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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Ralph K. Anderson, III, Administrative Law Court Court Judge

Appellate Case No. 2020-001689
Case No. 2020ALJ300064AP

South Carolina Technical College System, ... Appellant,

v.

Carla Jackson and South Carolina
Department of Administration, ... Respondents,

Of Whom, Carla Jackson is the..... Respondent.

RECORD ON APPEAL - VOLUME 3 of 3

Andrew F. Lindemann #13030
LINDEMANN & DAVIS, P.A.
5 Calendar Court, Suite 202
Post Office Box 6923
Columbia, South Carolina 29260
(803) 881-8920

Counsel for Appellant

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(803) 799-9530

Counsel for Respondent

Warren V. Ganjehsani #17040
Chief Legal Counsel
SOUTH CAROLINA TECHNICAL
COLLEGE SYSTEM
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Columbia, South Carolina 29210
(803) 896-5923

Counsel for Appellant

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Certificate of Counsel

Certificate of Compliance

Certificate of Service

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ATTACHMENT B

DENMARK
TECHNICAL COLLEGE

FILE COPY

February 1, 2015

Ms. Carla Jackson
684 McCain Drive
Denmark, SC 29042

Dear Ms. Jackson:

Please be informed that you will continue in the state position of, Administrative Coordinator to the President but, will have additional duties attached as of, February 1, 2015.

Your immediate supervisor will remain Dr. Leonard McIntyre; you will remain at your current salary, position, and classification but, will assume additional duties as Assistant to the Area Commissioners. A temporary salary supplement will be made to reflect an adjustment totaling ($550.00) per pay period. This amount will be attached to your current salary of $48,327.

Please sign below to accept this appointment and return to the Human Resources Office.

Sincerely,

Leonard McIntyre

Leonard McIntyre, Ph.D.
President
LM:mj

Carla Jackson
Signature of Receipt

2 | 1 | 15
Date

DTC Departmental Request for Personnel/Payroll Action Form

FILE COPY

Please complete all sections

I. PERSONNEL DATA

1. Employee Name Last: Jackson First: Carla MI:

This section to be completed by HR only

2. Employee ID # or SSN	Date of Birth	4. Sex	
[redacted]8030	[redacted]/1978		Male
		X	Female

II. DEPARTMENT DATA

Department Name	President's Office
Requestor's Position	President
Requestor's Name	Dr. Leonard A. McIntyre
Requestor's Signature	L. McIntyre

III. TYPE OF ACTION

	New Hire		Merit Increase		Retirement
	Rehire		Salary Change ____%		Leave without Pay
	Transfer		Title Change		Request to Hire
	Promotion		Change of Funding		Dual
	Demotion		Re-allocation of funding	X	Other (Specify)
	Separation				

IV. POSITION TYPE

	Faculty	X	Staff
	Student Worker		Contract

V. ASSIGNMENT

	Full Time		Part Time
	Temporary		

Justification:

VI. CURRENT POSITION INFORMATION

Current Position Title: Executive Assistant to the President

Position Number:

Annual Salary/Hourly Rate: $

FTE: 1.0 ___ .75 ___

Effective Date:

VII. NEW POSITION INFORMATION

New Position Title: Assistant to Area Commissioners

New Position Number:

Annual Salary/Hourly Rate: $550.00

FTE: 1.0 ___ .75 ___ Per pay period

Effective Date: 2/1/15

VIII. ALLOCATION OF FUNDS

Account Fund	Amount or %

IX. SOURCE OF FUNDING

Department Name: President's Office

Division:

Departmental Budget #: 10-6510000-50187-0

X. (Please Complete In Chronological Order) AUTHORIZATIONS

		Signature	Date
1.	Dean/Department Head (Print Name)		
2.	Division Vice President (Print Name)		
3.	Grants and Contracts (If Applicable) (Print Name)		
4.	Vice President for Fiscal Affairs (Print Name) Mr. Clarence Bonnette	Clarence J. Bonnette	2/03/2015
5.	Director of Human Resources (Print Name) Ms. Alfredia Boyd	Alfredia Boyd	2/2/2015
6	President Dr. Leonard A. McIntyre	Leonard McIntyre	2/2/15

DENMARK
TECHNICAL COLLEGE

February 25, 2016

Dr. Leonard McIntyre, President
Denmark Technical College
P.O. Box 327
Denmark, SC 29042

Dear Dr. McIntyre:

Your approval is requested to hire Ms. Carla Jackson as a temporary faculty member to teach the following course in the Business, Computers, and Related Technologies Department from March 7, 2016 through May 7, 2016.

COURSE	TITLE	TIME	HOURS	# OF STUDENTS
BUS 101-27	Introduction to Business	MW 6:00 – 8:40 pm	5.2	7

3 hours per week Lecture	5.2 hours
1 hours per week Office hours	1 hours
Total	6.2 hours

The effective date of employment is March 7, 2016 through May 7, 2016.

Budget Code: 10-2520101-50177-0 Total Cost: $1,500.00 Source of Funds: Administrative Office Technology

If approved, she will be working 6.2 hours per week. The total amount of compensation for this time period is $1,500.00 which should be disbursed to her in three (3) pay periods of $500.00. Compensation will be paid on March 30, April 15, and April 30.

Sincerely,

Tia Wright-Richards
Dean of Business, Computers and Related Technologies

2/29/16

APPROVED: _____ DISAPPROVED: _____
Dr. Valerie Fields
V. P. for Academic Affairs

APPROVED: _____ DISAPPRO VED: _____
Mr. Ramon Wideman
V.P. of Fiscal Affairs

APPROVED: _____ DISAPPRO VED: _____
Dr. Leonard McIntyre
President

SC Technical College System
Dual Employment Form

SECONDARY AGENCY (Agency Requesting Dual Employment)

AGENCY NAME Denmark Technical College

SECTION/DEPARTMENT BCRT (Business, Computer, Related Tech) SSN #0104403

EMPLOYEE NAME Carla Jackson STATE JOB TITLE Instructor

DESCRIPTION OF SERVICES TO BE PERFORMED Teaching- AOT 133-28 Professional Development

DURATION OF SERVICES AND PROPOSED COMPENSATION

DATES (MONTH/DAY/YEAR):

FROM May 18, 2015

TO June 30, 2015

TOTAL HOURS 1 hr 45 min

TIMES:

FROM 7:30 pm (AM/PM)

TO 9:15 pm (AM/PM)

FLSA ☒ EXEMPT ☐ NON EXEMPT

TOTAL GROSS SALARY

HOURLY RATE (IF APPLICABLE)

Carla Jackson
EMPLOYEE'S SIGNATURE

5/6/15
DATE

Leonard McIntyre
DEPARTMENT HEAD/DEAN SIGNATURE

DATE

Mary Gunnells
AUTHORIZED REQUESTING AGENCY SIGNATURE

5/6/15
DATE

HOME AGENCY (Agency of Employee's Primary Employment)

AGENCY NAME Denmark Technical College SECTION/DEPARTMENT Administrative Coordinator

EMPLOYEE CLASS CODE AH10 SLOT 0001 FLSA ☒ EXEMPT ☐ NON EXEMPT CURRENT ANNUALIZED SALARY

NORMALLY SCHEDULED HOURS OF WORK: FROM 8:00 am (AM/PM) TO 6:00 pm (AM/PM)

(IF FACULTY) OFFICE HOURS:	CLASS:	DAYS TAUGHT:	TIMES:
			(AM/PM) TO (AM/PM)
			(AM/PM) TO (AM/PM)
			(AM/PM) TO (AM/PM)

IS THE REQUESTING AGENCY AUTHORIZED TO PAY THE EMPLOYEE TRAVEL AND SUBSISTENCE? ☐ YES ☒ NO ☐ N/A

IF NECESSARY, HAVE ARRANGEMENTS BEEN MADE FOR THE EMPLOYEE TO TAKE ANNUAL LEAVE OR LEAVE WITHOUT PAY TO RENDER THE SERVICES DESCRIBED? ☐ YES ☒ NO ☒ N/A

SIGNATURE OF SUPERVISOR (VERIFIES THAT STATEMENT OF HOURS WORKED IS CORRECT)

Mary Gunnells
AUTHORIZED EMPLOYING AGENCY SIGNATURE

5/6/15
DATE

HR COMMENTS Cannot exceed 30% of annual salary.

DENMARK
TECHNICAL COLLEGE

September 14, 2015

Dr. Leonard McIntyre, President
Denmark Technical College
P.O. Box 327
Denmark, SC 29042

FILE COPY

Dear Dr. McIntyre:

Your approval is requested to hire Ms. Carla Jackson as a temporary faculty member to teach the following courses in the Business, Computers, and Related Technologies Department from September 14, 2015 through December 9, 2015.

COURSE	TITLE	TIME	HOURS	# OF STUDENTS
AOT 105-27	Keyboarding	TTH 6:00 – 7:40 pm	2.8	10
AOT 133-27	Professional Development	TTH 7:50 – 9:30 pm	2.8	3

6 hours per week Lecture	6 hours
2 hours per week Office hours	2 hours
Total	**8 hours**

The effective date of employment is September 14, 2015 through December 9, 2015.

Budget Code: **Total Cost: $3,000.00** **Source of Funds: Administrative Office Technology**

If approved, she will be working 4 hours per week. The total amount of compensation for this time period is $3,000.00 which should be disbursed to her in five (5) pay periods of $600.00. Compensation will be paid on October 15, October 31, November 15, November 29, and December 15, 2015.

Sincerely,

Tia Wright-Richards
Dean of Business, Computers and Related Technologies

APPROVED: _____
Dr. Valerie Fields
V. P. for Academic Affairs

DISAPPROVED: _____
Dr. Valerie Fields
V. P. for Academic Affairs

APPROVED: Leonard McIntyre
Dr. Leonard McIntyre
President

DISAPPROVED: _____
Dr. Leonard McIntyre
President

Request for Adjunct Faculty

I. PERSONNEL DATA

1. Employee Name CARLA JACKSON

2. Social Security:	Date of Birth:	4. Sex: F

II. DEPARTMENT DATA

Requestor's Department	BCRT-GB
Requestor's Position	Dean
Requestor's Name	Tia Wright-Richards
Requestor's Signature	

III. COURSE INFORMATION / **IV. PROJECTION**

Course Code	Meeting Time	Day	Hour	Student	Income	Compensation	Profit
AOT 105	6:00 - 7:40 PM	TTH	2.8	10	$3,030.00	$1,500.00	$1,530.00
AOT 133	7:50 - 9:30 PM	TTH	2.8	3	$909.00	$1,500.00	($591.00)

V. ALLOCATION OF FUNDS

Hours/Wk	Rate/Hr	Total

Additional Duty 1 office hour per course (2 office hrs.)

Additional Compensation

Additional Duty

Additional Compensation

Title: Adjunct Faculty

Total Compensation: $3,000.00

VI. ASSIGNMENT DURATION

From: 9/14/2015 (Date) To: 12/9/2015 (Date)

VII. SOURCE OF FUNDING

Department Name: Administrative Office Technology

Division: Bcrt

Budget #(State X Federal Other)

VIII. AUTHORIZATIONS (Please complete in chronological order)

1. Dean/Department Head (Print Name)	Tia L Wright-Richards	Signature	Date 9/15/15	2. Director of Human Resources (Print Name)	Alfredia Boyd
3. Grants and Contracts (If Applicable) (Print Name)		Signature	Date	4. Vice President for Fiscal Affairs (Print Name)	Ramon O. Wideman
5. Division Vice President (Print Name)	Valerie S. Fields	Signature	Date	6. President (Print Name)	Leonard McIntyre

Signature / Date: Alfredia Boyd — 10/7/15

Signature / Date: Ramon O. Wideman — 10/7/15

Signature / Date: Leonard McIntyre — 10/7/15

(January 2011)

782

0700

102

DENMARK
TECHNICAL COLLEGE

September 15, 2015

Ms. Carla Jackson
684 McCain Drive
Denmark, SC 29042

Dear Ms. Jackson:

Please be informed that you are being appointed Interim Dean of Transitional Services effective October 1, 2015, until a new Dean of Transitional Services is hired.

Your immediate supervisor will be Dr. Valerie Fields. You will remain at your current salary and in your current position/classification but will assume the additional duties of Interim Dean of Transitional Services and receive a temporary salary adjustment of 15% of your current salary $48,327 to $55,576 for the duration of your interim appointment.

When interviews are being held to fill the Dean of Transitional Services, please know that you are eligible to apply and be interviewed for the position.

Please sign below acknowledging receipt of this letter and return a copy to the Human Resources Office.

Sincerely,

Leonard McIntyre

Leonard A. McIntyre, Ph.D.
President

Carla Jackson
Signature of Receipt

9/14/15
Date

cc: Human Resources Director
Personnel File

DTC Departmental Request for Personnel/Payroll Action Form

Please complete all sections

I. PERSONNEL DATA

1. Employee Name Last: Jackson First: Carla MI:

This section to be completed by HR only

2. Employee ID # or SSN	Date of Birth	4. Sex	
			Male
			Female

II. DEPARTMENT DATA

Department Name: Grants & Contracts

Requestor's Position: Director of Title III/G&C

Requestor's Name: Tarshua T. Mack

Requestor's Signature: Tarshua T. Mack

III. TYPE OF ACTION

X	New Hire		Merit Increase		Retirement
	Rehire		Salary Change ____%		Leave without Pay
	Transfer		Title Change		Request to Hire
	Promotion		Change of Funding	X	Dual
	Demotion		Re-allocation of funding		Other (Specify)
	Separation				

IV. POSITION TYPE

	Faculty	X	Staff
	Student Worker		Contract
	Intern		

V. ASSIGNMENT

	Full Time		Part Time
X	Temporary		

Justification: Facilitating workshops in Customer Service and Soft Skills Training. This is a community initiative to upgrade employability skills. Workshops are no more than four hours each.

VI. CURRENT POSITION INFORMATION

Current Position Title:

Position Number:

Annual Salary/Hourly Rate:

FTE: 1.0 ___ .75 ___

Effective Date:

VII. NEW POSITION INFORMATION

New Position Title: Workshop Facilitator

New Position Number:

Annual Salary/Hourly Rate: $50.00 per hr. Workshop/ (1hr.) Preporation

FTE: 1.0 ___ .75 ___

Effective Date: 9/21/15 – 10/31/15

VIII. ALLOCATION OF FUNDS

Account Fund	Amount or %
24-9072312	100%

IX. SOURCE OF FUNDING

Department Name: Grants & Contracts

Division: President

Departmental Budget #: 24-9072312

X. (Please Complete In Chronological Order) AUTHORIZATIONS

1.	Dean/Department Head (Print Name)	Signature: Tarshua T. Mack	Date: 9/16/15
2.	Division Vice President (Print Name)	Signature:	Date:
3.	Grants and Contracts Mrs. Tarshua T. Mack	Signature: Tarshua T. Mack	Date: 9/16/15
4.	Vice President for Fiscal Affairs Mr. Ram'on Wideman	Signature: Ram'on D. Wideman	Date: 9/16/15
5.	Director of Human Resources Mrs. Alfredia Boyd	Signature: Alfredia Boyd	Date: 9/16/15
6	President Dr. Leonard McIntyre	Signature: Leonard McIntyre	Date: 9/16/15

(July 2014)

DTC Departmental Request for Personnel/Payroll Action Form

Please complete all sections

I. PERSONNEL DATA

1. Employee Name Last: Jackson First: Carla MI:

This section to be completed by HR only

2. Employee ID # or SSN: XXX-XX-8030

Date of Birth:

4. Sex: ___ Male X Female

II. DEPARTMENT DATA

Department Name: Transitional Studies

Requestor's Position: Vice President of Academic Affairs

Requestor's Name: Dr. Valerie Fields

Requestor's Signature: VF

III. TYPE OF ACTION

___ New Hire
___ Rehire
___ Transfer
___ Promotion
___ Demotion
___ Separation
___ Merit Increase
___ Salary Change ___%
___ Title Change
___ Change of Funding
___ Re-allocation of funding
___ Retirement
___ Leave without Pay
___ Request to Hire
___ Dual
X Other (Specify)

Justification:

IV. POSITION TYPE

___ Faculty X Staff
___ Student ___ Contract
___ Worker

V. ASSIGNMENT

___ Full Time ___ Part Time
___ Temporary

VI. CURRENT POSITION INFORMATION

Current Position Title:

Position Number:

Annual Salary/Hourly Rate: $

FTE: 1.0 ___ .75 ___

Effective Date:

VII. NEW POSITION INFORMATION

New Position Title: Transitional Studies Coordinator

New Position Number:

Annual Salary/Hourly Rate: $375.00

FTE: 1.0 ___ .75 ___ Per pay period

Effective Date: 10/1/15-9/30/15

VIII. ALLOCATION OF FUNDS

Account Fund	Amount or %
21-9842604 50162-0	10.1.

