

Office of
LEGISLATIVE AUDITOR GENERAL
State of Utah

REPORT NUMBER ILR 2012-A
January, 2012

**A Survey of Salt Lake Community College
Personnel Practices**

A survey of hiring, termination, and grievance practices at the Salt Lake Community College (SLCC) identified no serious concerns. This survey was conducted because of allegations that SLCC did not follow a competitive process in hiring and promoting employees and that the college's termination practices did not follow its own internal policies. An additional concern was that wrongful terminations result in a disproportionately higher number of costly grievances and lawsuits. While SLCC policies and practices are, at times, different from those of other organizations, they follow Board of Regents policy which establishes minimum requirements for grievance policies. We did not identify any significant deviations to lend support to the allegations nor can we support conducting further audit work.

This survey was approved by the Legislative Audit Subcommittee to identify the severity of concerns and determine if a full audit should be conducted. For this survey, we interviewed key human resources staff, reviewed policies, and examined personnel files for all individuals involuntarily terminated and a sample of employees hired in fiscal year 2011. Based on the application of the college's policies to the files reviewed, we believe hiring and termination policies are followed appropriately but that some documentation requirements need improvement. We believe that a cause for the concerns is that more formal grievances are filed at SLCC than at another institution reviewed. This higher level of filings appears to occur because grievance practices are more liberal at SLCC.



Employees Are Hired Based on Competitive Hiring Process

Concerns that a competitive process is not used to hire employees appear unfounded. To determine if hiring practices align with policy, we reviewed the personnel and hiring files for a sample of seven SLCC administrators and faculty hired in 2011.

According to SLCC policies, a search committee is required to screen, interview, and recommend applicants for hire. Committee members are to include a hiring supervisor, affirmative action representative, and at least one other member when filling staff positions, and at least three additional members for administrative positions. When hiring faculty, the committee includes the department chair, affirmative action representative, two faculty members, and additional members who provide diversity in perspective and experience. This committee is limited to no more than seven members. After the co-chairs screen applicants for minimum qualifications, committee members independently scores applicants and then come together to compile and rank the applicants according to their scores. The committee interviews the top-ranking applicants and members score based on predetermined interview criteria. For faculty positions, the dean joins the committee for a second interview of the top applicants and then observes a teaching demonstration or other assessment tool. SLCC provides hiring handbooks as a resource to guide the committees through the hiring process and to assure compliance with applicable laws, regulations, and SLCC goals and policies.

SLCC used a competitive process when hiring employees in the files we reviewed.

A competitive hiring process was clearly used to select the employees hired for six of the seven files we reviewed. Each of the six hiring files contained each committee member's scored worksheets and notes. Although the seventh file did not contain each committee member's worksheets, the file included a summary which listed their scores.

SLCC's policy requires committee worksheets to be kept in the hiring files. SLCC staff acknowledges that this omission was an oversight that could be a result of employee turnover in the Human Resources (HR) department.

Termination Policies Are Followed

Based on our survey of SLCC personnel files, we believe the college's policies were followed appropriately for the 19 involuntary terminations in fiscal year 2011. However, some documentation improvements are needed. The reasons these employees were terminated were not clearly stated in most of the personnel files but, after receiving additional information, it appears the terminations were warranted.

File reviews and interviews with supervisors and HR staff disclosed 19 employees who were involuntarily terminated in fiscal year 2011. Reasons for the terminations include:

- Six probationary or at-will employees for which no cause is required
- Five employees terminated for cause, which included theft, drug possession, and unprofessional conduct or misuse of resources
- Eight employees with substandard performance, whose files included disciplinary letters

In comparison, in 2011 Utah Valley University, which has a comparable number of employees, involuntarily terminated 12 of 3,760 (0.32 percent) employees for the following reasons: 4 probationary, 2 for cause, and 6 for unsatisfactory performance.

The following figure shows the number of involuntary terminations at SLCC over the past five years.

Figure 1 SLCC Involuntary Terminations, Fiscal Years 2007-2011.

Fiscal Year	Involuntary Terminations	Employees (FTE)	Percent
2007	15	3,276	0.46%
2008	10	3,540	0.28%
2009	9	3,881	0.23%
2010	18	3,905	0.46%
2011	19	3,405	0.56%
Average	14	3,601	0.39%

Sources: Termination information from SLCC and employee counts from Utah Board of Regents.

SLCC termination policies were followed for the 19 involuntary terminations that occurred in 2011.

SLCC's disciplinary sanctions and termination policy identifies how terminations are to be handled. The not all-inclusive policy lists 15 reasons an employee can be disciplined or terminated. The list also identifies which reasons are serious enough to result in immediate dismissal. Part-time, temporary, or probationary staff members may be terminated from the college with or without cause for any lawful reason deemed adequate by the college, including, but not limited to, unsatisfactory performance, unacceptable behavior, or lack of motivation.

