

General Student Complaint Procedure and Request to Amend an Educational Record

Murray State University recognizes that there are times in which a student might have a grievance with University staff or faculty that does not fit the scope of other formal complaint/grievance policies or procedures. The following procedure provides a formal avenue for the resolution of a student complaint in the event that such differences cannot be resolved informally, including any student who desires to amend an educational record.

Definitions.

Complainant: one who has a grievance or complaint within the scope of this procedure.

Respondent: one against whom a grievance is asserted.

Days: Calendar days.

Faculty: all persons, whether full or part-time, who are responsible for, assist in, or administer the instructional program. (See Sec. 2.1 of the *Faculty Handbook* for a complete definition.)

Staff: employees of Murray State University in non-teaching activities of various types in support of the educational, research, and service programs of the University. (See Sec. II.A of the *MSU Personnel Policies and Procedures Manual* for a complete definition.)

Grievance: an allegation by a student of improper treatment of that student or of violation, misinterpretation, or improper application of existing policies, rules, regulations, practices, and/or procedures which the student believes to be unfair, inequitable, or a hindrance to that student's effective performance. The term "grievance" shall also include an allegation by a student that the student's educational record(s) contain information which is inaccurate, misleading or in violation of the student's rights of privacy, hereinafter referred to as a "Records Challenge". In regards to a Records Challenge, the student shall request in the grievance that said records be amended.

Disputes which are addressed in University, College, and Departmental policies or procedures should be resolved under those provisions and will not be considered under these procedures. For instance, disputes related to grades are addressed by the Grade Appeals Policy, allegations of discrimination against a University employee are addressed by the University policy, "Reporting Allegations of Discrimination and Discrimination Grievance Procedures," and grievances related to student employment are handled through the Student Employment Grievance Procedures published in the *Student Employment Handbook*. Disputes between students should be directed to the Associate Vice President of Student Affairs.

Submitting Documents. Any complaint, response, appeal, notice, or other document which is to be submitted in writing by a party must be submitted to the employee designated and must be submitted by hand-delivery or U.S. mail. No such document should be submitted electronically by, for example, email. Any such document will be deemed timely if it is postmarked within the time period for submitting the document.

Limitations.

A written grievance (other than a Records Challenge) as provided in Step 3 must be initiated within forty-five (45) days of the most recent alleged incident giving rise to the grievance. Any special circumstances or request involving the time limitation set forth above will be considered and evaluated by the appropriate Academic Dean in the case of a faculty or staff respondent employed in Academic Affairs, or Director in the case of a grievance filed against a staff member employed in a non-Academic Affairs unit. In the event of a Records Challenge, same may be filed at any time.

Procedures.

Step 1. Before a formal grievance may be filed, the Complainant must discuss the grievance with the member of the faculty or staff with whom the dispute exists. In the event that the Respondent is a teaching assistant, the faculty supervisor should also be present during these discussions. In the event of a Records Challenge, the Complainant must discuss the grievance with the person who maintains custody of the record(s) challenged as being inaccurate, misleading or a violation of the student's rights of privacy. A decision regarding the informal grievance must be made within 3 days of the meeting and any agreement reached between the parties will be reduced to writing.

Step 2. Should the matter not be resolved to the satisfaction of the Complainant, and within 5 days of completion of Step 1, informal discussion should be sought with the Respondent's supervisor. A decision regarding the grievance must be made within 3 days of the meeting and any agreement reached between the parties will be reduced to writing.

In the event the Respondent's supervisor is the Dean or Director of the area in which the Respondent is employed, the Complainant should proceed to Step 3.

Step 3. Once the means of informal resolution on the collegiate/unit level as described above have been exhausted, and within the time stated above under Limitations, the Complainant must provide his/her complaint in writing to the Academic Dean (in case of a faculty or staff respondent employed in Academic Affairs) or to the unit Director (in the case of a staff respondent who is not employed in Academic Affairs). The written statement shall (1) state the nature of the complaint and date of occurrence(s), (2) state how the Complainant has been affected, (3) state which University policies are involved (if applicable), (4) state how the Respondent is involved in the grievance, (5) state the facts upon which the complaint is based. If the complaint involves a Records Challenge, the Complainant shall state specifically which records are of concern and specify what information contained in the records is believed to be inaccurate, misleading or a violation of the student's privacy rights, and (6) state the relief requested by the Complainant and if a Records Challenge, state specifically in what manner the Complainant desires the record(s) to be amended.

Step 4. The Academic Dean or Director will immediately forward a copy of the complaint to the Respondent. The Respondent may submit a written response to the Dean or Director within 7 days from the time the complaint is hand delivered or 10 days from the date the complaint is mailed to the Respondent.

A copy of any response from the Respondent will be provided to the Complainant.

Step 5. The Academic Dean or Director will proceed with the review of the complaint.

The Academic Dean or Director will conduct such review as is believed is warranted. The Dean/Director may determine that the complaint can be decided based upon the written documents provided by the parties. The Dean/Director may determine additional proceedings are warranted. This may include meeting with the Complainant and the Respondent to gather additional facts and information about the allegations in the complaint. At any such meeting, the parties may be allowed to present other documents and individuals who may have relevant information. If the parties are able to reach an agreement regarding the grievance, the agreement will be reduced to writing.

The parties will be kept informed as to the progress of the review and will be advised of, and given the chance to respond to, any new information.