IX. SOURCE OF FUNDING

Department Name: Grants & Contracts

Division:

Departmental Budget # 21-9842604 - 50162-0

X. (Please Complete in chronological order) AUTHORIZATIONS

		Date
1. Dean/Department Head (Print Name)	Signature	
2. Division Vice President (Print Name) Valerie S. Fields	Signature VF	Date 9/28/2015
3. Grants and Contracts (If Applicable) (Print Name)	Signature	Date
4. Vice President for Fiscal Affairs (Print Name) Mr. Ramon Wideman	Signature	Date 10/12/15
5. Director of Human Resources (Print Name) Ms. Alfredia Boyd	Signature Alfredia Boyd	Date 10/12/15
6 President Dr. Leonard McIntyre	Signature Leonard McIntyre	Date 10/14/15

DENMARK TECHNICAL COLLEGE

February 25, 2016

Dr. Leonard McIntyre, President
Denmark Technical College
P.O. Box 327
Denmark, SC 29042

Dear Dr. McIntyre:

Your approval is requested to hire Ms. Carla Jackson as a temporary faculty member to teach the following course in the Business, Computers, and Related Technologies Department from March 7, 2016 through May 7, 2016.

COURSE	TITLE	TIME	HOURS	# OF STUDENTS
BUS 101-27	Introduction to Business	MW 6:00 – 8:40 pm	5.2	7

3 hours per week Lecture	5.2 hours
1 hours per week Office hours	1 hours
Total	6.2 hours

The effective date of employment is March 7, 2016 through May 7, 2016.

Budget Code: 10-2520101-50177-0 Total Cost: $1,500.00 Source of Funds: Administrative Office Technology

If approved, she will be working 6.2 hours per week. The total amount of compensation for this time period is $1,500.00 which should be disbursed to her in three (3) pay periods of $500.00. Compensation will be paid on March 30, April 15, and April 30.

Sincerely,

Tia Wright-Richards
Dean of Business, Computers and Related Technologies

2/29/16

APPROVED: _____ DISAPPROVED: _____
Dr. Valerie Fields
V. P. for Academic Affairs

APPROVED: _____ DISAPPRO VED: _____
Mr. Ramon Wideman
V.P. of Fiscal Affairs

APPROVED: _____ DISAPPRO VED: _____
Dr. Leonard McIntyre
President

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ATTACHMENT D

133

Certification of Health Care Provider for Employee's Serious Health Condition (Family and Medical Leave Act)

U.S. Department of Labor
Wage and Hour Division

DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT

OMB Control Number: 1235-0003
Expires: 5/31/2018

SECTION I: For Completion by the EMPLOYER

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave due to a serious health condition to submit a medical certification issued by the employee's health care provider. Please complete Section I before giving this form to your employee. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies, and in accordance with 29 C.F.R. § 1635.9, if the Genetic Information Nondiscrimination Act applies.

Employer name and contact: Sherry Donaldson (F) 803 793 5140

Employee's job title: _____ Regular work schedule: _____

Employee's essential job functions: _____

_____

Check if job description is attached: ____

SECTION II: For Completion by the EMPLOYEE

INSTRUCTIONS to the EMPLOYEE: Please complete Section II before giving this form to your medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave due to your own serious health condition. If requested by your employer, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 29 C.F.R. § 825.313. Your employer must give you at least 15 calendar days to return this form. 29 C.F.R. § 825.305(b).

Your name: Carla Jackson
First Middle Last

SECTION III: For Completion by the HEALTH CARE PROVIDER

INSTRUCTIONS to the HEALTH CARE PROVIDER: Your patient has requested leave under the FMLA. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave. Do not provide information about genetic tests, as defined in 29 C.F.R. § 1635.3(f), genetic services, as defined in 29 C.F.R. § 1635.3(e), or the manifestation of disease or disorder in the employee's family members, 29 C.F.R. § 1635.3(b). Please be sure to sign the form on the last page.

Provider's name and business address: Ty Carter, MD 410 University Pkwy
Type of practice / Medical specialty: Orthopedics Aiken SC 29801
Telephone: (803) 641 649 4264 Fax: (803) 649 0543

PART A: MEDICAL FACTS

1. Approximate date condition commenced: 8/16

Probable duration of condition: 2-3 months

Mark below as applicable:
Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?
✓ No ___ Yes. If so, dates of admission:

Date(s) you treated the patient for condition:

9/13/16 ; ~~9/19/16~~ 9/19/16

Will the patient need to have treatment visits at least twice per year due to the condition? ● No ___ Yes.

Was medication, other than over-the-counter medication, prescribed? ● No ___ Yes.

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?
● No ___ Yes. If so, state the nature of such treatments and expected duration of treatment:

[redacted]

2. Is the medical condition pregnancy? ● No ___ Yes. If so, expected delivery date: ___

3. Use the information provided by the employer in Section I to answer this question. If the employer fails to provide a list of the employee's essential functions or a job description, answer these questions based upon the employee's own description of his/her job functions.

Is the employee unable to perform any of his/her job functions due to the condition: ___ No ✓ Yes.

If so, identify the job functions the employee is unable to perform:

[redacted]

4. Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

[redacted]

PART B: AMOUNT OF LEAVE NEEDED

5. Will the employee be incapacitated for a single continuous period of time due to his/her medical condition, including any time for treatment and recovery? [redacted] No [redacted] Yes.

If so, estimate the beginning and ending dates for the period of incapacity: 9/16/16 - 9/30/16

6. Will the employee need to attend follow-up treatment appointments or work part-time or on a reduced schedule because of the employee's medical condition? [redacted] No [redacted] Yes.

If so, are the treatments or the reduced number of hours of work medically necessary?
___No ___Yes.

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Estimate the part-time or reduced work schedule the employee needs, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

7. Will the condition cause episodic flare-ups periodically preventing the employee from performing his/her job functions? ~~+/-~~ No (✓ Yes) (R)

Is it medically necessary for the employee to be absent from work during the flare-ups?
___ No ✓ Yes. If so, explain:

[redacted]

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency 0-2 : ____ times per ____ week(s) 1-3 month(s)

Duration: ____ hours or 1-2 day(s) per episode

ADDITIONAL INFORMATION: IDENTIFY QUESTION NUMBER WITH YOUR ADDITIONAL ANSWER:

[redacted]

2/15/14 to 2/15/17
Leave Report for Carla Jackson - DTC

Leave Type	Date	Hours	Total Daily Hours	Admin Adjustments	Admin Comments
Annual Leave - Monthly Accrual	2/15/2014 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	2/15/2014 0:00	0	0	9.38	
Holiday Leave	2/17/2014 0:00	7.5	7.5	0	
Annual Leave - Monthly Accrual	3/15/2014 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	3/15/2014 0:00	0	0	9.38	
Sick Leave - Family	4/3/2014 0:00	7.5	7.5	0	
Annual Leave	4/14/2014 0:00	7.5	7.5	0	
Annual Leave	4/15/2014 0:00	7.5	7.5	0	
Annual Leave - Monthly Accrual	4/15/2014 0:00	0	7.5	9.38	
Sick Leave - Monthly Accrual	4/15/2014 0:00	0	7.5	9.38	
Annual Leave	4/16/2014 0:00	7.5	7.5	0	
Annual Leave	4/17/2014 0:00	7.5	7.5	0	
Annual Leave	4/18/2014 0:00	7.5	7.5	0	
Holiday Leave	5/9/2014 0:00	7.5	7.5	0	
Annual Leave - Monthly Accrual	5/15/2014 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	5/15/2014 0:00	0	0	9.38	
Holiday Leave	5/26/2014 0:00	7.5	7.5	0	
Annual Leave - Monthly Accrual	6/15/2014 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	6/15/2014 0:00	0	0	9.38	
Sick Leave	6/30/2014 0:00	7.5	7.5	0	
Sick Leave	7/3/2014 0:00	7.5	7.5	0	
Holiday Leave	7/4/2014 0:00	7.5	7.5	0	
Annual Leave - Monthly Accrual	7/15/2014 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	7/15/2014 0:00	0	0	9.38	
Annual Leave - Monthly Accrual	8/15/2014 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	8/15/2014 0:00	0	0	9.38	
Annual Leave - Monthly Accrual	9/15/2014 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	9/15/2014 0:00	0	0	9.38	

Annual Leave - Monthly Accrual	10/15/2014 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	10/15/2014 0:00	0	0	9.38	
Annual Leave - Monthly Accrual	11/15/2014 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	11/15/2014 0:00	0	0	9.38	
Annual Leave - Monthly Accrual	12/15/2014 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	12/15/2014 0:00	0	0	9.38	
Annual Leave	12/22/2014 0:00	0	0	-45	Winter Break
Annual Leave - Monthly Accrual	1/15/2015 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	1/15/2015 0:00	0	0	9.38	
Annual Leave - Monthly Accrual	2/15/2015 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	2/15/2015 0:00	0	0	9.38	
Annual Leave - Monthly Accrual	3/15/2015 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	3/15/2015 0:00	0	0	9.38	
Annual Leave - Monthly Accrual	4/15/2015 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	4/15/2015 0:00	0	0	9.38	
Annual Leave - Monthly Accrual	5/15/2015 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	5/15/2015 0:00	0	0	9.38	
Annual Leave - Monthly Accrual	6/15/2015 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	6/15/2015 0:00	0	0	9.38	
Annual Leave - Monthly Accrual	7/15/2015 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	7/15/2015 0:00	0	0	9.38	
Annual Leave - Monthly Accrual	8/15/2015 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	8/15/2015 0:00	0	0	9.38	
Holiday Leave	9/7/2015 0:00	7.5	7.5	0	
Holiday Leave	9/11/2015 0:00	7.5	7.5	0	
Annual Leave - Monthly Accrual	9/15/2015 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	9/15/2015 0:00	0	0	9.38	
Annual Leave - Monthly Accrual	10/15/2015 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	10/15/2015 0:00	0	0	9.38	
Annual Leave - Monthly Accrual	11/15/2015 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	11/15/2015 0:00	0	0	9.38	

Sick Leave	11/19/2015 0:00	9.5	9.5	0	
Sick Leave	11/19/2015 0:00	0	9.5	-9.5	Approval for Dr. McIntyre - Sick Leave Allergic Reaction - A. Byd
Sick Leave	11/19/2015 0:00	0	9.5	9.5	Adjust SL Balance-Approved by Dr. McIntrye
Holiday Leave	11/26/2015 0:00	7.5	7.5	0	
Holiday Leave	11/27/2015 0:00	7.5	7.5	0	
Jury Duty	11/30/2015 0:00	9.5	9.5	0	
Sick Leave	12/3/2015 0:00	9.5	9.5	0	
Annual Leave	12/7/2015 0:00	9.5	9.5	0	
Annual Leave - Monthly Accrual	12/15/2015 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	12/15/2015 0:00	0	0	9.38	
Holiday Leave	12/24/2015 0:00	7.5	7.5	0	
Holiday Leave	12/25/2015 0:00	7.5	7.5	0	
Holiday Leave	12/28/2015 0:00	7.5	7.5	0	
Holiday Leave	1/1/2016 0:00	7.5	7.5	0	
Annual Leave - Monthly Accrual	1/15/2016 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	1/15/2016 0:00	0	0	9.38	
Holiday Leave	1/18/2016 0:00	7.5	7.5	0	
Holiday Leave	2/15/2016 0:00	7.5	7.5	0	
Annual Leave - Monthly Accrual	2/15/2016 0:00	0	7.5	9.38	
Sick Leave - Monthly Accrual	2/15/2016 0:00	0	7.5	9.38	
Annual Leave - Monthly Accrual	3/15/2016 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	3/15/2016 0:00	0	0	9.38	
Annual Leave - Monthly Accrual	4/15/2016 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	4/15/2016 0:00	0	0	9.38	
Holiday Leave	5/10/2016 0:00	7.5	7.5	0	
Annual Leave - Monthly Accrual	5/16/2016 15:43	0	0	9.38	
Sick Leave - Monthly Accrual	5/16/2016 15:43	0	0	9.38	
Holiday Leave	5/30/2016 0:00	7.5	7.5	0	
Annual Leave - Monthly Accrual	6/15/2016 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	6/15/2016 0:00	0	0	9.38	

Holiday Leave	7/4/2016 0:00	7.5	7.5	0	
Annual Leave - Monthly Accrual	7/15/2016 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	7/15/2016 0:00	0	0	9.38	
Annual Leave - Monthly Accrual	8/15/2016 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	8/15/2016 0:00	0	0	9.38	
Sick Leave	8/18/2016 0:00	5	5	0	
Sick Leave	8/23/2016 0:00	9.5	9.5	0	
Sick Leave	8/31/2016 0:00	9.5	9.5	0	
Sick Leave - Family	9/1/2016 0:00	9	9	0	
Holiday Leave	9/5/2016 0:00	7.5	7.5	0	
Annual Leave - Monthly Accrual	9/15/2016 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	9/15/2016 0:00	0	0	9.38	
Sick Leave - Family	9/22/2016 0:00	9	9	0	
Sick Leave	9/29/2016 0:00	9	9	0	
Annual Leave - Monthly Accrual	10/15/2016 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	10/15/2016 0:01	0	0	9.38	
Annual Leave	11/8/2016 0:00	0	0	-7.5	Election Day - college closed
Holiday Leave	11/11/2016 0:00	7.5	7.5	0	
Annual Leave - Monthly Accrual	11/15/2016 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	11/15/2016 0:00	0	0	9.38	
Holiday Leave	11/24/2016 0:00	7.5	7.5	0	
Holiday Leave	11/25/2016 0:00	7.5	7.5	0	
Annual Leave	12/5/2016 0:00	9.5	9.5	0	
Annual Leave	12/6/2016 0:00	9.5	9.5	0	
Annual Leave	12/7/2016 0:00	9.5	9.5	0	
Annual Leave	12/8/2016 0:00	9	9	0	
Annual Leave - Monthly Accrual	12/15/2016 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	12/15/2016 0:00	0	0	9.38	
Annual Leave	12/19/2016 0:00	0	0	-30	Christmas Break: Dec. 19-22, 2016 and Dec. 28-30, 2016. Total hour needed: 52.50
Holiday Leave	12/23/2016 0:00	7.5	7.5	0	

Holiday Leave	12/26/2016 0:00	7.5	7.5	0	
Holiday Leave	12/27/2016 0:00	7.5	7.5	0	
Annual Leave	12/28/2016 0:00	0	0	-22.5	
Holiday Leave	1/2/2017 0:00	7.5	7.5	0	
Sick Leave	1/3/2017 0:00	7.5	7.5	0	
Sick Leave	1/4/2017 0:00	7.5	7.5	0	
Sick Leave	1/5/2017 0:00	7.5	7.5	0	
Annual Leave	1/6/2017 0:00	7.5	7.5	0	
Annual Leave - Monthly Accrual	1/15/2017 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	1/15/2017 0:00	0	0	9.38	
Holiday Leave	1/16/2017 0:00	7.5	7.5	0	
Sick Leave	2/1/2017 0:00	9.5	9.5	0	
Sick Leave	2/7/2017 0:00	5	5	0	
Annual Leave - Monthly Accrual	2/15/2017 0:00	0	0	9.38	
Sick Leave - Monthly Accrual	2/15/2017 0:00	0	0	9.38	

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ATTACHMENT E

AMERICAN INTERCONTINENTAL UNIVERSITY
Online

9/29/2013

Carla Jackson
684 McCain Drive
Denmark, SC 29042
USA

Dear Carla Jackson,

Congratulations! I am pleased to notify you that you have been accepted to American InterContinental University (AIU) Online. You are enrolled in the Master in Business Administration program with a Specialization in Management, beginning on 11/11/2013. A Student Management Specialist will be in contact with you to complete the necessary milestones in preparing you to get acclimated during your first weeks as an AIU student.

We are proud of our student body, quality faculty, and relevant, industry-current curricula. AIU Online's programs and services are designed to meet the demands of the industry as well as your needs as a University student. We support your decision to earn this valuable credential. I am confident that you will find AIU Online an excellent match with your educational and career goals. If you have additional questions, please contact the University toll-free at 1-877-221-5800.

Congratulations, and we look forward to supporting you throughout your educational experience.

Sincerely,

George Miller
President, American InterContinental University
Chancellor, American InterContinental University

Find disclosures on graduation rates, student financial obligations and more at http://www.aiuniv.edu/disclosures.

AMERICAN INTERCONTINENTAL UNIVERSITY™

Master of Business Administration: Management

Tuition and Fees

Effective as of 1/7/2013

For classes beginning on or after 1/7/2013

TUITION COST PER CREDIT HOUR	PROGRAM CHARGES	TOTAL PROGRAM COST (INCLUDES ALL SOFTWARE AND COURSE MATERIALS)
$ 582.00	$27,936.00	$27,936.00

Above is an excerpt from our official tuition and fee schedule. Please see the official published schedule for additional disclosures. Please note that costs listed are based upon standard program length. Actual program length and costs may vary due to transferred credit and/or repeated classes. The order in which classes are scheduled may vary by student. Please note that all of the following information is being provided strictly for use by employers that require such information to administer employer reimbursement programs for AIU Online students.

Per Session Charges

AIU Online charges tuition per credit hour each quarter throughout the student's program. Tuition is charged at the beginning of each quarter.