In our opinion, the reasons for all 19 of the involuntary terminations at SLCC in 2011, appear appropriate. However, SLCC needs to improve its documentation practices. Termination forms should always identify the reason an employee was terminated.

The supervisor terminating an employee completes a separation form that becomes part of the employee's personnel file. This form includes a section identifying the reason for the dismissal. However, this section of the form was rarely completed which made it difficult to determine the reason for the termination. Although the HR director said the separation form should always list the reason for the termination, only two of the nineteen files listed a reason on the form.

After interviewing supervisors, we found that termination letters were not in some individual's HR files but were in separate files in the HR director's office. We learned the director had kept them in order to review the information with the Attorney General's office to ensure the termination was legally justified. These documents are also excluded from employees' files until after any grievances are resolved. The HR department needs to ensure that forms are complete and that the appropriate documents are filed in employees' personnel files.

SLCC Personnel Practices Result in More Formal Grievances

More formal grievances are filed at SLCC than at a comparably sized Utah higher education institution. SLCC's cautious interpretation of the Board of Regent's grievance policy requirements results in a greater variety of addressable grievance issues and employees being better informed of their right to file a grievance. As a

SLCC needs to improve its documentation practices.

result, SLCC grievance issues that may be handled informally at another institution are more likely to progress to the formal process. All institution's policies are based on the BOR policy (R831) which defines employment grievance as

“a grievance concerning interpretation or application of personnel policies or practices; working conditions; employee-supervisor relationships; disciplinary sanctions, or terminations or non-retention.”

About half of SLCC's formal grievances are resolved by hearing committees that sometimes include a quasi-legal hearing.

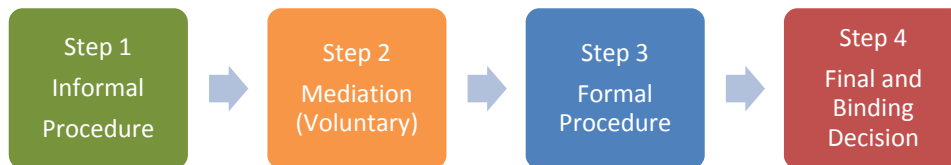
Grievance Procedures May Include Several Steps

Grievances are a step-by-step process an employee follows to have their complaints addressed. Possible grievance-related complaints can involve:

- Violations or application of personnel policies
- Working conditions
- Employee-supervisor relationships
- Disciplinary actions
- Terminations

All SLCC employees may resolve conflicts informally, but part-time, temporary, probationary, or at-will employees may not participate in mediation or file a formal written grievance to be resolved by a hearing committee. Figure 2 shows the steps in the grievance process, with explanatory text following.

Figure 2 Salt Lake Community College Grievance Procedures.



SLCC follows the Utah Board of Regents grievance policy requirements.

Employees follow a step-by-step grievance process but some employees, are restricted to resolving their concerns through the informal process.

Step 1: Informal Procedure: Informal grievance procedures are discussions between a supervisor and a grievant intended to resolve a conflict. Attempts to resolve the problem through an informal discussion with immediate supervisor or, if not satisfactorily resolved, second-level supervisor are the preferred practice to find an acceptable solution to a problem. By policy, some issues are limited to the informal procedure, including the following:

- Job descriptions, reassignment of job duties and responsibilities
- Classification and job evaluation of position
- Wages and salaries
- Reduction in force
- Termination during probation and/or extension of the probationary period
- Reorganization not resulting in loss of pay
- Terminations of soft-funded appointments that are time-specific or that are caused by loss of funding

Employees within the probationary period (6 months for staff and 12 months for faculty), part-time, temporary, and at-will employees are limited to the informal grievance procedure.

Step 2: Mediation: If not resolved informally, mediation is a voluntary process to resolve a conflict. Both parties must agree in writing to mediate prior to entering the process. SLCC hires a private mediator when this process is chosen.

Step 3: Formal Procedure: If not resolved informally, the formal grievance procedure can be requested by submitting a grievance hearing request form that states the nature of the grievance and/or policies and procedures alleged to have been violated, the attempts at resolution, and the remedy the grievant is seeking. The HR director establishes a grievance hearing committee from a standing committee rotation list. Depending on who the grievant is, the five-member committee includes administrators, faculty, staff employees and a chair, who is most often a private attorney. According to SLCC policy, the committee acts as an impartial fact-finding body representing neither side. It does not take any corrective actions or make any binding decisions, but exists solely to hear the facts, make a series of findings, and recommend a course of action. The committee may determine that it is unnecessary to hold a hearing if there is

Formal grievances are heard by a grievance hearing committee who acts as an impartial fact-finding body representing neither side.

insufficient evidence to support the grievance and issue a determination of no merit. They can also determine that the grievance is not eligible for a formal hearing. Their determinations can be appealed to the final decision-maker. If a grievance involves termination for cause, the process begins with the formal procedure.