Once the review is finished, a report will be prepared by the Academic Dean or Director and distributed to the Complainant and Respondent. The report will review the allegations in the complaint and any response and the factual findings from the review. The report will be based on assertions and allegations to which the parties have had the opportunity to respond. The report will also state the Dean/Director's conclusions as to whether the complaint is valid. If the complaint is supported, the Dean/Director will determine the relief, if any, to be provided to the Complainant. In the event of a Records Challenge, should the report determine that the student's record(s) should not be amended, the report shall include information in regard to the student's right to a hearing.

Step 6. If the report of the Dean or Director is unsatisfactory to either party, that party may appeal to the Vice President of the area in which the Respondent is employed. That party will have 7 days from the time the report is hand delivered or 10 days from the date the report is mailed to submit an appeal.

The appeal will be instituted by the appealing party's presenting to the Vice President a detailed written statement of the grounds for appeal; the party appealing will also provide the Vice President with a copy of the decision from the Dean/Director. In the event of a Records Challenge, the student may request a hearing in accordance with 34 C.F.R. §99.20-§99.21 which shall be granted. In such event, the hearing shall be scheduled within thirty (30) days of the request and the student shall be provided with written notification of the date, time and place no later than fourteen (14) calendar days prior to the scheduled hearing date. A copy of the written statement will be provided to the other party who will have 7 days from the time the report is hand delivered or 10 days from the date the report is mailed to submit a response to the Vice President. The Vice President will provide a copy of any response to the party filing the appeal.

The Vice President will review the appeal. If the appeal does not involve a Records Challenge, the Vice President may determine from the statement of appeal and response that the appeal can be decided based upon the previous decision and the documents from the parties. In that case, the Vice President will review the decision and the arguments presented, and will submit a decision with supporting reasons to the parties and the Dean/Director. If the Vice President believes that additional proceedings are warranted in order to consider the appeal fully, or in the event that a hearing has been requested in connection with a Records Challenge, he/she will develop rules or procedures consistent with this policy which shall be provided to the Complainant and Respondent no later than fourteen (14) days prior to the scheduled proceeding/hearing.

The final decision in all such appeals will be made by the Vice President. If the complaint is supported the Vice President will determine the relief, if any, to be provided to the Complainant. The decision of the Vice President shall be made within twenty (20) days of the last date of submission or, if applicable, the hearing. The decision shall be based solely on the evidence presented and shall include a summary of the evidence and the reasons for his/her decision.

In the event of a Records Challenge, the Vice President shall conduct a hearing within thirty (30) days of the date the request for a hearing is received by the Vice President. Written notice of the hearing, including the date, time and place, shall be provided to the student and the Respondent at least fourteen (14) days prior to the scheduled hearing. The student shall also be notified of the right to be represented at the hearing by one or more individuals (at the student's expense) including representation by an attorney. The Vice President shall render a decision within twenty (20) days of the hearing. Same shall be in writing with copies provided to the student and the Respondent. The decision shall be based solely on the evidence presented and shall include a summary of the evidence and the reasons for the decision.

In the event of a hearing on a Records Challenge, if it is determined that the information contained in the student's educational record is inaccurate, misleading or in violation of the privacy rights of the student, the record(s) in question shall be ordered to be amended accordingly and the student shall be notified of same in writing. If, as a result of the hearing in a Records Challenge it is determined that the information contained in the educational record is not inaccurate, misleading or in violation of the privacy rights of the student, the student shall be notified of same in writing along with information advising the student that he/she has the right to place a statement in the record commenting on the contested information in the record or stating why the student disagrees with the decision. In such event, the statement by the student shall be maintained with the contested record(s) for as long as the record(s) are maintained and shall be disclosed whenever the portion of the student's record(s) to which the statement relates is disclosed.

General

In the event the applicable Dean or Director is the Respondent, the Complainant should notify the applicable Vice President at the completion of Step 1 and the Vice President will appoint an individual to fulfill the functions of that Dean/Director under these procedures. The matter will then proceed to Step 3.

In the event the applicable Vice President is the Respondent, the Complainant will notify the Office of the President after Step 1. The President will appoint individuals to perform the function of both the Dean/Director and Vice President. The matter will then proceed to Step 3.

In the event the Respondent is employed in an area which is not overseen by a Vice President, the President, upon written notice from the Complainant, will appoint an individual who will perform the duties and functions of a Vice President with respect to the complaint.

The parties may have an advisor, including an attorney. Advisors will not participate in any reviews or meetings. Exception: In the event of a hearing for a Records Challenge, the student at his/her own expense may be represented by one or more individuals of his or her own choice, including an attorney. Any person representing a student in a Records Challenge may fully participate on behalf of the student in the Records Challenge hearing.

University employees involved in each step recited above will maintain records of each grievance received and provide them, upon request, to an appropriate University office.

University employees are expected to cooperate with reviews by the Dean/Director/Vice President. All relevant information not privileged will be available to the Dean/Director/Vice President.

It is the purpose of these procedures to address grievances of students as provided here. These procedures are not intended to be used as a disciplinary mechanism against Complainants or Respondents.

It is the intent of these procedures that grievances be resolved as expeditiously as possible.

NOTE: If at any point in this process, it is determined that the grievance is covered by any other University policy or procedure, then such other policy or procedure will be followed.

Amended October, 2016