Academic Year	Quarter	Courses	Credits	Tuition	Total
1	1	MGT600	6	$3,492.00	$6,984.00
		MKT640	6	$3,492.00	
	2	FIN630	6	$3,492.00	$6,984.00
		BUS610	6	$3,492.00	
	3	MGT615	6	$3,492.00	$6,984.00
		MGT625	6	$3,492.00	
2	4	MGT656	6	$3,492.00	$6,984.00
		MGT680	6	$3,492.00	
			48		$27,936.00

Course Materials Charges

Words of Wisdom, LLC provides all course materials (textbooks and software) to students on behalf of AIU Online. Words of Wisdom, LLC is a company affiliated with AIU Online.

Institutional charges include a custom suite of course materials which are provided to the student by Words of Wisdom, LLC. At the University's discretion, books may be delivered in an electronic (e-Book) or standard textbook format. Students not wishing to use e-Books are responsible for any additional charges associated with purchasing standard textbooks.



MASTER OF BUSINESS ADMINISTRATION (MBA)

Specialization in

Management

OVERVIEW

Today's increasingly complicated business environment demand existing and future professionals to have a comprehensive knowledge of the economic climate in the modern workforce.

AIU® offers a professionally-focused MBA program with a specialization in Management designed for students interested in developing the managerial skills and professional competencies needed to compete in today's increasingly global markets.

COURSEWORK

CURRICULUM INCLUDES

In this specialized curriculum, students can be challenged to explore a variety of issues such as employment, international trade and investment, licensing property, commercial transactions, and conflict-resolution strategies. The curriculum has been designed for students to immerse themselves in topics like the legal aspects of business decisions, leadership and ethics, economics, quality management, and continuous improvement.

Specialization courses are structured to assist students in the development of their goals as they can learn advanced knowledge and skills common to management professionals in today's complicated business environment. For example:

- In **Economics for the Global Manager**, students can be expected to apply the theory and tools of micro- and macroeconomics and research to the formation of business decisions in the global environment.
- In **Leadership & Ethics for Managers**, students can explore interactions between leaders, followers and situations. The course involves the consideration of opportunities and ethical challenges of leadership.
- In **Legal Aspects of Business Decisions**, students can analyze current legal issues facing corporations operating in the global economy, including employment, international trade and investment, licensing property, commercial transactions, and conflict-resolution strategies.
- In **Quality Management and Continuous Improvement**, students can explore the philosophy and tools for quality management and continuous improvement of products and processes. Using data collection and problem-solving techniques, students can examine the design of quality practices.

WHY AIU?

AIU offers a streamlined, real-world curriculum and flexibility to help school revolve around your life, not the other way around. To accommodate busy lives, we offer full- and part-time programs.

Within the MBA program, our specializations are geared toward business needs with a comprehensive foundation focused on key business concepts and strategies. AIU offers a streamlined, real-world curriculum, with flexible schedules to accommodate busy professionals.

American InterContinental University™ is regionally accredited by the Higher Learning Commission. To contact the Higher Learning Commission please visit www.hlcommission.org

AMERICAN INTERCONTINENTAL UNIVERSITY™

AIUniv.edu

*Transferability of credits is at the sole discretion of the receiving institution.

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MASTER OF BUSINESS ADMINISTRATION (MBA)

Specialization in Management

The AIU Master of Business Administration (MBA) degree program is designed to help students learn specialized knowledge and industry insights that can help develop or enhance their marketable skills in the areas of business or management.

FOCUS ON YOUR SPECIFIC AREA OF INTEREST

By studying advanced topics in Management to complete the specialization requirements, AIU can give you an opportunity to learn a comprehensive core of business knowledge in addition to specialized knowledge and skills as they pertain to qualities like leadership, control, compliance, motivation, mentoring, coaching and innovation.

AIU'S BUSINESS ADMINISTRATION DEGREE PROGRAMS WITH ALL THEIR SPECIALIZATIONS ARE PROGRAMMATICALLY ACCREDITED BY THE ACCREDITATION COUNCIL FOR BUSINESS SCHOOLS AND PROGRAMS (ACBSP).

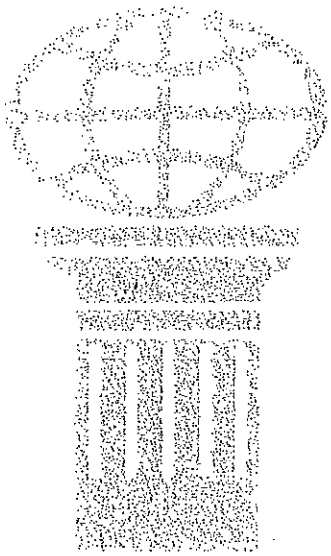
The ACBSP accreditation means that AIU's Business Administration programs meet the rigorous standards of this leading accreditation association. It helps ensure that what we teach is industry-current and industry-relevant in today's business environment and can make your degree more meaningful in the marketplace.

ACBSP ACCREDITED

OUTCOMES

WE CAN HELP YOU LEARN HOW TO:

- Adapt and innovate to solve problems.
- Analyze various leader, follower, cultural and situational characteristics that contribute to leadership, and adapt to the needs of situations, employees and co-workers.
- Apply quantitative reasoning and analysis to business and management problems using knowledge of mathematics, statistics, finance and economics.
- Develop plans to improve business operations.
- Apply principles of quantitative and qualitative research to business cases, and evaluate the quality of research presented based on these principles.
- Use knowledge of economic concepts, principles and theory to critically analyze and evaluate economic problems and opportunities.
- Use critical-thinking skills, including deriving the issue, understanding argument reasoning and developing conclusions.
- Discuss the opportunities provided by technology for businesses.
- Recognize and manage potential ethical and legal conflicts.
- Communicate effectively in business situations.



REQUIRED COURSES

BUSINESS CORE COURSES

FIN 630	Global Financial Management	6
MGT 600	Business Research for Decision Making	6
MKT 640	A Managerial Approach to Marketing	6
MGT 680	Strategic Management	6
Total Core Requirements		**24**

MANAGEMENT SPECIALIZATION COURSES

BUS 610	Economics for the Global Manager	6
MGT 615	Leadership and Ethics for Managers	6
MGT 625	Legal Aspects of Business Decisions	6
MGT 656	Quality Management and Continuous Improvement	6
Total Specialization Requirements		**24**

Total MBA Degree Requirements **48 Credits**

AMERICAN INTERCONTINENTAL UNIVERSITY™

6600 Peachtree-Dunwoody Road • 500 Embassy Row • Atlanta, GA 30328
9999 Richmond Avenue • Houston, TX 77042
231 N. Martingale Road • 6th Floor • Schaumburg, IL 60173

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AIU cannot guarantee employment or salary. Not all programs are available to residents of all states.
Find employment rates, financial obligations and other disclosures at www.aiuniv.edu/disclosures.

AIU-17-01040338 1045515 1/17

DENMARK TECHNICAL COLLEGE
Denmark, South Carolina

Explanation of Policy Statement as Applied to Use of Title III Funds in Support of Policy Title: Institutional Advancement, Number 2-1-008

Guidelines Governing the Administration of Faculty and Staff
Professional Development Programs with
Title III Funds

As Governed by
The Office of The Chief Academic Officer

Denmark Technical College (DTC) believes that a highly skilled, fully competent body of faculty and professional staff is needed to facilitate the effective and efficient operation of the institution. To assure itself of competent workers, the college encourages its faculty and professional staff to purse relevant professional activities. The College will provide Title III funds for professional growth contingent upon needs to upgrade specific skills and knowledge subject to the availability of grant monies; determination of grant funds can only be made on a yearly basis. The following guidelines are issued to college personnel, with a minimum of two (2) years service to the college, for guidance in planning professional development activities and applying for Title III financial assistance:

1. The employee must complete and submit a Request for Professional Development Assistance. This document must be reviewed and approved by all of the employee's superior officers and receive the final approval of the President.

2. The purpose of the activity and a full explanation of the employee's time requirements must be reviewed and endorsed by all of the employee's superior officers. The employee's study schedule must also receive the final approval of the President.

3. Each person who receives Denmark Technical College Professional Development Assistance with Title III funds will be required to sign a pledge to provide services as a DTC employee (at the discretion of the college) equal to the number of years during which Title III funds were provided by DTC (for example, if the employee received assistance during 2010 and 2011, he/she will be expected to pledge his/her service for 2011 and 2012. If a degree seeking employee completes a 2-year program during 2010 – 2012 academic school year, he/she will be expected to pledge his/her service for 2013 – 2015 academic school year. If the degree-seeking student is in a non-tradition program time will be computed as the months he/she is in class paid by the College. If a degree-seeking resigns from DTC, after degree has been obtained and prior to fulfilling service requirement the employee will be required to reimburse the College in full the amount provided for the obtained degree.

4. Faculty and staff development activities may include college or university credit courses, workshops on and off campus, conferences, seminars and similar activities directly related and relevant to the professional growth of the employee.

Financial assistance with Title III funds, however, will be granted only in those instances where the employee verifies that the planned activity will improve job performance.

5. Degree studies, unless specifically related to the present position will not be approved for Title III funds.

6. For faculty and staff, professional development activities that include college or university credit courses, especially in instances where fees are exorbitant in comparison with comparable institutions, the employee will be requested to seek the most cost efficient program. Should employee elect the more costly courses, he/she will need to negotiate an agreement or contract for the Title III Program to defray no less than 75% and no more than 85% of the total cost of courses.

7. The steps for processing a Request for Professional Development Assistance are as follows:

   a. Submit request form to immediate supervisor;
   b. Immediate supervisor submits request to Division Head. In Academic Affairs, Division Head submits to Vice President for Academic Affairs.
   c. Staff Division Head, Academic Dean, or Vice President for Academic Affairs schedules and appearance before the Executive Council to explain/justify requests. Appearance before the Executive Council will be scheduled at least two weeks prior to the date that a decision is required by the requestor.
   d. The Executive Council decides and the Executive Council Secretary notes the decision in the minutes. Title III Director secures final approval and signature of President.
   e. President returns Request Form to Title III Director who will assist the requestor in filling out and processing the DTC Requisition for Purchase.
   f. Requisition will be processed in accordance with normal DTC procedures.
   g. Should an employee violate any of the terms of the Award he/she will be required to reimburse the institution in full.

8. In instances where the employee presents a schedule for courses leading to a degree and thereby obligates federal funds but fails to follow the agreed upon plan of study, the employee upon resuming studies must initiate a second request and receive approval in order to be assured that Title III funding is available.

9. In any case where the college provides financial assistance to an employee to participate in a professional development activity, the employee will be required to show evidence that he/she has successfully completed the activity within thirty days. If the employee fails to show acceptable evidence of successful completion, he/she will be required to reimburse the College in full. If the degree seeking employee resigns from the College prior to completing the program the employee will be required to reimburse the College in full. Withdrawal does not constitute successful completion and full reimbursement to the college will be required.

10. At the end of each semester, the Title III Director shall prepare a report of professional development activities based on information provided by employees seeking assistance for degree studies.

DENMARK
TECHNICAL COLLEGE

TITLE III FUNDED FACULTY AND STAFF DEVLEOPMENT PROGRAMS

My signature attest to my understanding and agreeing to the terms of the Guidelines governing the administration college sponsored faculty/staff development activities. I further understand and agree to provide services as a Denmark Technical College Employee that is equal to the number of months and/or years during which I receive financial assistance for professional development. Furthermore, I fully understand that the beginning of the period time that I am to provide the College begins **after full completion** of my course of study. I also understand that should I resign from my position prior to fulfilling my obligation of service, I will reimburse the College in full.

Paula Jackson
Signature of Applicant

10/1/13
Date

Witness

Date

DENMARK TECHNICAL COLLEGE

REQUEST FOR PROFESSIONAL DEVELOPMENT ASSISTANCE

1. GENERAL INFORMATION

Name of Applicant: Carla Jackson
Job Title: Executive Administrative Coordinator
Home Address: Street 684 McCain Drive
City/State/Zip Denmark, SC 29042
Telephone (Home) 803-308-7606

Business Address: Campus building: Blatt Hall (024)
Telephone Extension: 5102
Number of Years Employed at DTC: 2 years 9 months

2. ORGANIZATONAL DATA

Area:
(x) Office of the President
( ) Administrative Affairs
( ) Institutional Advancement
( ) Business and Finance
( ) Academic Affairs
( ) Student Affairs
( ) Continuing Education

Division: President's Office
Department:
Program:
Immediate Supervisor: Dr. Joann Boyd-Scotland

3. Describe in detail the professional development activity for which you are requesting assistance

The professional development activity that I am requesting assistance for is a graduate program that provides a foundation in Business Administration and Management theories to convey strategies, policies, practices and procedures throughout the institution.

4. Describe the cost of the activity and show in detail how the total was calculated.

The total cost of the activity is $27,936.00. (See Attachment)

5. List the primary job duties that you are employed to perform at DTC and explain in detail how this activity will strengthen you in the performance of the job duties to which you are presently assigned.

The primary job duties are to perform complex and highly confidential functions to ensure that the President's office run smoothly; this includes supervising office staff, planning, reviewing, preparing correspondences, formulating reports, budgeting, coordinating travel arrangements and meetings.

6. Explain how your participation in this professional development activity relates to the college's stated objectives. How would DTC benefit form this experience?

My participation in this professional activity will enhance my leadership skills, provide effective approaches to setting and implementing organizational strategies, provide quality customer service, and thorough knowledge of principles and practices of public and business administration. In addition, have the capabilities to teach Business Courses on as needed basis.

7. Indicate your regular duty hours and explain how you can meet the time requirements of this activity and avoid any conflicts with your presently assigned duty hours.

My regular duty hours are Monday-Friday from 8:30a.m.– 5:00p.m daily, off weekends. I will meet the time requirements on evenings and weekends to avoid conflict with my assigned duty hours.

8. Indicate the study schedule you would be required to pursue to meet the requirements of this activity.

The activity is an online-class. Therefore, the times are flexible to meet (evenings or weekends). The courses requires student to participate at least (3) times a week, in order to meet activity requirement.

9. I have read, understand, and agree to the terms of the Guidelines governing the administration of college sponsored faculty/staff development activities. I further understand and agree to provide services as a Denmark Technical College employee (equal to the number of years during which I received financial assistance for professional development).

Signature of Applicant: Cinda Jackson Date: 10/1/13

10. Attach the following: (a) Study schedule (b) Official information form sponsor describing the activity in full detail.

3

11. Endorsements: I have reviewed the request carefully and hereby tender the following action:

Signature of Immediate Supervisor/Date ( ) APPROVED ( ) NOT APPROVED

Signature of Division Director/Date ( ) APPROVED ( ) NOT APPROVED

Signature of Title III Director/Date ( ) APPROVED ( ) NOT APPROVED

Signature of Secretary to Executive Council/Date ( ) APPROVED ( ) NOT APPROVED

Signature of President/Date ( ) APPROVED ( ) NOT APPROVED

INDIVIDUAL ACTIVITY NARRATIVE

1. Name of the Institution: DENMARK TECHNICAL COLLEGE	
2. Activity Title: **Faculty and Staff Training**	3. Activity Number:

4. Provide Narrative:

A. OVERVIEW OF THE ACTIVITY

This activity is support faculty development through conference/workshop/seminars/meetings and educational professional development opportunities for faculty, staff, and administrators. This activity will build capacity through development of college personnel to enhance the skill set of faculty to provide quality education programs. Training will include The South Carolina Technical Education Association is a professional association of technical education personnel and others interested in post-secondary technical education. In order to participate in the SCTEA Spring Conference, employees must be a member of the SCTEA Association for the current year. To ensure that all full-time permanent faculty and staff personnel are members of the SCTEA, the College will pay membership fees for all full-time permanent faculty and staff members.

This activity will include specific content professional development workshops as well as pedagogy workshops that span the disciplines. Trainings provided through these activities provide the necessary tools to incorporate new instructional strategies and improve on those currently used. On-campus trainings will be done in small and large group settings. Professional staff will attend training and development workshops

B. PROBLEM AND DEFICIENCY

The College is a state supported institution in which training opportunities are available for institutions that comparable in educational offerings and operations. The College will benefit from program in which like institutions can provide best practices to assist in the development of new process, programs and policies and procedures.

C. OBJECTIVES:

See ACTIVITY OBJECTIVES AND ANTICIPATED RESULTS Form.

D. IMPLEMENTATION STRATEGY

See IMPLEMENTATION STRATEGY/TIMETABLE FORM

E. KEY PERSONNEL: N/A

F. EVALUATION.

Objective	Evaluation Strategies
Deans and supervisors will ensure that at least 4 professional development opportunities are provided for faculty and staff yearly that will assist with the implementation of effective instructional strategies, pedagogies, and best practices to improve student learning and classroom performance through assessments by 2017 FY.	Evaluate professional development documents and DATATEL reports to determine the number of professional development provided for faculty and staff by 2017 FY. Evaluate and assess the number of new instructional strategies and pedagogies developed and implemented that improve classroom performance. Evaluate student classroom performance by assessing and collecting data from DATATEL system by 2017 FY.
Deans and supervisors will ensure that at least 3 professional development opportunities are provided that will increase faculty and staff capacity to develop and improve curriculum that integrates sound practices related to working with students from diverse backgrounds by 2014FY.	Evaluate professional development documents and DATATEL reports to determine the number of professional development provided for faculty and staff by 2014 FY. Evaluate the number of curriculums developed and improved by 2014 FY. Evaluate student classroom performance by assessing and collecting data from DATATEL system. By 2014 FY.
Faculty and staff will participate in at least 1 professional development activity yearly to increase skills in the integration of technology and increase capacity to utilize technological based resources in order to promote student learning, as evidenced by documentation of teacher usage rates and student performance on computer-based assessments and traditional assessments by 2017 FY.	Evaluate professional development documents and DATATEL reports to determine the number of professional development provided for faculty and staff by 2017 FY. Evaluate the number of technological based resources that were integrated in classroom by 2017 FY. Evaluate student classroom performance by assessing and collecting data from DATATEL system by 2017 FY.