Step 4: Final and Binding Decision: After the hearing, the committee’s findings and report will be given to the final, binding decision-maker, who is either the university president or the person designated by the president. This person takes one of the following actions: ratify the committee’s findings and adopt its recommendations, return the report to the committee for reconsideration or clarification, or reject all or parts of the findings and recommendations.

SLCC Has More Formal Grievances Than Utah Valley University

Significantly more non-discriminatory formal grievances are filed at SLCC than at the comparably sized Utah Valley University (UVU), but this may be because SLCC’s grievance process allows employees to file formal grievances for more reasons. Discrimination grievances are treated separately by both schools and are not addressed in this report.

We evaluated the number and resolution of formal grievances filed by SLCC employees. Of SLCC’s 3,400 employees, only 1,020 staff and faculty are eligible to file a formal grievance. Figure 3 lists the number of formal grievances filed at SLCC over the past five years and how they were resolved.

Figure 3 SLCC Formal Non-discriminatory Grievances, Fiscal Years 2007-2011. SLCC grievance committees were involved in 26 of the 49 formal grievances filed over the past five years.

	2007	2008	2009	2010	2011	Five- Year Total
Committee/Hearing	2	5	6	8	5	26
Resolved Informally	1	1	2	3	2	9
Withdrawn	2	0	1	1	0	4
Mediation	0	0	2	1	0	3
In Process	1	0	0	0	3	4
Ineligible	3	0	0	0	0	3
Total	9	6	11	13	10	49

More formal grievances are filed at SLCC than at UVU.

SLCC allows more types of complaints to be formally grieved than UVU.

To determine whether SLCC has a disproportionately high number of grievances, we compared SLCC’s number of formal grievances to UVU, an institution with a similar number of employees. Over the past 5 years, 49 formal complaints were filed at SLCC, which averages 9.8 grievances per year or 0.96 percent of those eligible to file a formal grievance. As shown in Figure 3, only about one-half of the formal grievances are resolved by the hearing committee. During this same period, employees at UVU, although allowed by policy, did not file any non-discriminatory formal grievances because their practice is to resolve grievances informally.

There are significant differences in each institution’s grievance practices. SLCC allows a greater variety of complaints to be formally grieved. As shown in Figure 4, reasons for formal grievances filed in 2011 included six grievances for issues other than involuntary termination. These types of grievances are issues that UVU would address informally.

Although UVU had 12 involuntary terminations in 2011, no one filed a formal grievance including an employee who filed a lawsuit for wrongful termination. Conversely, SLCC allowed a terminated employee to file a formal grievance even though termination was clearly justified because the person had been arrested.

Figure 4 Reasons for SLCC Formal Grievances in Fiscal Year 2011. SLCC employees filed formal grievances for a variety of reasons. Some of these reasons may not have been accepted for filing as formal grievances at another institution. Only four of ten grievances were for involuntary termination, of which only one was resolved in a hearing.

Reason for Grievance	Number Filed	Resolved by Hearing Committee
Involuntary Termination	4	2
Written Warning	3	2
Letter of Concern	1	
Sabbatical Leave	1	1
Probationary Letter	1	
Total	10	5

Source: Salt Lake Community College

Although many formal grievances are filed at SLCC, few are resolved by the hearing committee. Only 5 of the 10 formal grievances

filed in 2011 were resolved by the hearing committee and a hearing was held for only 3 of those 5 grievances. The committee issued a no merit determination for the other 2 grievances. The remaining 5 grievances were resolved informally or were still in process at year's end.

There are additional factors that may also contribute to the higher number of formal grievances at SLCC. Policy requires grievances involving termination for cause to begin with a formal grievance. Also, the practice of providing employees a copy of the grievance policy whenever an employee is disciplined may encourage more formal grievance filings.

Our review of the hearing files for two terminated employees who filed grievances showed that, in these instances, SLCC termination policies and procedures were being applied appropriately.

Recommendations

1. We recommend that the Salt Lake Community College improve its documentation procedures to comply with its policies for the following:
 - a. Hiring files should include each hiring committee's worksheets.
 - b. Termination forms should identify the reason an employee was terminated.
 - c. Appropriate documents should be filed in employees' personnel files.
2. We recommend that no further audit work be done at this time to address Salt Lake Community College's hiring, termination, and grievances practices.

This Page Left Blank Intentionally

Agency Response

This Page Left Blank Intentionally

December 22, 2011

Susan Verhoef
Lead Auditor

Re: Response to Legislative Auditor General Audit Report Number ILR 2012-A

Dear Ms. Verhoef,

We support your recommendation and have taken action to complete and comply.

Sincerely,



Dennis R. Klaus
Vice President of Business Services
Salt Lake Community College

CC: Craig Gardner