

SECTION: 3.0 PERSONNEL

SUBJECT: DUE PROCESS PROCEDURES FOR CLASSIFIED EMPLOYEES

Title: Problem Solving/Due Process Procedures for Classified Employees

Background: The purpose of this policy is to give classified employees a means to solve work-related issues pursuant to Idaho Code Section 67-5315 and DHR Rules section 190.

Point of Contact: Human Resource Services (HRS)

Other LCSC offices directly involved with implementation of this policy, or significantly affected by the policy: N/A

Date of approval by LCSC authority: August 19, 2013

Date of State Board Approval: N/A

Date of Most Recent Review: July 2022

Summary of Major Changes incorporated in this revision to the policy: Formatting changes using LC State style guide

1. Purpose

Lewis-Clark State College (LC State) has adopted a problem-solving procedure for classified employees, pursuant to Idaho Code Section 67-5315 and Division of Human Resource (DHR) Rules 15.04.01.200 <http://adminrules.idaho.gov/rules/current/15/150401.pdf> The procedure consists of two tracks. One track is the “Problem-Solving Track” for non-disciplinary, job-related matters and the other is the “Due Process Track” for disciplinary matters.

Important note: Retaliation against an employee for filing under the problem-solving procedure, for participating as a witness, or representative is expressly prohibited.

2. Problem-Solving Track

A. General Provisions

- i. A classified employee of the State of Idaho with continuing, provisional or entrance probationary status is eligible to file under the Problem-Solving Track for any non-disciplinary, job related matter except the following:
 - 1) Compensation, except as to alleged inequities within the college;
 - 2) Unsatisfactory performance or termination for failure to complete the entrance probationary period and;
 - 3) Disciplinary matters set forth in Idaho Code Section 67-5315(2) and DHR Rules <https://adminrules.idaho.gov/rules/current/15/150401.pdf> (dismissals, demotions, suspensions, and involuntary transfers).
- ii. Sexual harassment and other illegal discrimination based on race; color, age, religion, gender, national origin or disability or any other status protected by law is absolutely prohibited. Employees who believe they have been victims of discrimination should use the procedures outlined in the Discrimination Complaint Policy <https://www.lcsc.edu/media/14450/policy-3110-discrimination-sexual-misconduct.pdf> Employees who believe they have been the victims of sexual harassment should use the procedures outlined in the Sexual Harassment Policy <https://www.lcsc.edu/media/14450/policy-3110-discrimination-sexual-misconduct.pdf>. Complaints regarding any illegal discrimination policy including sexual harassment may also be filed with the Idaho Human Rights Commission.

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B. Procedures Under Problem-Solving Track

i. Meeting with immediate supervisor

- 1) Before actually filing for problem-solving, an eligible employee must first make a reasonable attempt to meet with and resolve the matter(s) with his or her immediate supervisor. Representatives are not permitted at this informal meeting with the immediate supervisor.
- 2) Employees and supervisors are strongly encouraged to engage in this informal problem-solving meeting in order to identify the precise matter(s) at issue, discuss ways to resolve the matter(s) and hopefully come to a resolution at the lowest possible level.
- 3) If meeting with the immediate supervisor did not result in resolution of the problem(s), an employee may proceed to Step 2 of this procedure.

ii. Timeline for filing

Eligible employees are required to file for problem-solving in writing no later than ten (10) working days after being notified of or becoming aware of any matter which may be handled through this track. The time limit for filing shall be extended due to the employee's illness or other approved leave, up to ten (10) days after return to the job.

iii. Filing the request

The employee must submit the Problem-Solving Request Form with his or her immediate supervisor with a copy to the appropriate dean (or vice president or president for direct reporting units) and HRS. LC State may accept a late filing, but the employee loses any right of review by DHR by not complying with the time limit for filing. The employee is entitled to be represented by a person of his or her choosing at each step of the problem-solving procedure except Step A.