Each of the objectives will be formatively and summatively assessed. Describe the methods of assessment, any document as a result of the assessment.

G. BUDGET

See ACTIVITY BUDGET NARRATIVE.

MAJOR OBJECTIVES MEASURABLE TERMS	ANTICIPATED RESULTS TO MEASURE SUCCESS
Deans and Supervisors will ensure that at least 4 professional development opportunities are provided for faculty and staff that will assist with the implementation of effective instructional strategies, pedagogies, and best practices to improve student learning and classroom performance through assessments by 2017 FY.	Deans and Supervisors will ensure at least 4 professional development opportunities are available for faculty and staff yearly by 2017FY.
Deans and Supervisors will ensure that at least 3 professional development opportunities are available that will increase faculty and staff capacity to develop and improve curriculum that integrates sound practices related to working with students from diverse backgrounds by 2017FY.	Deans and Supervisors will distribute to faculty and staff at least 4 professional development opportunities are that will increase faculty and staff capacity to develop skills and processes, and improve curriculum by 2017FY.
Faculty and staff will participate in at least 1 professional development activity yearly to increase skills in the integration of technology and increase capacity to utilize technological based resources in order to promote and improve student learning by 2017 FY.	Dean and Supervisors will ensure that at least1 professional development opportunity is taken yearly by staff members that increase skills in process development, technology, and/or team management and to promote and improve student learning by 2017 FY.

IMPLEMENTATION STRATEGY/TIMETABLE FORM					
DENMARK TECHNICAL COLLEGE		PROFESSIONAL DEVELOPMENT ACTIVITY			
SPECIFIC TASKS TO BE COMPLETED	PRIMARY PARTICIPANTS	METHODOLOGIES INVOLVED	TANGIBLE RESULTS	TIMEFRAME FROM	TIMEFRAME TO
Deans and Supervisors will ensure that at least 4 professional development opportunities are provided for faculty and staff that will assist with the implementation of effective instructional strategies, pedagogies, and best practices to improve student learning and classroom performance through assessments by 2017 FY.	Administrators Faculty Staff	Promote awareness of professional development opportunities to faculty and staff Develop a plan to measure the impact of professional development opportunities Track and monitor number of professional development opportunities	Increased professional development opportunities Faculty/Staff skill and training attainment Students' classroom performance	09/13	10/17
Deans and Supervisors will ensure that at least 3 professional development opportunities are provided that will increase faculty and staff capacity to develop and improve curriculum that integrates sound practices related to working with students from diverse backgrounds by 2017FY.	Administrators Faculty Staff	Promote awareness of professional development opportunities to faculty and staff Develop a plan to measure the impact of professional development opportunities Track and monitor number of professional development opportunities	Increased professional development opportunities Faculty/Staff skill and training attainment Students' classroom performance	09/13	10/17

Faculty and staff will participate in at least 1 professional development activities to increase skills in the integration of technology and increase capacity to utilize technological based resources in order to promote and improve student learning by 2017 FY.	Administrators Faculty Staff	Promote awareness of professional development opportunities to faculty and staff Develop a plan to measure the impact of professional development opportunities Track and monitor number of professional development opportunities	Increased professional Development opportunities Faculty/Staff skill and training attainment Students classroom performance	09/13	10/17

SECTION A - INDIVIDUAL ACTIVITY BUDGET		
1. Name of Institution:	DENMARK TECHNICAL COLLEGE	3. Activity Number: 8
2. Activity Title:	Faculty and Staff Development	
4. Roster of Personnel and Salaries		
a. List of Personnel (use position titles)		
1. PERSONNEL		$ -
TOTAL FOR PERSONNEL		$ -
2. Fringe		$ -
3. Travel		$ 35,258.00
4. Equipment		
5. Supplies		$ -
6. Contractual		$ -
7. Construction/Renovation		$ -
8. Other		$ 10,000.00
9. Training Stipends		$ -
TOTAL		$ 45,258.00

SECTION B - INDIVIDUAL ACTIVITY BUDGET NARRATIVE		
1. Name of Institution:	DENMARK TECHNICAL COLLEGE	
2. Activity Title:	Faculty and Staff Development	Activity Number: 8
		REQUESTED
3. Provide Narrative		2016-2017
a. PERSONNEL		
		$ -
TOTAL FOR PERSONNEL		$ -
b. FRINGE BENEFITS		$ -
(40% x total personnel)		
c. TRAVEL		
Travel to Professional Development activity for		
faculty and staff	$ 35,258.00	
TOTAL TRAVEL		$ 35,258.00
d. EQUIPMENT		
TOTAL EQUIPMENT		$ -
e. SUPPLIES		
TOTAL SUPPLIES		$ -
f. CONTRACTUAL SERVICES		
TOTAL CONTRACTUAL SERVICES		$ -
g. CONSTRUCTION/RENOVATION		
TOTAL CONSTRUCTION/RENOVATION		$ -
h. OTHER		
Professional Development Academic Programs	$ 10,000.00	
TOTAL OTHER		$ 10,000.00
I. TOTAL DIRECT COSTS		$ 45,258.00

Carla Jackson

684 McCain Drive | Denmark, SC 29827 | (803) 308-7606 | carla.jackson78@yahoo.com

PROFESSIONAL SUMMARY

An organized, dedicated, highly motivated, and goal –oriented professional with 10+ years of diverse experience in organizational management, budgeting, instruction, and strategic planning. Strong interpersonal skills with a strong track-record of top performance deliverance in team leadership, conflict resolution and critical thinking. Well-versed in all phases of higher education administration. Experience working with a diverse population of traditional and nontraditional students, both in person and in an online environment.

EDUCATION

American InterContinental University — 2015
Master of Business Administration — Schaumburg, IL
- **Specialization in Management**
- **GPA (3.95)**

Claflin University — 2006
Bachelor of Arts in Sociology/ — Orangeburg, SC
- **Criminal Justice Administration**

PROFESSIONAL EXPERIENCE

Denmark Technical College — 2011-Present
Executive Coordinator to the President/ — Denmark, SC
Executive Assistant to the Board of Trustees

- Manages day-to-day office operations, including staff supervision, to ensure delivery of quality, cost-effective services, as well as client satisfaction.
- Maintains institutional compliance to include all regulatory, policies and procedures.
- Administers department variance reports in accordance with established guidelines; including collaborating with executive management to analyze and interpret results.
- Coordinate executive meetings and serve as a liaison on various Adhoc committees to complete given task.
- Oversees and review highly confidential documents and reports for approval.
- Monitor institutional budgets to ensure goals are met.
- Oversees and develop trustees' reports to ensure accuracy,
- Develop and review executive level correspondences for accuracy.

Denmark Technical College — 2015-Present
Administrative Office Technology Instructor — Denmark, SC

- Foster the development of a cooperative and collaborative learner-centered environment while teaching discipline of Business Administration, specific theory and focus on application to professional practice in Business Administration.
- Develop course syllabus to include goals, objectives and preparation for licensure exam.
- Provided hands on teaching theory and classroom management to enhance students

learning experience.
- Perform administrative tasks to include reports and lesson plan development.
- Grade assignments and provide detailed, specific, and timely performance feedback on a regular basis to acknowledge both strengths and areas for improvement.
- Attend numerous professional workshops to enhance skills and keep abreast of recent industry developments.

Bamberg County Disabilities & Special Need Board — 2010-2011
Residential Administrator/Program Coordinator — Denmark, SC

- Managed day-to day office operations to include staff supervision over (40) employees ensuring prescribed job duties are carried out daily.
- Monitored residential community programs to ensure efficiency and exceptional quality service was provided.
- Prepared financial plans, residential plans and client assessments to ensure budgetary goals were met.
- Developed budgets and monitor consumer accounts to prevent profligacy.
- Prepared employees work schedules to cover work shifts and avoid scheduling conflict.
- Monitored and approve employee time sheets for accuracy.
- Attended professional workshops and schedule meetings to stay abreast of the state's rules and regulations.
- Coordinated employee training workshops to enhance employee skills.
- Provided quality customer service to maintain good clientele.

South Carolina Department of Juvenile Justice — 2005-2009
Program Coordinator/Supervisor — Allendale, SC

- Manage day-to-day office operations, including staff and client supervision, to ensure deliveries of services were provided accordingly.
- Performed intake interviews, process juvenile assessments, and prepare case files to assess and develop an individual service plan.
- Prepared comprehensive service plans and maintained an extensive caseload to ensure productivity.
- Coordinated and taught life skills trainings and workshops to prevent juvenile criminality.
- Attended court proceeding and present client depositions for arbitration.
- Provided extensive case documentation, clinical notes, and data entry to ensure goals are carried out.
- Developed and monitor program budgets to prevent profligacy.
- Attended professional development conferences and trainings to enhance professional skills.

South Carolina Regional Housing Authority #3 2004-2006
Residential Manager Barnwell, SC

- Manages day-to-day operations, including residential supervision for over (40) housing units.
- Prepare monthly reports and logs.
- Perform quarterly housing inspections to ensure safety
- Issue rent and utility statements as a reminder for tenant's payments.
- Supervise the maintenance upkeep of units to ensure cleanliness of living quarters.
- Develop and implemented community activities to educate and support low-income families.
- Develop agendas and coordinate residential meetings to keep tenants abreast of changes and to resolve ongoing issues.
- Enforce compliance of rules and regulations to ensure safety of tenants.

Allendale County School District#2 1999-2004
Vocational Instructor Allendale, SC

- Foster the development of a cooperative and collaborative learner-centered environment while teaching discipline, specific theory and focus on application to professional practice in Cosmetology.
- Develop course syllabus to include goals, objectives and preparation for licensure exam.
- Provided hands on teaching theory and classroom management to enhance students learning experience.
- Perform administrative tasks to include reports and lesson plan development.
- Grade assignments and provide detailed, specific, and timely performance feedback on a regular basis to acknowledge both strengths and areas for improvement.
- Attend numerous professional workshops to enhance skills and keep abreast of recent industry developments.

TECHNICAL SKILLS

- Computer Savvy (2013 Microsoft Office Word, Excel, PowerPoint, Access, Publisher, Outlook, DataTel, Web Advisor, Campus Cruiser, Desire 2 Learn, Blackboard, Moodle)

162 P.04 8037935942 DENMARK TECHNICAL COLLEGE 13:51 OCT/18/2010 0760 842

STATE OF SOUTH CAROLINA POSITION DESCRIPTION

GENERAL INFORMATION

☐ OHR COPY ☐ AGENCY COPY

00010363	HSQ	Denmark Technical College
Position Number	Agency Code	Agency Name
President's Office		Denmark/Bamberg
Division / Section / Unit		City / County
	05	Y (Y/N)
Employee Name	County Code	Is Position in Central Office ?

Administrative Assistant	AA75	0004	04
Current State Title	Alphanumeric Code	Slot	Band

F52	College President	UA10	0001
Full / Part Time Indicator	Supervisor State Title	Alphanumeric Code	Slot
37.50			
Hours Per Week			
1950			
Base Hours			

SOURCE OF FUNDING

State %	Federal %	Other %
100.00		

OFFICE OF HUMAN RESOURCES

HSQ	AH10	0001	
Agency Code	Alphanumeric Code	Slot	
10	18	2010	
Authorized Date			

☒ Delegated ☐ New Position ☐ Prototype
☒ State Title Changes ☐ Update

Administrative Coordinator I
Approved State Title

Tanika Bryant TRB 09/24/2010
Approval Signature Date Approved

REQUESTED ACTION INFORMATION

Reclassification	Administrative Coordinator I	AH10	E
Requested Action	Requested State Title	Alphanumeric Code	FLSA Designation
Supervisor's Signature	Date	Other Required Signature	9/24/10 Date

THE FOLLOWING SECTION OF THE POSITION DESCRIPTION IS TO BE COMPLETED BY THE SUPERVISOR

1. **What are the minimum requirements for the position (Minimum requirements must at least meet the state minimum requirements for classified classes but may include additional requirements.)?**

A bachelor's degree and two (2) years of relevant experience in business management, public administration, or administrative services; or an associate degree and four (4) years or relevant experience in business management, public administration, or administrative services.

2. **What knowledge, skills, and abilities are needed by an employee upon entry to this job including any special certification or license?**

Thorough knowledge of principles and practices of public and business administration, thorough knowledge of modern office practices, including the use of equipment and working knowledge of word processing and data processing. The ability to carry out complex oral and written instructions. The ability to type 55 corrected words per minute and the use of dictation. The ability to work independently and to solve special situaitons of a non-occurring nature. Must have the ability to establish and maintain good interpersonal relationships and possess a positive attitude.

3. **Describe the guidelines and supervision an employee receives to do this job, including the employee's independence and discretion.**

Under general supervision of the College President, serves an administrative coordinator. Must have the ability to work independently and demonstrate sound judgement, maintain confidentiality, be diplomatic and ethical.

4. **Indicate additional comments regarding this position (e.g., work environment, physical requirements, overnight travel).**

Ability to work in a fast pest environment with some travel required.

MISCELLANEOUS DATA

Employee Number

Position Dept. Number

STATE OF SOUTH CAROLINA POSITION DESCRIPTION

1. Job Purpose:

Under general supervision of the College President, conducts specialized and varied institutional assignments; provides services to include planning, coordinating and/or performing administrative, business management or support services activities.

2. Job Functions:

	Essential/ Marginal (E or M)	Percentage of Time
1. Coordinates special projects and events and work independently and within a team on special and nonrecurring and ongoing projects which may include disseminating information and organizing college wide events.	E	25%
2. Develops and maintains standard reporting structure for vital program statuses to include all active Ad Hoc Committees.	E	20%
3. Performs complex and highly confidential secretarial related functions to ensure President's Office runs smoothly to include preparing signature ready correspondence, reports, and forms.	E	20%
4. Provides ongoing tracking and monitoring of Presidential Ad Hoc Committes campus-wide.	E	10%
5. Displays a positive attitude at initial point of verbal/written communication for College constituent groups.	E	10%
6. Coordinates small to mid-size meetings and serves on special project committees.	E	10%
7. Performs other administrative duties as assigned by the President.	E	5%
		100%

3. Position's Supervisory Responsibilities:

If this position includes supervisory responsibilities, please indicate the state title and number of positions of the three highest subordinates.

	STATE TITLE	NUMBER
(1)		
(2)		
(3)		

Number of employees directly supervised: _____

Total number supervised: _____

4. Comments:

5. The above description is an accurate and complete description of this job.

Employee's Signature _____ Date _____

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

MISCELLANEOUS

1. Relevant Procedures

- 8-0-105 Ethics Requirements for Employees and Public Officials
- 8-0-105.1 Ethics Requirements for Employees and Public Officials
- 8-2-100 Secondary State / Dual Employment
- 8-2-100.1 Secondary State / Dual Employment
- 8-5-100 Disciplinary Action
- 8-5-100.1 Disciplinary Action
- 8-6-100 Grievance and Appeals (Agency Grievance Process)
- 8-6-100.1 Grievance and Appeals (Agency Grievance Process)

2. Ethics, Government Accountability and Campaign Reform

3. Section 8-11-30 of the South Carolina Code of Law

4. Employee Position Description(s)

STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION

STATEMENT OF POLICY

POLICY NUMBER:	**8-0-105**
PAGE:	**1 of 1**
POLICY TITLE:	**ETHICS REQUIREMENTS FOR EMPLOYEES AND PUBLIC OFFICIALS**
LEGAL AUTHORITY:	**Section 8-13-700, et. seq. of the 1976 Code of Laws of South Carolina, As Amended; Sec. 19-701.06 of the State Human Resources Regulations**
DIVISION OF RESPONSIBILITY:	**Human Resource Services**
DATE APPROVED BY BOARD:	**September 23, 1992**
DATE OF LAST REVISION:	**May 28, 2008**

DISCLAIMER

PURSUANT TO SECTION 41-1-110 OF THE CODE OF LAWS OF SC, AS AMENDED, THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE SC STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION / THE SC TECHNICAL COLLEGE SYSTEM. THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION/THE SC TECHNICAL COLLEGE SYSTEM RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

It is the policy of the State Board for Technical and Comprehensive Education that all public employees of the South Carolina Technical College System, as well as State Board members and local Commission members, will perform their duties and conduct themselves in an ethical and accountable manner in keeping with applicable provisions of the State Ethics, Government Accountability, and Campaign Reform Act, and all related policies, procedures, regulations, or interpretations thereof. Failure to adhere to the provisions of the State Ethics Act may result in personal liability, other penalties as outlined in the law, and/or agency disciplinary action.

In compliance with this Act, the College or the State Board shall provide all new hires and newly elected or appointed public officials with a publication prepared by the State Ethics Commission describing the general application of the ethics law.

