 14, 2027

Review Dates: 12/17/08, 10/26/11, 8/27/14, 8/23/17, 8/25/21, 01/16/24