iv. Meeting with the dean, vice president or president

Within five (5) working days of the filing, the employee will meet with the appropriate dean, vice president or president. He/she will take into account the employee's preference in deciding who should be present at this meeting. Since the goal of this procedure is to resolve the problem, the dean, vice president or president may also invite the employee's supervisor(s) and any additional people who may be helpful in resolving the issue(s). Within three (3) working days of the meeting, the dean, vice president or president will provide in writing his or her suggested solution on the form entitled "Dean/Vice President's Response." If the solution is not satisfactory to the employee, the matter will be referred to the president (or the president's designee) for resolution.

v. Final decision

- 1) The employee will meet with the president within three (3) working days of receiving the dean, vice president or president's response. The employee will then receive the final decision from the president (or the president's designee) on the form entitled President's Final Decision within three (3) working days of this meeting.
- 2) Extension-completion of the problem-solving process should take no longer than twenty-four (24) working days. If an extension is required, both the employee and dean/vice president must agree to the additional time needed.
- 3) Optional mediation-The employee and supervisor may mutually agree to engage in mediation during the problem-solving procedure. If both sides agree, the other steps and time limitations (except for the initial five (5) working day filing requirement) of the problem-solving procedure will stop running pending mediation. The supervisor and the employee must agree upon a mediator, or mediation is not an option.

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3. Problem-Solving Procedure Time Lines

- A. Employee becomes aware of a problem
- B. Discussion with immediate supervisor to seek resolution
- C. File for problem-solving 10 working days from A
- D. Meeting with dean, vice president or president 5 working days from C
- E. Dean, vice president or president's response 3 working days from D
- F. Meeting with president 3 working days from E
- G. President's final decision 3 working days from F
- H. Total time 24 working days from A

4. Due Process Track

A permanent classified employee is entitled to due process before LC State makes any decision to impose discipline per Idaho Code 67-5315(2) (dismissal, suspension, demotion, or involuntary transfer). Due process requires the employee to receive notice and an opportunity to be heard before a decision to discipline is made.

Important note: Retaliation against an employee for participating in or asserting his or her rights with respect to the due process procedure is expressly prohibited.

A. Notice

If LC State is contemplating disciplinary action to or involuntary transfer of a permanent classified employee, the department must provide notice of the contemplated action to the employee and the Idaho Division of Human Resources in writing. The department director will provide an explanation and a recommendation for action in writing to HRS for review. A notice of contemplated action will be prepared and signed by the department director in cooperation with the HRS director. The HRS director will provide the employee and the Idaho Division of Human Resources with notice of the contemplated action. Contents of the notice of contemplated action shall consist of the following:

- i. Action contemplated (i.e., dismissal, suspension, demotion, or involuntary transfer)
- ii. The legal basis (for-cause reason and corresponding legal citation or reason for the action. The "for-cause" reasons are listed in Idaho Code Section 67- 5309(n) and DHR Rule 190.01.
- iii. An explanation of the information or evidence relied upon for the contemplated action. This may include an explanation of statements made by other employees, an explanation of documents, and/or an explanation of events leading to the notice.
- iv. The department supervisor will mail, hand-deliver or electronically deliver notice of contemplated action to the employee, HRS, and the Idaho Division of Human Resources.

B. Opportunity to Respond

- i. A permanent classified employee who receives a notice of contemplated action is entitled to an opportunity to respond in person or in writing to the HRS director.
- ii. If the classified employee responds in writing, the document will be reviewed by the appropriate vice president. After reviewing the employee's response and subsequent documentation, the vice president will give his or her recommendation to the president.
- iii. If the classified employee responds in person, he or she will meet with the appropriate vice president. After this meeting and reviewing all subsequent documentation, the vice president will give his or her recommendation to the president.
- iv. This step provides the employee an opportunity to respond to the notice and present his or her reasons(s) why the contemplated action should not be taken. If the employee accepts the opportunity to respond, he or she must do so within the time period indicated in the notice.