Where there are conflicts or inconsistencies between other agency policies/procedures and the Ethics Act of 1991, the provisions of the Ethics Act will prevail.

Date of Last Review: July 24, 2012

STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION

PROCEDURE

PROCEDURE NUMBER:	**8-0-105.1**
PAGE:	**1 of 4**
TITLE:	**ETHICS REQUIREMENTS FOR EMPLOYEES AND PUBLIC OFFICIALS**
POLICY REFERENCE NUMBER:	**8-0-105**
DIVISION OF RESPONSIBILITY:	**Human Resource Services**
DATE OF LAST REVISION:	**June 12, 2012**

DISCLAIMER

PURSUANT TO SECTION 41-1-110 OF THE CODE OF LAWS OF SC, AS AMENDED, THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE SC STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION / THE SC TECHNICAL COLLEGE SYSTEM. THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION/THE SC TECHNICAL COLLEGE SYSTEM RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

The State Ethics, Government Accountability, and Campaign Reform Act was enacted in 1991 to restore public trust in governmental institutions and the political governmental process. The Act recognizes that public employment is a public trust and any effort to realize personal gain through official conduct is a violation of that trust. All employees of the South Carolina Technical College System are public employees. Violations of the rules of ethical conduct are investigated and punished where appropriate. The State Ethics, Government Accountability, and Campaign Reform Act applies to all public officials and public employees of the State and political subdivisions, with exception of members of the judiciary.

The law:

1. provides a code of conduct to prohibit public officials and employees from being involved in certain conflicts of interest;
2. provides for the filing of Statements of Economic Interest by certain designated public employees and public officials;
3. provides for advisory opinions to be issued on questions involving the State Ethics, Government Accountability, and Campaign Reform Act;
4. provides for procedures for participation by citizens in the enforcement of the law; and
5. provides for the State Ethics Commission to administer the law.

The rules of conduct, Sections 8-13-700 through 8-13-795 of the 1976 South Carolina Code of Laws, as Amended, should be consulted for specific information. The Rules of Conduct:

1. prohibit employees from using their official position or office to obtain an economic interest for the employee or the employee's family member[1], an individual with whom the employee is associated, or a business with which the employee is associated;
2. prohibit employees from giving or offering, soliciting, or receiving compensation to influence the action of public officials or employees;
3. prohibits employees from receiving anything of value for speaking before a public or private group in his/her official capacity[2].
4. prohibits employees from receiving compensation while acting in their official capacity from any group or organization to whom professional services are rendered.[2]

    - Honorariums and gratuities, whether in-state or out-of-state for services rendered on state time or at state expense, cannot be received by individuals but may be received by the College/System Office.

[1] Family member: the spouse, parent, brother, sister, child, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, grandparent, or grandchild

[2] Employees may be reimbursed for actual expenses incurred; however, reimbursement requires prior approval of the executive director, president, or official designee.

- Section 8-1-170 of the South Carolina Code of Laws authorizes state agencies to develop group productivity incentive programs for the recognition and award of team accomplishments through group performance.

  Employees of any organizational unit within each of the various agencies are eligible to share equally twenty-five percent of the identified savings resulting from reduced operational costs in the unit up to a maximum of two thousand dollars per employee in a fiscal year.

- Section 8-1-180 of the South Carolina Code of Laws allows state agencies and institutions to spend public funds on employee plaques, certificates, and other events including meals and similar types of recognition to reward innovations or improvements by individual employees or employee teams that enhance the quality of work or productivity or as a part of employee development programs of their agency or institution. Awards shall be limited to fifty dollars for each individual.

4. prohibits the use or disclosure of confidential information for personal financial gain;
5. prohibits employees from membership on or employment by a regulatory commission or agency that regulates any business with which the employee is associated;
6. provides for actions to be taken by employees where a decision would affect the employee's personal financial interest;
7. prohibits employees from appearing before certain regulatory commission; and
8. calls attention to breaches of ethical standards.

Violation of the State Ethics, Government Accountability, and Campaign Reform Act is punishable by a fine up to $10,000, up to twenty years imprisonment, or both. In addition to disciplinary action, which may be taken by the College/System Office, the State Ethics Commission may recommend administrative or disciplinary action, impose oral or written warnings or reprimands, require civil penalties, require forfeiture of anything received, or refer the matter to the Attorney General for criminal prosecution.

STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION

PROCEDURE

PROCEDURE NUMBER: **8-0-105.1**

PAGE: **4 of 4**

Any employee needing further information concerning the applicability of the State Ethics, Government Accountability, and Campaign Reform Act should contact the Human Resource Office or the State Ethics Commission.

STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION

STATEMENT OF POLICY

POLICY NUMBER:	**8-2-100**
PAGE:	**1 of 1**
POLICY TITLE:	**SECONDARY STATE EMPLOYMENT / DUAL EMPLOYMENT**
LEGAL AUTHORITY:	**Sections 59-53-20 and 8-11-170 of the 1976 Code of Laws of South Carolina, As Amended; S.C. Code of Regulation 19-713.**
DIVISION OF RESPONSIBILITY:	**Human Resource Services**
DATE APPROVED BY BOARD:	**August 19, 2014**
DATE OF LAST REVISION:	**August 19, 2014**

DISCLAIMER

PURSUANT TO SECTION 41-1-110 OF THE CODE OF LAWS OF SC, AS AMENDED, THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE SC STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION / THE SC TECHNICAL COLLEGE SYSTEM. THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION/THE SC TECHNICAL COLLEGE SYSTEM RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

The State Board for Technical and Comprehensive Education (SBTCE) has developed and adopted System-wide procedures conforming to State of South Carolina Secondary State/Dual Employment rules and regulations. These procedures shall be adhered to when it becomes necessary to employ a person from another state agency, or a South Carolina Technical College System (SCTCS) employee to perform services independent of and additional to the employee's primary duties.

Each entity shall be required to develop local procedures for Secondary State/Dual Employment. Such policies and procedures are subject to the review and approval of the SBTCE's Executive Director/System President or designee(s).

STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION

PROCEDURE

PROCEDURE NUMBER: 8-2-100.1

PAGE: 1 of 6

TITLE: SECONDARY STATE / DUAL EMPLOYMENT

POLICY REFERENCE NUMBER: 8-2-100

DIVISION OF RESPONSIBILITY: Human Resource Services

DATE OF LAST REVISION: June 12, 2014

DISCLAIMER

PURSUANT TO SECTION 41-1-110 OF THE CODE OF LAWS OF SC, AS AMENDED, THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE SC STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION / THE SC TECHNICAL COLLEGE SYSTEM. THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION/THE SC TECHNICAL COLLEGE SYSTEM RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

I. PURPOSE

State agencies, colleges and universities occasionally require services not available within the expertise of their workforce that may be available within full-time equivalent (FTE) workforce of another state agency, college or university. Often considerable money may be saved by securing high quality service from the expertise available within state government. South Carolina Personnel Regulations (Section 19-713) provide for FTE employees to perform and be considered for compensation for secondary services provided for another state entity and/or their primary state employer.

This procedure sets forth guidelines which shall be adhered to in the approval and reporting of secondary employment services, provided by FTE employees of any of the following: other state agencies; state colleges or universities for any entity of the South Carolina Technical College System (SCTCS); or, FTE employees of the SCTCS for another state entity or their primary employer.

STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION

PROCEDURE

PROCEDURE NUMBER: 8-2-100.1

PAGE: 2 of 6

II. GENERAL POVISIONS

A. The SCTCS and other state agencies, colleges and/or universities shall provide:

1. at no cost and as part of their regular services to the General Assembly, those services requested by the General Assembly. Employees performing such consultative, research, or other services shall receive no additional compensation for such services.

2. services to one another without charge whenever possible. When it is impossible to provide such services at no cost, services should be provided on a contractual basis between state entities.

B. If a FTE state employee cannot be released from his/her primary assignment during the normally scheduled work day or the secondary services must be performed outside of the employee's normal work schedule, the employee may be considered for secondary state/dual employment and compensation within the provisions of this procedure.

1. Secondary state/dual employment compensation shall not be used to provide higher continuing salaries than those approved by the State Budget and Control Board Human Resources Division (HRD).

2. No employee may receive additional compensation for services performed during regularly scheduled hours of work (to include mealtimes and breaks) unless the employee takes annual leave or leave without pay. Further, an employee's work schedule shall not normally be altered to allow time for secondary state/dual employment duties.

3. No System Office/college employee shall receive additional compensation from his/her primary employer or a secondary SCTCS employer while in any leave with pay status, including annual leave, faculty non-work days, state and/or college holidays and compensatory leave. Further, the System/College President should only approve dual employment within the SCTCS when circumstances exist based on the agency's business needs.

4. Services performed during hours other than the employee's normally scheduled hours of work for his/her primary employer, may be considered for secondary state/dual employment compensation if the duties are independent of and in addition to the duties and overall responsibilities of the employee's primary position.

However, assignment of such additional services to an employee shall be considered only when the duties cannot be performed by this or another employee during his/her normal work schedule, suitable temporary employment cannot be arranged and the services to be performed are to be considered temporary.

C. No FTE employee may accept any work or remuneration that could reasonably be construed as a conflict of interest. Acceptance of secondary state/dual employment work without proper prior approval of work assignment or remuneration that is found to be a conflict of interest will be grounds for disciplinary action up to and including termination. The propriety of an employment situation or remuneration for services rendered shall be considered by all parties concerned. The System Office Human Resource Services shall solicit appropriate counsel, including but not limited to the Office of the Attorney General or the State Ethics Commission, if necessary, to make such determinations.

D. FTE employees serving on South Carolina state boards, commissions or committees for whom per diem allowance is to be awarded are not eligible to receive such per diem allowance.

E. Travel and subsistence paid to a FTE employee by a secondary state/dual employer shall be in compliance with provisions of the annual Appropriations Act and any regulations promulgated by the State Budget and Control Board or the Comptroller General's Office.

III. COMPENSATION

A. The maximum compensation for secondary state/dual employment that any non-faculty FTE employee may be authorized to earn for all secondary state/dual services performed during the fiscal year (July 1 thru June 30) shall not exceed thirty percent (30%) of the employee's annualized salary with the employing agency for that fiscal year. The maximum compensation for secondary state/dual employment that any faculty FTE employee may be authorized to earn during a fiscal year shall not exceed thirty (30%) of the employee's annualized salary, excluding summer employment, with the employing agency. The employing (primary) agency is responsible for ensuring that dual employment payments made to its employees within one fiscal year do not exceed the thirty percent (30%) limitation. The State Budget and Control Board Human Resources Division is authorized to approve exceptions to the thirty percent (30%) limitation based on written justification submitted by the agency.

B. The hourly rate of compensation shall be based on the appropriate salary range for the services to be performed and the employee's relevant qualifications.

C. No compensation shall be paid to any FTE employee for secondary state/dual employment services rendered for the primary or secondary state/dual employer prior to the specific approval of the conditions and amount of compensation under the provisions of this procedure.

D. No FTE employee shall be eligible for any additional fringe benefits as a result of secondary state/dual employment, including annual leave, sick leave, military leave, insurance, and holidays. However, compensation for secondary state/dual employment services shall be subject to such tax and retirement deductions as the current law may stipulate.

E. Both the primary and secondary state/dual employers must comply with the provisions of the Fair Labor Standards Act (FLSA).

IV. REQUESTS FOR SECONDARY STATE/DUAL EMPLOYMENT SERVICES

A. It is the responsibility of the secondary and primary employers to determine the need for the secondary state/dual employment services and to determine if it is appropriate to compensate the employee for the services to be rendered.

B. The secondary state/dual employer's designated representative shall be responsible for the preparation, internal/external communications, and processing of all requests for secondary state/dual employment services. All requests for secondary state/dual employment services must be in writing and shall contain the following information:

1. Official name of the secondary state/dual employer; and the section/department in which the services are to be performed.

2. The employee's full name and social security number or other identification number.

3. Complete description of the services to be performed, the actual beginning and ending dates, day(s) of week, time and total hours of work and the FLSA status of services to be performed.

4. Proposed hourly rate, gross compensation for total hours and travel and subsistence, if applicable.

5. Amount of compensation previously approved for employee for other secondary state/dual employment services provided to the secondary state/dual employer during the current fiscal year.

6. Signature of the employee.

7. Signature of secondary state/dual employer's designated representative.

C. The primary employer's designated representative is responsible for the review of requests for secondary state/dual employment services, certification of all secondary compensation previously approved for the employee during the current fiscal year, obtaining all internal concurrences required to authorize the employee to provide the secondary state/dual services as requested and to respond to the secondary state/dual employer in a timely manner. The following information shall be provided to the secondary state/dual employer.

1. The official name of the primary employer and the employee's primary employment section/department.

2. Employee's primary position classification title, class code, slot number, the FLSA status of the employee's position, current annualized salary, normal scheduled days and hours of work.

3. Total amount of secondary state/dual employment compensation approved for the employee during the current fiscal year.

4. Authorization for the secondary state/dual employer to pay the employee travel and subsistence, if appropriate.

5. Indicate if the employee will be required to take annual leave or leave without pay to perform the requested services.

6. Signature of the employee's supervisor.

7. Signature of the primary employer's designated representative authorizing the secondary state/dual employer to enter into this secondary state/dual employment arrangement.

D. Requests for secondary state/dual employment services shall apply to only one specific secondary state/dual employment situation. Modifications to, or extensions of, approved secondary state/dual employment requests must be submitted to the primary employer for authorization prior to final approval.

E. Secondary state/dual employment agreements shall not exceed a 12-month period and may not be approved beyond the end of the fiscal year.

V. APPROVAL AND REPORTING OF SECONDARY STATE/DUAL EMPLOYMENT

A. The System President of the SCTCS delegates authority for Secondary State/Dual Employment actions to the college presidents upon written agreement. The System President reserves the right to withdraw delegation authority from an individual college based on non-compliance with State Board for Technical and Comprehensive Education (SBTCE) procedures. Each college shall be required to develop an institutional policy and procedure for secondary state/dual employment. Such procedure must clearly define the internal review and approval process for the various types of inter-agency and/or intra-agency secondary/dual employment services provided by FTE employees.

B. The System Office will develop and disseminate reporting procedures to the colleges. The colleges shall be required to submit annual reports to the S.C. Office of Comptroller General for post-audit. If post-auditing reveals actions that do not comply with the provisions of this procedure the college will be required to take corrective action.

C. Detailed records must be maintained by the secondary and primary employers. All requests for secondary state/dual employment services and subsequent agreements, employee work schedules and related leave and/or payroll records are subject to audit by appropriate authorities.

STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION

STATEMENT OF POLICY

POLICY NUMBER:	**8-5-100**
PAGE:	**1 of 1**
POLICY TITLE:	**DISCIPLINARY ACTION**
LEGAL AUTHORITY:	**Section 59-53-20 of the 1976 Code of Laws of South Carolina, As Amended; Section 19-717 of the State Human Resources Regulations**
DIVISION OF RESPONSIBILITY:	**Human Resource Services**
DATE APPROVED BY BOARD:	**April 11, 1979**
DATE OF LAST REVISION:	**July 27, 2010**

DISCLAIMER

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It is the policy of the South Carolina Technical College System to practice progressive discipline. Progressive discipline is intended to be corrective rather than punitive. Continued minor offenses may require a series of disciplinary actions, up to, and including termination; whereas, a severe act of misconduct may result in immediate termination. Each offense will be considered on a case-by-case basis.

Date of last review: July 27, 2010

STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION

PROCEDURE

PROCEDURE NUMBER:	8-5-100.1
PAGE:	Page 1 of 6
TITLE:	DISCIPLINARY ACTION
POLICY REFERENCE NUMBER:	8-5-100
DIVISION OF RESPONSIBILITY:	Human Resource Services
DATE OF LAST REVISION:	June 16, 2016

DISCLAIMER

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I. GENERAL INFORMATION

Disciplinary action is used to address employee behavior/conduct that does not meet acceptable professional standards. This procedure does not address competency and job performance related issues. This progressive discipline procedure does not apply to non-covered employees (e.g., probationary employee, temporary employees, temporary grant employees, time-limited employees and employees exempt from the State Employee Grievance Procedure Act) who may be disciplined at the agency's discretion.

Disciplinary misconduct will be handled by one or more of the following actions, but not necessarily in this progressive order:

1. Informal Counseling*
2. Oral Reprimand*
3. Written Warning*
4. Disciplinary (Involuntary) Reassignment

* May not be formally grieved or appealed through the State Employee Grievance Procedure Act.

5. Disciplinary Demotion
6. Disciplinary Suspension
7. Investigatory Suspension
8. Termination

Management, in conjunction with the System Office/college Human Resources Officer, must decide the appropriate discipline based on the circumstances in each case and the severity of the conduct. No two cases are identical; therefore it may not be possible to impose a particular discipline for a specific offense. It is the responsibility of the human resources office to ensure fair and consistent application of disciplinary measures for the same or similar offenses.

Disciplinary actions beyond an oral reprimand must be developed in consultation with the Human Resources Officer. When misconduct does not result in immediate termination, an employee should be given notice that continued improper conduct could result in dismissal. The original documentation of all disciplinary actions above oral reprimands are to be forwarded to the human resources office for inclusion in the employee's official personnel file.

II. FORMS OF DISCIPLINARY ACTION

A. INFORMAL COUNSELING

If it appears that an employee has failed to conduct himself/herself in accordance with State Board for Technical and Comprehensive Education (SBTCE)/college policies and procedures, federal or state law, the supervisor may hold a discussion with the employee in which he/she coaches the employee on the expected proper conduct. The supervisor should fully explain what is expected and should be open to consideration of whether special circumstances may have been involved. The supervisor should document the counseling session with the employee and maintain the documentation in a supervisory file.

B. ORAL REPRIMAND

An employee may be verbally reprimanded for relatively minor infractions involving inappropriate behavior, misconduct, or violation of rules. The supervisor should inform the employee in private that an oral reprimand is being given and that the employee has the opportunity to correct the problem. The supervisor should further inform the employee that unless the problem is corrected, the employee will be subject to stronger disciplinary action up to and including termination. Written documentation of the oral reprimand should be

maintained in a supervisory file, to be used to support future disciplinary action if needed.

C. WRITTEN WARNING

A written warning may be administered for the first offense of a more serious nature or if a conduct problem continues after the oral reprimand or informal counseling. The written warning should be written by management in consultation with the Human Resources Officer, prior to being issued to the employee. It should be sufficiently detailed to let the employee know the reasons for the disciplinary action. It should also advise the employee that future occurrence(s) of a similar nature may result in further disciplinary action up to and including termination.

A copy of the written warning should be sent to the Human Resources Officer for the employee's official personnel file. It may bear the employee's comments, if any. Written warnings should be acknowledged in writing as received by the employee and witnessed by a Human Resources Officer or appropriate management if the employee refuses to sign. The notice of written warning becomes a part of the employee's official personnel file and a copy of the warning notice should be given to the employee. The employee should be advised that signing only indicates receipt of a copy, and not necessarily agreement with the contents of the written warning.

D. DISCIPLINARY (INVOLUNTARY) REASSIGNMENT

Depending on the severity of and the circumstances related to the offense, disciplinary action may result in an involuntary reassignment to a more suitable job within the System Office/college. Involuntary reassignment from one job to another must be coordinated with the human resources office to ensure that no inequities in classification will exist due to the reassignment. Management should make reasonable efforts to ensure that any reassignments exceeding thirty (30) miles from the employee's previous worksite are necessary, and have been given appropriate consideration, since involuntary reassignments in excess of thirty (30) miles from the prior workstation could be grievable. (See Procedure 8-6-100.1) Involuntary reassignments should be acknowledged in writing as received by the employee and witnessed by a Human Resources Officer or appropriate management if the employee refuses to sign. The notice of disciplinary reassignment becomes a part of the employee's official personnel file and a copy of the reassignment notice should be given to the employee.

E. DISCIPLINARY DEMOTION

Depending on the severity of and the circumstances related to the offense, disciplinary action may result in a demotion if, during the investigation of the misconduct or offense, it is determined that the employee could possibly function satisfactorily in a position in a lower pay band than what the employee currently occupies. This action should also be coordinated with the Human Resources Officer, prior to notifying the employee of the disciplinary action. Disciplinary demotions should be acknowledged in writing as received by the employee and witnessed by a Human Resources Officer or appropriate management if the employee refuses to sign. The notice of disciplinary demotion becomes a part of the employee's official personnel file and a copy of the demotion notice should be given to the employee.

F. DISCIPLINARY SUSPENSION

Disciplinary suspensions are without pay. Accrued annual or sick leave may not be used during a period of suspension. A suspension may be administered for the first offense of a serious nature. It should be employed when management or the supervisor believes that by its use the employee will correct this misconduct. The period of suspension will vary depending on the seriousness of the offense and should be for a specified period of time but only of a duration sufficient to correct misconduct. Exempt employees are to receive suspension without pay in full day increments. The employee will be given a written statement of the reasons for disciplinary suspension. Disciplinary suspensions should be acknowledged in writing as received by the employee and witnessed by a Human Resources Officer or appropriate management if the employee refuses to sign. The notice of suspension becomes a part of the employee's official personnel file and a copy of the suspension notice should be given to the employee. During the suspension period, the employee will not be allowed in the workplace.

G. INVESTIGATORY SUSPENSIONS WITHOUT PAY

In cases that have many issues or considerations or where the facts are not clearly evident, an investigatory suspension may be used by placing the employee on a leave of absence without pay. Investigatory suspension means the interruption of active employment status (without compensation) pending investigation and a decision as to the extent of disciplinary action. The investigatory suspension should last only long enough to permit time for adequate investigation and the formulation of a decision after the investigation. Investigatory suspensions should be acknowledged in writing as received by the employee and witnessed by a Human Resources Officer or appropriate management if the employee refuses to

sign. During the suspension period, the employee will not be allowed in the workplace or to have contact with other employees during business hours.

At the conclusion of the investigation, an investigative report should be developed and a copy placed in an appropriate (confidential) employee relations file in Human Resources. If the allegation is determined to be unfounded, the employee shall be returned to work with back pay.

If the allegation is determined to be founded, time off during an investigatory suspension may be considered part of the disciplinary suspension period if the investigation determines that disciplinary suspension is appropriate. If the investigation determines that appropriate disciplinary action is less than the length of the investigatory suspension without pay, then the employee will receive back pay for the difference.

All back pay amounts must be submitted through the System Office and approved by the Department of Administration's Division of State Human Resources.

H. TERMINATION

Each offense is viewed on a case by case basis. Severe, egregious, gross or aggravated misconduct or offense may result in immediate termination. In such instances, prior disciplinary actions, warning or attempts to correct the problem are not necessary.

III. PROCEDURES FOR ALL DISCIPLINARY ACTIONS ABOVE ORAL REPRIMAND

1. The supervisor and/or appropriate department administration in conjunction with the human resources office should discuss and gather all facts surrounding an incident of misconduct.

2. The matter should then be discussed with the Human Resources Officer in determining the appropriate discipline.

3. Management shall work in consultation with the Human Resources Officer to determine the appropriate language in compliance with SBTCE/College policies and procedures and applicable state and federal laws.

4. The disciplinary action shall be taken under the authority and signature of the System/College President or a designee with the supervisor initiating the action.

5. The original document of the disciplinary action will be placed in the employee's official personnel file.

IV. DISCLOSURE OF CRIMINAL CHARGES/CONVICTIONS

It is the responsibility of the employee to notify the System Office/college human resources office of any criminal charges and/or convictions that occur during the course of his/her employment. Failure to notify the System Office/college human resources office may be cause for disciplinary action up to and including termination.

V. JOB ABANDONMENT

Employees who voluntarily fail to report to work for three consecutive workdays and fail to make direct contact with the supervisor or appropriate management during this time period will be considered to have voluntarily resigned.

VI. RELATED POLICIES, PROCEDURES, OR REGULATIONS

Before taking disciplinary actions involving alcohol, drugs, or harassment of any type, management should ensure compliance with the following sources respectively:

SG Code – Section 8-11-110 (Alcoholism); SBTCE Policy 8-7-105 (Employee Alcohol/Drug Use); SBTCE Procedures 8-5-101.1 (Non-Discrimination, Anti-Harassment, and Sexual Misconduct) and 8-5-102 (Workplace Violence).

All competency and job performance related issues should be addressed through the following agency procedures:

SBTCE Procedures 8-4-100.1 and 100.2 (EPMS) and 8-4-101.1 (FPMS)

ADDENDUM

It is not possible to list all acts or omissions which might result in disciplinary action. The below indicated range of offenses is to be used as a guide and is not intended to be all-inclusive. At the time of the occurrence of any of the listed offenses, or any not listed, the appropriate discipline shall be determined after the particular circumstances of the case have been carefully considered.

OFFENSE
Unauthorized Leave
Habitual Tardiness or Failure to Observe Assigned Work Hours
Abuse of Leave (Refer to Family and Medical Leave Act and Americans With Disabilities Act)
Excessive Absenteeism (Refer to Family and Medical Leave Act and Americans With Disabilities Act)
Leaving Work Station Without Authorization
Reporting to Work Under the Influence of Alcohol (Refer to S.C. Code of Laws Section 8-11-110; Act on Alcoholism)
Drinking Alcoholic Beverages on the Job (Refer to S.C. Code of Laws Section 8-11-110; Act on Alcoholism)
Reporting to Work Under the Influence of Drugs or Alcohol
Possessing or Using Illegal Drugs on the Job
Insubordination
Falsification of Records or Documents
Stealing
Negligence
Willful Violation of Written Rules, Regulations or Written Policies
Unauthorized Use of State Equipment or Property
Destruction or Misuse of State Property or Equipment
Unauthorized Solicitation or Sales on State Premises
Unauthorized Possession of Firearms on the Job
Unauthorized Distribution of Written or Printed Material of Any Kind
Sleeping While on Duty
Horseplay
Malicious Use of Profane/Abusive Language to Others
Loafing
Interference With Other Employee's Work
Working on Personal Jobs During Work Hours
Excessive Use of Telephone, Computer or E-mail for Personal Matters
Defacing State Property
Harassment (Refer to SBTCE Procedure 8-5-101.1 Non-Discrimination, Anti-Harassment, and Sexual Misconduct)
Failure to Disclose Pending Criminal Charges
Conviction of a Crime that Adversely Reflects on an Individual's Suitability for Continued Employment
Discourteous Treatment of Visitors and/or Customers
Failure to Maintain Satisfactory or Harmonious Working Relationships with Employees or Supervisors

ADDENDUM

Improper Conduct or Conduct Unbecoming a State Employee
Willful False Statements to a Supervisor
Workplace Violence
Gambling During Work Hours
Misrepresentation of Facts
Unauthorized Release of Confidential Information
Engaging in Incompatible Employment or Serving in a Conflicting Interest
Gross Misconduct

STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION
STATEMENT OF POLICY

POLICY NUMBER: 8-6-100

PAGE: 1 of 2

POLICY TITLE: GRIEVANCES AND APPEALS

LEGAL AUTHORITY: Sections 59-53-20 and 8-17-310 et. seq. of the 1976 Code of Laws of South Carolina, As Amended; S.C. Code of Regulations 19-718.

DIVISION OF RESPONSIBILITY: Human Resource Services

DATE APPROVED BY BOARD: November 18, 1982

DATE OF LAST REVISION: May 23, 2006

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It is the policy of the State Board for Technical and Comprehensive Education (SBTCE) to grant the right to those "covered" employees, as contemplated in S.C. Code Ann. § 8-17-320 (7), to present formal grievance appeals through the Grievance Appeals Process. This process allows employees to seek redress without fear of restraint, interference, coercion, discrimination, or reprisal. Classified employees, unclassified non-teaching personnel, and institutional officers, excluding the College President, attain covered status upon having satisfactorily completed their initial twelve (12) months probationary period. Faculty personnel attain covered status upon satisfactorily completing their initial probationary period of two (2) full academic years duration[1].

The System President of the South Carolina Technical College System (SCTCS) fully expects that all employees will abide by and make appropriate use of the policies and procedures established herein. Within the agency this grievance procedure is informal in nature and does

[1] Reference procedure #8-2-102.1 (Compensation Plan for Unclassified Faculty Personnel) for definition of the faculty probationary period.

STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION
STATEMENT OF POLICY

POLICY NUMBER: 8-6-100

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not become an adversarial procedure until it reaches the South Carolina State Employee Grievance Committee.

Employees who are hired in temporary positions, (either full-time or part-time), adjunct faculty, temporary grant positions, returning retirees or time-limited employees, and those hired in FTE positions but have not yet attained covered status may only file informal complaints regarding matters that are neither grievable nor appealable[2]. Matters arising from alleged acts of discrimination because of race, color, religion, sex, national origin, age, and certain legally defined disabilities may be filed within the agency, the South Carolina Human Affairs Commission or the Equal Employment Opportunity Commission.

[2]Employees with matters that are neither grievable nor appealable through the formal grievance and appeal policy; and/or employees who have not attained covered status, may only file informal complaints with their Human Resource Officer. Each College must develop its own process for handling informal complaints.

STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION

PROCEDURE

PROCEDURE NUMBER:	**8-6-100.1**
PAGE:	**1 of 11**
TITLE:	**GRIEVANCES AND APPEALS**
POLICY REFERENCE NUMBER:	**8-6-100**
DIVISION OF RESPONSIBILITY:	**Human Resource Services**
DATE OF LAST REVISION:	**June 16, 2016**

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I. PURPOSE

The purpose of this procedure is to provide an orderly means whereby any covered employee of the South Carolina Technical College System (SCTCS) may grieve actions taken by System Office\college management. A covered employee is defined as a full-time or part-time employee occupying a part or all of an FTE position who has completed the probationary period and has a "successful" or higher rating on the employee's performance evaluation and who has grievance rights. Faculty is covered upon the completion of not more than two full academic years' duration. Employees in positions such as temporary, temporary grant, or time-limited do not have grievance rights. In accordance with Section 8-17-370 of the S.C. Code of Laws, Technical College Presidents do not have access to the state employee grievance process. In addition, retired members of the South Carolina Retirement System or South Carolina Police Officers Retirement System who are rehired to fill a FTE position do not have grievance rights. Employees choosing to file a grievance or appeal must not be disciplined or otherwise prejudiced for exercising rights or testifying under the provisions of this procedure.

STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION

PROCEDURE

PROCEDURE NUMBER: 8-6-100.1

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II. GRIEVANCE AND APPEAL PROCEDURE

A. GENERAL

The purpose of this section is to provide covered employees with an avenue for filing grievances for actions covered under the South Carolina State Employee Grievance Procedure Act, as amended, and appealing final decisions to the State Human Resources Director. All eligible System Office/college employees who wish to file a formal grievance under these procedures shall follow the steps as outlined in Section D. The System Office/college and the employee may enter into a mediation agreement at any point in the agency process prior to the appeal to the State Human Resources Director.

B. GRIEVABLE OR APPEALABLE ACTIONS UNDER THE STATE EMPLOYEE GRIEVANCE PROCEDURE ACT

As provided for in the Act, and defined in §8-17-320 of the S.C. Code of Laws, a covered employee may file a grievance or an appeal concerning only the following employment actions:

- Terminations;
- Suspensions;
- Demotions;
- Involuntary reassignments in excess of thirty (30) miles from the prior work station[1];
- Promotions are not adverse employment actions which may be considered grievance or appeals except in instances where the System President of the State Board for Technical and Comprehensive Education (System President), or in the case of appeals, the State Human Resources Director, determines that there is a material issue of fact as to whether or not the SCTCS has considered a qualified covered employee for a position for which the employee formally applied or would have applied if the employee had known of the promotional opportunity;
- Punitive Reclassifications are considered a grievance only if the System President, or in the case of an appeal, the State Human Resources Director determines that there is a material issue of fact that the action was solely to penalize the covered employee;

[1] The reassignment of an employee in excess of thirty miles from the prior work station to the nearest facility with an available position having the same state salary range for which the employee is qualified is not considered involuntary reassignment and, therefore, not grievable or appealable. Teaching faculty may be assigned to any campus/site within the college's service area depending upon the business needs of the college (Refer to SBTCE procedure #8-2-103.1; Faculty Teaching/Workload and Overload Compensation.)

- Salary Decreases based on the results of a (EPMS/FPMS) performance evaluation are adverse employment actions that may be considered as grievances or appeals;

- Reduction In Force is an adverse employment action considered as a grievance only if the System President, or as an appeal, if the State Human Resources Director, determines that there is a material issue of fact that the agency inconsistently or improperly applied its reduction in force policy or plan.

C. ACTIONS NOT GRIEVABLE OR APPEALABLE UNDER THE STATE EMPLOYEE GRIEVANCE PROCEDURE ACT[2]

The following examples of employment actions do not constitute a basis for a grievance or an appeal:

- A covered employee who voluntarily resigns or voluntarily accepts a demotion, reclassification, transfer, reassignment, or salary decrease shall waive any and all rights to file a grievance or an appeal concerning such actions and the covered employee can rescind such voluntary actions only if the System/College President or designee agrees;

- Reclassifications, reassignments, and transfers within the same salary range are not adverse employment actions which may be considered grievances or appeals;

- A covered employee whose position is reclassified to a class with a lower salary range shall not have the right to file a grievance or an appeal concerning the reclassification to the State Human Resources Director unless a determination is made that a material issue of fact exists concerning a punitive reclassification;

- A covered employee in an unclassified position whose position is changed to a lower salary range or whose rate of pay is lowered shall not have the right to file a grievance or an appeal concerning the change to the State Human Resources Director unless a determination is made that a material issue of fact exists that the change in salary range or rate of pay was punitive;

- A covered employee who is promoted, reclassified to a higher state salary range, or moved to an unclassified position with a higher rate of pay and subsequently demoted prior to serving six months of satisfactory service in the class with the higher state salary range or higher rate of pay shall not have the right to file a grievance or an appeal concerning the demotion, unless such

[2] Actions that are not grievable or appealable under the State Employee Grievance Procedure Act must be handled through the College or System Office's informal complaint process. (Such actions that may be suitable for the informal complaint process include, but may not be limited to: informal counseling, oral warnings, and written warnings.)

demotion is to a class with a lower state salary range or lower rate of pay than the position in which the employee was serving prior to promotion, reclassification, or movement to an unclassified position with a higher rate of pay;

- A covered employee who is promoted or moved to an unclassified position with a higher rate of pay and subsequently receives a reduction in pay prior to completing six months of satisfactory service in the class with the higher state salary range or higher rate of pay shall not have the right to file a grievance or an appeal concerning the reduction in pay, unless the action results in a lower rate of pay than that which the employee was receiving prior to the promotion or movement to an unclassified position with a higher rate of pay;

- When the SCTCS promotes an employee one organizational level above the promoted employee's former level, that action is not a grievance or an appeal for any other qualified covered employee. Failure to be selected for a promotion is not considered an adverse employment action which can be considered grievable or appealable;

- A covered employee who receives an additional job duties or responsibilities salary increase, and subsequently has the additional job duties or responsibilities which justified the salary increase taken away prior to completing six (6) months of service with the additional job duties or responsibilities, shall not have the right to file a grievance or an appeal concerning a salary reduction equivalent to the amount of the additional job duties or responsibilities increase.