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5. Time to Respond

The notice of contemplated action provides a set time period of up to ten (10) working days within which an employee may respond after receipt of the notice. If both the president and employee feel additional time is needed, both must agree to file for an extension in writing.

6. Right to Representation

A. The law provides an employee with the right to be represented by a person of his or her choosing at each step of the procedure.

B. Institution Decision

The President will notify the employee of the final decision no later than ten (10) days after the employee has responded, failed to respond or otherwise waived his or her right to respond in writing. The college's final decision will be sent or delivered to the employee and the Idaho Division of Human Resources concurrently. The Ddue Process Track is complete when the president notifies the employee of the college's decision. The HRS office will coordinate the notification and processing of the college's final decision. If a disciplinary sanction or involuntary transfer is imposed, it may be implemented immediately. The employee has the right to appeal the college's disciplinary decision to DHR within thirty-five (35) days.

C. Optional Mediation

The supervisor and employee may mutually agree to engage in mediation after notice of the contemplated action has been sent during the due process procedure. If both sides agree, the time limitations for the opportunity to respond and the department's decision will be suspended pending mediation. The supervisor and employee must also agree upon a mediator. Mediation is not possible unless both the supervisor and employee agree.

7. Due Process Policy Time Lines

A. Notice of contemplated action sent to employee and DHR

B. Employee's response to contemplated action up to ten (10) working days from A

C. President's final decision sent to employee and DHR administrator concurrently, no later than ten (10) working days from B

D. Total time twenty (20) working day

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PROBLEM SOLVING REQUEST FORM – CLASSIFIED STAFF LEWIS-CLARK STATE COLLEGE

Employee Name/Title:

Department:

Supervisor Name:

The employee seeking problem-solving sets forth the following:

- 1) In your own words, briefly state:
 - a. What job-related matter(s) you seek resolved:

 - b. Specific date and incident(s) to which this matter is related:

 - c. Attach any document(s) or correspondence specifically related to this matter:

- 2) State your suggested solutions(s) to resolve the above matter:
(Attach additional sheets if necessary)

- 3) Are you being represented? Yes No
 - a. If your answer is YES, please complete the following:
NAME:
TITLE / AFFILIATION:
TELEPHONE NUMBER:

- 4) Is there any other person(s) whom you wish to attend a problem-solving meeting on your behalf? Yes No
 - a. If your answer is YES, please complete the following:
NAME:
TITLE / AFFILIATION:
TELEPHONE NUMBER:

Employee's Signature

Date

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DEAN / VICE PRESIDENT or PRESIDENT'S RESPONSE
Problem Solving Request

Dean/VP/President's Name:

Division:

Employee Name:

Department:

The administrator named above, who met with the employee seeking problem-solving, sets forth the following suggested solution:

On _____ (date) I conducted a problem-solving meeting for the above-named grievant per LC State Policy 3.127, with the following individuals present:

- | | |
|----|----|
| 1. | 3. |
| 2. | 4. |

My suggested solution to the problem-solving request is as follows:
(Attach additional response if necessary.)

Dean ,VP or President's Signature

Date

EMPLOYEE RESPONSE TO DEAN / VP'S SUGGESTED SOLUTION:
(Check appropriate box)

- | | |
|--------|--|
| ACCEPT | the suggested solution and hereby consider this matter solved. |
| REJECT | the suggested solution but I do <u>not</u> wish to proceed to the next step of the problem solving procedure. I consider this matter closed. |
| REJECT | the suggested solution and hereby request a review by the president. |

Employee Signature

Date

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PRESIDENT'S FINAL DECISION **
Problem Solving Request – Classified Staff

President Name:

Date:

Employee Name:

Date:

The President has completed his/her review of this request for problem solving and issues the following final decision in this matter:

President's Signature

Date

*** If the President is unavailable or has been involved in the problem-solving process, he/she may appoint a designee for the final decision*