D. STEPS IN THE GRIEVANCE PROCESS

The State Employee Grievance Procedure Act provides that an agency complete all actions on a grievance within a period of forty-five (45) calendar days. Any employee who does not have his/her grievance completed within forty-five (45) calendar days of the filing of such grievance, may appeal directly to the State Human Resources Director after 45 calendar days, so long as the employee initiates his/her appeal no later than fifty-five (55) calendar days from the initial date the grievance was filed with the System Office/college Human Resource Officer. Otherwise, the employee waives his/her right to appeal. Failure by the agency to issue a final decision within this 45 calendar day period is considered an adverse decision. The 45 calendar day period for action by the agency may not be waived.

The following steps are a guideline to ensure timely completion of the agency grievance process. These steps are intended to start with the grieving employee's local human resource officer and proceed from there. The internal time frames may be waived with the mutual written consent of the parties (refer to Addendum #2).

Step One

The covered employee initiates a grievance by written correspondence [that includes the nature and substance of the grievance and the relief sought] to the System Office/college Human Resource Officer which must occur within fourteen (14) calendar days of the effective date of the action. The Human Resource Officer shall initially review the grievance to determine whether the matter involves a grievance as defined by the Act. The Human Resource Officer may conduct appropriate investigations and fact findings as he/she may consider necessary to make this determination.

If it is determined that the matter is grievable, the Human Resource Officer will promptly schedule a conference to occur between the covered employee's immediate supervisor, in conjunction with the appropriate Executive Council member of the System Office or Vice President of the college or designee and the covered employee, normally within five (5) calendar days of receipt of the grievance. This conference may occur face-to-face or via telephone, depending on the preference of the employee. However, any initial determination by the Human Resource Officer that the matter may be grieved shall only entitle the covered employee to have the matter considered in accordance with this grievance procedure and shall in no way be construed to be a judicial decision of the merits of the grievance. At the conference the covered employee will have an opportunity to present his/her position regarding the action taken against him/her. Following the conference, appropriate investigations and fact findings to determine whether to accept, reject, or modify the disciplinary action taken against the covered employee may be conducted. The covered employee will be advised of his/her immediate supervisor's and the Executive Council member's/Vice President's and/or designee decision in writing within five (5) calendar days of the conference.

If it is determined that the matter is not grievable[3], the covered employee shall be so advised in writing by the System/College President, as appropriate, or designee, normally within five (5) calendar days[4] of receipt of the grievance. Should the employee disagree with this decision, the employee may appeal to the State Human Resource Director in accordance with Section E. - Appeals to the State Human Resources Director of the procedure.

Should the grievance be related to a promotion, reduction in force, or punitive reclassification, the college Human Resource Officer shall notify and forward the grievance to the System Office Human Resource Services for a determination by the System President as to whether a material issue of fact exists. The System Office Human Resource Services may conduct appropriate investigations and fact findings as he/she may consider necessary to make this determination. If it is determined that the matter is not grievable, the covered employee shall be so

[3] The System President delegates the limited authority to the College President to render this decision concerning grievability and/or timeliness as the final decision of the agency.

advised in writing by the System President or designee, normally within five (5) calendar days[4] of receipt of the grievance. Such determination shall be a final agency decision within the SCTCS[5].

Step Two

If the covered employee is not satisfied with the Step One decision, he/she may continue with the grievance procedure. To continue the grievance, the covered employee must notify the System/College President in writing within five (5) calendar days after receiving the Step One decision. The second step official will promptly schedule a conference with the covered employee and he/she will be provided an opportunity at this time to present his/her position regarding the grievance. The System/College President may conduct appropriate investigations and fact findings to determine whether to accept, reject, or modify the disciplinary action taken against the covered employee. The System/College President may designate others to assist in the investigation or in making recommendations.

The second step official shall make a decision within ten (10) calendar days of receipt of the grievance and notify the employee of such decision in writing.

a) For college employees, the second step decision may be further grieved by the employee as provided in Step Three below.

b) For System Office employees, the decision rendered by the System President shall constitute the final agency decision. The System President may personally handle Step Two of the grievance procedure or may appoint a designee(s) or ad hoc committee. The System President (or designee) shall conduct whatever inquiries, investigations, and/or fact finding sessions that are considered necessary. Following this review, the System President will determine whether a meeting with the employee is necessary. The option whether to meet with the employee or make a decision based on the findings shall belong to the System President. Any appeal of this decision shall be directed to the State Human Resource Director within ten (10) calendar days of receipt of the System President's final decision.

c) In the event that the College President serves as the first step official, then the second step official shall be the System President who will render the final agency decision. If the final agency decision is not satisfactory to the covered employee, this decision may be appealed to the State Human Resources Director, as provided in Section E.

[4] Unless holiday schedules, inclement weather, and other verifiable extenuating circumstances prevent adhering to this deadline. Any extension of time must be by mutual written agreement of both parties. (Addendum #1)

[5] All matters that are grievable and all matters that require a determination as to whether a material issue of fact exists about the decision grieved are specifically reserved for the System President to issue the final agency decision. Accordingly, college presidents do not have authority to make final agency decisions on grievances filed for any of the following reasons: terminations, suspensions, involuntary reassignments in excess of 30 miles, demotions, promotions, salary decreases, reduction in force, and punitive reclassifications.

Step Three

If the decision reached by the second step official is not satisfactory to the college employee, the grievance may be continued to the System President. The college employee must submit a continuance of the grievance in writing to the System President within five (5) calendar days of receipt of the second step official's decision. The college employee shall provide a written summary of the specific facts of the grievance and the relief sought.

The System President may personally handle Step Three of the grievance procedure or may appoint a designee(s) or ad hoc committee. The System President or designee shall conduct whatever inquiries, investigations, and/or fact finding sessions that are considered necessary. Following this review, the System President will determine whether a meeting with the college employee is necessary. The option whether to meet with the college employee or make a decision based on the findings shall belong to the System President. Within fifteen (15) calendar days of receipt of the grievance, the System President will render a decision in writing to all parties concerned. The decision of the System President shall be final within the agency.

E. APPEALS TO THE STATE HUMAN RESOURCES DIRECTOR

If the final agency decision of the System/College President[6] is not satisfactory to the covered employee, the decision may be appealed to the State Human Resources Director. Such appeal must be in writing. The appeal must be made within ten (10) calendar days of receipt of the System President's decision or within fifty-five (55) calendar days of the date of the initial grievance, whichever comes later. Failure to file an appeal within this time period shall constitute a waiver of the right to appeal by the employee. The Act allows covered employees to appeal to the State Human Resources Director any grievance involving issues specified in the Act only after all administrative remedies to secure relief within the agency have been exhausted.

F. LEGAL REPRESENTATION

Covered employees may be accompanied by an attorney or other representative at any stage of the grievance and appeal process, though it is not necessary as all meetings within the agency are informal, non-adversarial meetings. Legal representation shall be at the employee's expense.

[6] All matters that are grievable and all matters that require a determination as to whether a material issue of fact exists about the decision grieved are specifically reserved for the System President to issue the final agency decision. Accordingly, college presidents do not have authority to make final agency decisions on grievances filed for any of the following reasons: terminations, suspensions, involuntary reassignments in excess of 30 miles, demotions, promotions, salary decreases, reduction in force, and punitive reclassifications.

ADDENDUM #1
DEFINITIONS

APPEAL

Appeal means the request by a covered employee to the State Human Resources Director for review of an agency's final decision concerning a grievance.

CALENDAR DAYS

Calendar days means the sequential days of a year. The time must be computed by excluding the first day and including the last. If the last day falls on a Saturday, Sunday, or legal holiday, it must be excluded.

COVERED EMPLOYEE

Covered employee means a full-time or part-time employee occupying a part or all of an established full-time equivalent (FTE) position (excluding the College President) who has completed the probationary period of twelve (12) months and has a "successful" or higher overall rating on the employee's performance evaluation and who has grievance rights. Faculty at state technical colleges is covered upon the completion of not more than two full academic years' duration[7]. If an employee who has completed their probationary period does not receive an evaluation before the official review date, the employee must be considered to have performed in a satisfactory manner and be a covered employee. This definition does not include returning retirees or employees in positions such as temporary, temporary grant or time limited who do not have grievance rights.

DEMOTION

Demotion means the assignment of an employee by the appointing authority from one established position to a different established position having a lower state salary range or, for employees in positions without a state salary range, assignment of a lower rate of pay to the employee except when the employee's job duties are decreased for non-punitive reasons.

GRIEVANCE

Grievance means a complaint filed by a covered employee or the employee's representative regarding an adverse employment action designated in Section 8-17-330 of S.C. Code of Laws taken by the SCTCS.

INVOLUNTARY REASSIGNMENT

Involuntary reassignment means the movement of an employee's principal place of employment in excess of thirty miles from the prior work station at the initiative of the agency. However, the reassignment of an employee by the System/College President in excess of thirty miles from the prior work station to the nearest facility with an available position having the same state salary range for which the employee is qualified is not considered an involuntary reassignment, and is therefore not grievable or appealable. Teaching faculty may be assigned to any campus/site within the college's service area depending upon the business needs of the college (Refer to SBTCE procedure #8-2-103.1; Faculty Teaching/Workload and Overload Compensation).

[7] Reference procedure #8-2-102.1; Compensation Plan for Unclassified Faculty Personnel.

ADDENDUM #1
DEFINITIONS

MEDIATION

An alternative dispute resolution process whereby a mediator, who is an impartial third party, acts to encourage and facilitate the resolution of a dispute without prescribing what it should be. The process is informal and non-adversarial with the object of helping the disputing parties reach a mutually acceptable agreement.

PROBATIONARY EMPLOYEE

Probationary employee means a full-time or part-time employee occupying a part or all of an established FTE position in the initial working test period of employment with the state of twelve months' duration for non-instructional personnel, or of not more than two full academic years' duration for faculty. An employee who receives an unsatisfactory performance appraisal during the probationary period must be terminated before becoming a covered employee.

PROMOTION

Promotion means the assignment of an employee from one established position to a different established position having a higher state salary range or, for positions without a state salary range, having a higher rate of pay. Failure to be selected for a promotion is not an adverse employment action that can be considered as a grievance or appeal.

PUNITIVE RECLASSIFICATION

Punitive reclassification means the assignment of a position in one class to a different lower class with the sole purpose to penalize the covered employee.

REASSIGNMENT

Reassignment means the movement within an agency of an employee from one position to another position having the same state salary range, or the movement of a position within an agency which does not require reclassification.

RECLASSIFICATION

Reclassification means the assignment of a position in one class to another class which is the result of a natural or an organizational change in duties or responsibilities of the position.

REDUCTION IN FORCE

Reduction in force means a determination made by the System/College President to eliminate one or more filled positions in one or more organizational units within the agency due to budgetary limitations, shortage of work, organizational changes, or outsourcing/privatization.

SALARY DECREASE BASED ON PERFORMANCE

Salary decrease based on performance means the reduction of a covered employee's compensation based on the results of an Employee Performance Management System (EPMS) or Faculty Performance Management System (FPMS) evaluation.

STATE HUMAN RESOURCES DIRECTOR

ADDENDUM #1
DEFINITIONS

State Human Resources Director means the head of the Division of State Human Resources Division of the Department of Administration, or his designee.

SUSPENSION

Suspension means an enforced leave of absence without pay pending investigation of charges against an employee or for disciplinary purposes.

TERMINATION

Termination means the action taken against an employee to separate the employee involuntarily from employment.

ADDENDUM #2

<Employee First Name Last Name>
<Street Name>
<City, State Zip Code>

<Relevant Step Official>
<College Name>
<College Address>

Re: Consent to extend grievance hearing

Our signatures below evidence our consent to a <Number> (#) day extension of the <number of step> step grievance process due to <Insert Reason: e.g. holiday schedule, inclement weather, or other verifiable extenuating circumstance>.

_____ _____
<Employee Name> Date

_____ _____
<Human Resources Official> Date

STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION

STATEMENT OF POLICY

POLICY NUMBER: 8-10-100

PAGE: 1 of 1

POLICY TITLE: EMPLOYEE DEVELOPMENT

LEGAL AUTHORITY: Section 59-53-20 of the 1976 Code of Laws of South Carolina, As Amended

DIVISION OF RESPONSIBILITY: Human Resource Services

DATE APPROVED BY BOARD: February 12, 1975

DATE OF LAST REVISION: May 23, 2006

DISCLAIMER

PURSUANT TO SECTION 41-1-110 OF THE CODE OF LAWS OF SC, AS AMENDED, THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE SC STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION / THE SC TECHNICAL COLLEGE SYSTEM. THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION/THE SC TECHNICAL COLLEGE SYSTEM RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

It is the policy of the State Board for Technical and Comprehensive Education to encourage and support a program of in-service education and training for the professional development of faculty and staff of the South Carolina Technical College System. Such education and training shall comply with applicable rules, regulations, and policies of the State Budget & Control Board Human Resources Division.

Date of Last Review: June 12, 2014

STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION

PROCEDURE

PROCEDURE NUMBER:	**8-10-100.1**
PAGE:	**1 of 8**
TITLE:	**EMPLOYEE DEVELOPMENT**
POLICY REFERENCE NUMBER:	**8-10-100**
DIVISION OF RESPONSIBILITY:	**Human Resource Services**
DATE OF LAST REVISION:	**June 12, 2014**

DISCLAIMER

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I. PURPOSE

The State Board for Technical and Comprehensive Education (SBTCE) recognizes that faculty and staff development is necessary to ensure the growth of both employees and the organization, as well as, further improve the accomplishment of our mission. Such faculty and staff development should be implemented in a manner that supports the agency's mission and encourages employee growth and should be made a part of any employee professional development plans used by the System Office/college. The purpose of this procedure is to provide guidelines for such faculty and staff development when public funds are used. The System/ College President or designee will develop and publish a policy outlining the details of the program and how it will be administered.

Date of Last Review: June 12, 2014

As part of this policy, a formal agreement will be developed for use between the recipient of employee development programs outlining the limits, requirements and responsibilities of both parties.

II. SEMINARS, WORKSHOPS AND CONFERENCES

Seminars, workshops and conferences provide opportunities for employees (faculty and staff) to increase job knowledge and skills. All employees may participate in such programs, provided sufficient funding is available. Expenses associated with these activities may be prepaid or reimbursed.

III. REQUIRED COURSES

Required courses for any employees (faculty, staff, probationary, temporary or temporary grant) may be necessary to help employees improve his/her performance in his/her present position or to acquire skills necessary to meet business needs. When an employee is directed to take such courses, academic-related costs will be paid for the employee[1], including tuition, fees and books. Additionally, assignment of such courses should be made in accordance with policies, procedures, state guidelines as well as institutional plans for faculty and staff development, whenever possible.

IV. RETURN TO BUSINESS, INDUSTRY, OR PROFESSIONAL ENHANCEMENT

The purpose of the program is to provide opportunities for employees in full time equivalent (FTE) positions to enter business and industry, as well as enhance his/her professional expertise in current technical trends, changes, and work skill requirements relating to his/her teaching or functional areas.

A. Compensation of Employees

1. The participating employee will remain in employment status of the college and will:

   a. receive normal salary and benefits.
   b. retain eligibility for any normal salary adjustments.

[1] For employees in temporary grant positions, this applies only if funds are available in the grant.

c. not be subsidized in any way by the business, industry, or outside professional enhancement organization.

2. The outside organization may reimburse the college for the services of the employee.

3. Employees who are on summer break and not working for the college may be employed directly by an outside organization and will not come under this policy and procedure.

B. Administrative Responsibilities

1. The employee's immediate supervisor will continue to have supervisory responsibility concerning the employee's field training experience.

2. Additional employee(s) in FTE positions may not be hired as replacements for participants in these programs.

3. All cooperative arrangements with outside organizations must be in writing and agreed to by the participating organizations.

C. Equal Employment Opportunity Requirements

1. The organization accepting the employee for training purposes will indicate, in the cooperative agreement referenced in B.3. above, their nondiscrimination policy regarding race, sex, religion, age, national origin, or disability.

2. The college will ensure that no employee is denied participation in the program because of race, color, sex, religion, age, national origin, or disability.

STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION

PROCEDURE

PROCEDURE NUMBER: 8-10-100.1

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V. LEAVE WITHOUT PAY FOR PROFESSIONAL DEVELOPMENT

Leave without pay for Professional Development is defined as full or part-time leave in non-pay status requested by FTE employees to participate in staff development activities or further educational attainment not required by the System Office/college. Such requests for leave without pay must be in writing and approved in advance by the employee's supervisor and the System/College President. Employees may apply for educational leave without pay under the following conditions:

A. Employment Status

Employees on leave without pay retain all rights and privileges of employment with the State of South Carolina with the following exceptions:

1. Appropriate salary adjustments will only be made upon the employee's return to work.

2. An employee while on full-time leave without pay shall not accrue annual leave, sick leave, or holidays. However, accrued annual and sick leave shall be carried over until the employee returns to work.

3. Employees on leave without pay may pay both the employer and employee share of premiums for his/her medical, dental, and vision insurance, as well as retirement contributions if he/she wishes to continue coverage or eligibility.

4. Employees on continuous leave without pay will be considered to have a break in service after twelve consecutive months unless approved by the System/College President for an additional twelve months.

B. Approval

Consideration for approval shall include, but not be limited to: workloads, work distribution, relationship of development activity to position responsibilities and time duration. Approval may be made only when the development activity is shown to be beneficial to the employee and the college or the System Office.

C. Maximum Length

Leave without pay may be generally approved for the length of the school term or terms requested, but no more than twelve (12) consecutive months. If requested by the employee, the System/College President may only approve one additional period not to exceed twelve (12) months.

VI. TUITION ASSISTANCE

A. Purpose

Tuition assistance may be given to employees who desire to obtain academic degrees or to take individual credit courses for career advancement, to increase key job knowledge or skills.

B. Tuition Assistance Limits

Tuition assistance may be provided for no more than six (6) credit hours per academic term per employee. However, the System Office/college may limit the credit hours for which an employee may receive tuition assistance based on its business needs.

C. Eligibility

1. Employees in FTE positions, temporary grant positions, and time-limited project positions, with a minimum of six (6) months of state service may be eligible for tuition assistance. Employees in temporary grant positions may receive tuition assistance at the discretion of the System Office/college if funds are available in the grant.

2. Employees must work at least thirty (30) hours per week to be eligible for the program.

3. Employees are generally required to work the normal number of hours in his/her regular work week. However, managers may adjust an employee'snormal schedule to let him/her make-up work time and/or allow use of annual leave to accommodate class schedules.

4. Tuition assistance may be approved for employees who attend accredited institutions of higher learning offering courses within South Carolina and for employees who take on-line courses from accredited institutions of higher learning.

5. Courses must be taken for academic credit but do not have to be taken toward the completion of a degree.

6. If an employee is receiving other assistance that does not require repayment, i.e. scholarships, the System Office/college may reimburse the employee for eligible costs incurred while participating in the program as long as the reimbursement and other funds received does not exceed the total cost of the course(s) taken. If the employee is receiving other assistance that must be repaid, i.e., student loans, the System Office/college may allow an employee to receive tuition assistance.

D. Reimbursement

1. Employees must successfully complete the course(s) requirements to have tuition costs reimbursed. Employees who do not successfully complete the course(s) will not be reimbursed. The minimum success criterion for undergraduate courses is a grade of "C." For graduate courses and/or doctoral courses, it is a grade of "B." Individual colleges may impose more stringent requirements.

2. Tuition and laboratory fees may be reimbursed in full or in part as determined by SBTCE or college procedure.

3. Reimbursement schedules will be communicated to employees at the beginning of the fiscal year in which any change will be effective. If there is no reimbursement schedule change, no communication is necessary.

4. Books and any fees other than tuition and laboratory fees will not be paid, except for required courses (see III).

STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION

PROCEDURE

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E. Funding

1. Participation in the tuition assistance program will be determined by each institution.

2. Tuition assistance reimbursement must be provided from existing institution funds to the extent funds are available.

F. Administration

1. Eligible employees must submit a tuition assistance request/agreement form to the Human Resources Office or other designated tuition assistance administrator in accordance with deadlines and procedures determined by the institution and communicated to all employees.

2. When considering approval of a request the following criteria should be considered:

   a. Relative value of course(s) to the agency
   b. Length of service of the requestor
   c. History of course completions by the requestor
   d. Amount of tuition assistance already approved in the past for the requestor
   e. Amount of funds available for the upcoming fiscal year
   f. Workload or staffing

3. The System/College President or designee must concur in writing with any requests to be disapproved.

4. Employees requesting tuition assistance will be notified of approval/disapproval as soon as possible before the class start date. Decisions are final with no appeal process.

5. To be reimbursed, the participating employee must present official documentation of the grade achieved for the course from the college or university attended indicating successful completion.

6. If educational activities interfere unreasonably with the employee's work, the System/College President may decide to remove the employee from the tuition assistance program. In such cases the employee will not be reimbursed for courses in progress.

7. Institutions may develop a local procedure.

VII. OTHER COURSE WORK

Employees may take courses independent of the tuition assistance program for personal growth, career advancement, and to increase job skill. When employees pursue such courses outside of the tuition assistance program, he/she will attend at his/her own expense. No approval is necessary to take such courses as long as they are taken on off-duty hours and do not interfere with the employees' job duties and/or performance.

A. Employees are encouraged to schedule classes during off-duty hours whenever possible. When a desired class cannot be scheduled during off-duty, the System Office/college may elect to adjust the employee's normal work schedule as long as it does not interfere with normal efficient operation.

B. When a desired class cannot be scheduled during off-duty hours and it is not feasible to adjust work schedules, employees in FTE positions may be allowed to take annual leave or may be granted leave without pay.

C. Tuition or fees for courses taken by employees in FTE positions at the college where he/she is employed may be remitted at the discretion of the college.

Title 8 - Public Officers and Employees

CHAPTER 13

Ethics, Government Accountability, and Campaign Reform

ARTICLE 7

Rules of Conduct

SECTION 8-13-700. Use of official position or office for financial gain; disclosure of potential conflict of interest.

(A) No public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a family member, an individual with whom he is associated, or a business with which he is associated. This prohibition does not extend to the incidental use of public materials, personnel, or equipment, subject to or available for a public official's, public member's, or public employee's use that does not result in additional public expense.

(B) No public official, public member, or public employee may make, participate in making, or in any way attempt to use his office, membership, or employment to influence a governmental decision in which he, a family member, an individual with whom he is associated, or a business with which he is associated has an economic interest. A public official, public member, or public employee who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a family member, an individual with whom he is associated, or a business with which he is associated shall:

(1) prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the action or decision;

(2) if the public official is a member of the General Assembly, he shall deliver a copy of the statement to the presiding officer of the appropriate house. The presiding officer shall have the statement printed in the appropriate journal and require that the member of the General Assembly be excused from votes, deliberations, and other action on the matter on which a potential conflict exists;

(3) if he is a public employee, he shall furnish a copy of the statement to his superior, if any, who shall assign the matter to another employee who does not have a potential conflict of interest. If he has no immediate superior, he shall take the action prescribed by the State Ethics Commission;

(4) if he is a public official, other than a member of the General Assembly, he shall furnish a copy of the statement to the presiding officer of the governing body of an agency, commission, board, or of a county, municipality, or a political subdivision thereof, on which he serves, who shall cause the statement to be printed in the minutes and require that the member be excused from any votes, deliberations, and other actions

on the matter on which the potential conflict of interest exists and shall cause the disqualification and the reasons for it to be noted in the minutes;

(5) if he is a public member, he shall furnish a copy to the presiding officer of an agency, commission, board, or of a county, municipality, or a political subdivision thereof, on which he serves, who shall cause the statement to be printed in the minutes and shall require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause such disqualification and the reasons for it to be noted in the minutes.

(C) Where a public official, public member, or public employee or a member of his immediate family holds an economic interest in a blind trust, he is not considered to have a conflict of interest with regard to matters pertaining to that economic interest, if the existence of the blind trust has been disclosed to the appropriate supervisory office.

(D) The provisions of this section do not apply to any court in the unified judicial system.

(E) When a member of the General Assembly is required by law to appear because of his business interest as an owner or officer of the business or in his official capacity as a member of the General Assembly, this section does not apply.

SECTION 8-13-705. Offering, giving, soliciting, or receiving anything of value to influence action of public employee, member or official, or to influence testimony of witness; exceptions; penalty for violation.

(A) A person may not, directly or indirectly, give, offer, or promise anything of value to a public official, public member, or public employee with the intent to:

(1) influence the discharge of a public official's, public member's, or public employee's official responsibilities;

(2) influence a public official, public member, or public employee to commit, aid in committing, collude in, or allow fraud on a governmental entity; or

(3) induce a public official, public member, or public employee to perform or fail to perform an act in violation of the public official's, public member's, or public employee's official responsibilities.

(B) A public official, public member, or public employee may not, directly or indirectly, knowingly ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive anything of value for himself or for another person in return for being:

(1) influenced in the discharge of his official responsibilities;

(2) influenced to commit, aid in committing, collude in, allow fraud, or make an opportunity for the commission of fraud on a governmental entity; or

(3) induced to perform or fail to perform an act in violation of his official responsibilities.

(C) A person may not, directly or indirectly, give, offer, or promise to give anything of value to another person with intent to influence testimony under oath or affirmation in a trial or other proceeding before:

(1) a court;

(2) a committee of either house or both houses of the General Assembly; or

(3) an agency, commission, or officer authorized to hear evidence or take testimony or with intent to influence a witness to fail to appear.

(D) A person may not, directly or indirectly, ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive anything of value in return for influencing testimony under oath or affirmation in a trial or other proceeding before:

(1) a court;

(2) a committee of either house or both houses of the General Assembly; or

(3) an agency, commission, or officer authorized to hear evidence or take testimony, or with intent to influence a witness to fail to appear.

(E) Subsections (C) and (D) of this section do not prohibit the payment or receipt of witness fees provided by law or the payment by the party on whose behalf a witness is called and receipt by a witness of the reasonable costs of travel and subsistence at trial, hearing, or proceeding, or, in the case of an expert witness, of the reasonable fee for time spent in the preparation of the opinion and in appearing or testifying.

(F) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be punished by imprisonment for not more than ten years and a fine of not more than ten thousand dollars and is permanently disqualified from being a public official or a public member. A public official, public member, or public employee who violates the provisions of this section forfeits his public office, membership, or employment.

(G) This section does not apply to political contributions unless the contributions are conditioned upon the performance of specific actions of the person accepting the contributions nor does it prohibit a parent, grandparent, or other close relative from making a gift to a child, grandchild, or other close relative for love and affection except as otherwise provided.

SECTION 8-13-710. Reporting of particular gifts received by public employee, official, or member on statement of economic interests.

Omitted

SECTION 8-13-715. Speaking engagements of public officials, members or employees; only expense reimbursement permitted; authorization for reimbursement of out-of-state expenses.

Omitted

SECTION 8-13-720. Offering, soliciting, or receiving money for advice or assistance of public official, member or employee.

No person may offer or pay to a public official, public member, or public employee and no public official, public member, or public employee may solicit or receive money in addition to that received by the public official, public member, or public employee in his official capacity for advice or assistance given in the course of his employment as a public official, public member, or public employee.

SECTION 8-13-725. Use or disclosure of confidential information by public official, member, or employee for financial gain; examination of private records; penalties.

Omitted

SECTION 8-13-730. Membership on or employment by regulatory agency of person associated with regulated business.

Omitted

SECTION 8-13-735. Participation in decision affecting personal economic interests by one employed by and serving on governing body of governmental entity.

Omitted

SECTION 8-13-740. Representation of another by a public official, member, or employee before a governmental entity.

Omitted

SECTION 8-13-745. Paid representation of clients and contracting by member of General Assembly or associate in particular situations.

Omitted

SECTION 8-13-750. Employment, promotion, advancement, or discipline of family member of public official, member, or employee.

Omitted

SECTION 8-13-755. Restrictions on former public official, member, or employee serving as lobbyist or accepting employment in field of former service.

Omitted

SECTION 8-13-760. Employment by government contractor of former public official, member, or employee who was engaged in procurement.

Omitted

SECTION 8-13-765. Use of government personnel or facilities for campaign purposes; government personnel permitted to work on campaigns on own time.

Omitted

SECTION 8-13-770. Members of General Assembly prohibited from serving on state boards and commissions; exceptions.

Omitted

SECTION 8-13-775. Public official, member, or employee with official function related to contracts not permitted to have economic interest in contracts.

Omitted

SECTION 8-13-780. Remedies for breaches of ethical standards by public officials, members, or employees.

(A) The provisions of this section are in addition to all other civil and administrative remedies against public officials, public members, or public employees which are provided by law.

(B) In addition to existing remedies for breach of the ethical standards of this chapter or regulations promulgated hereunder, the State Ethics Commission may impose an oral or written warning or reprimand.

(C) The value of anything received by a public official, public member, or public employee in breach of the ethical standards of this chapter or regulations promulgated hereunder is recoverable by the State or other governmental entity in an action by the Attorney General against a person benefitting from the violations.

(D) Before a public employee's employment or a public official's or public member's association with the governmental entity is terminated for a violation of the provisions of this chapter, notice and an opportunity for a hearing must be provided to the public official, public member, or public employee.

SECTION 8-13-785. Communication by elected official with state board or commission on behalf of constituent.

Omitted

SECTION 8-13-790. Recovery of amounts received by official or employee in breach of ethical standards; recovery of kickbacks.

(A) The value of anything transferred or received in breach of the ethical standards of Articles 1 through 11 of this chapter or regulations promulgated under it by a public employee, public official, or a nonpublic employee or official may be recovered from the public employee, public official, or nonpublic employee or official.

(B) Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order under it, it is conclusively presumed that the amount of the kickback was included in the price of the subcontract or order and ultimately borne by the State or governmental entity and is recoverable hereunder from the subcontractor making the kickback. Recovery from one offending party does not preclude recovery from other offending parties.

SECTION 8-13-795. Receipt of award, grant, or scholarship by public official or family member.

Omitted

SECTION 8-11-30. Payment or receipt of salary which is not due.

(A) It is unlawful for a person:

(1) to receive a salary from the State or any of its departments which is not due; or

(2) employed by the State to issue vouchers, checks, or otherwise pay salaries or monies that are not due to state employees, except that monies due to employees of the State or any department of the State earned during the month of December may be paid either just before or just after Christmas.

(B) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than three years, or both.

HISTORY: 1962 Code Section 1-42; 1952 Code Section 1-42; 1942 Code Section 3071-1; 1941 (42) 311; 1993 Act No. 184, Section 145, eff January 1, 1994.

Effect of Amendment

The 1993 amendment rewrote this section so as to change the maximum term of imprisonment to conform to the classification established for each offense.

Miller, Spencer

From: Oakman-Long, Mary <Oakman@sctechsystem.edu>
Sent: Monday, July 31, 2017 10:19 AM
To: Miller, Spencer
Subject: FW: Jackson v. TECH Records - Additional Information Needed
Attachments: May 18th Receipt Polvi to SO 2883.pdf; C Jackson Receipt Ending in 9318.pdf; May 18 CJ Received.pdf; May 18th Receipt Polvi to SO 2883.pdf

Good morning Spencer,

Please see the attached certified mail documentation. Let me know if you need anything else.

Thank you,

Mary A. Oakman-Long, MBA, MA
Associate Vice President for Human Resources
Voice & Fax: (803) 896-5351
Email: Oakman@sctechsystem.edu
Website: www.sctechsystem.edu

From: Miller, Spencer [mailto:Spencer.Miller@admin.sc.gov]
Sent: Tuesday, July 25, 2017 4:06 PM
To: Oakman-Long, Mary <Oakman@sctechsystem.edu>
Subject: Jackson v. TECH Records - Additional Information Needed

Good Afternoon Mary,

In reviewing the documents submitted for Ms. Jackson's appeal, it has been determined that additional information is needed to determine if jurisdictional requirements have been met. Can you provide the following information/documentation?

- Certified Mail documentation showing when Ms. Jackson received her termination letter dated May 11, 2017. This documentation can be the signed green card showing the date the letter was received or a print out from USPS website showing when the letter was delivered.
- Certified Mail documentation showing when TECH received Ms. Jackson's grievance letter from Ms. Polvi dated May 18, 2017. This documentation can be the signed green card showing the date the letter was received or a print out from USPS website showing when the letter was delivered. We have the receipt but it does not actually document the date the letter was received.

Thank you and please let me know if you have any questions.

Spencer Miller
Consultant/Program Coordinator II, Division of State Human Resources

The South Carolina
Department *of* Administration
8301 Parklane Road, Suite A220, Columbia, SC 29223
(803) 896-5194 | (803) 896-5050 fax

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Tracking Number: 70132250000237322883

Delivered

Updated Delivery Day: Monday, May 22, 2017 ⓘ

Product & Tracking Information

See Available Actions

Postal Product: **Features:** Certified Mail™

DATE & TIME	STATUS OF ITEM	LOCATION
May 22, 2017, 9:28 am	Delivered, PO Box	DENMARK, SC 29042
	Your item has been delivered and is available at a PO Box at 9:28 am on May 22, 2017 in DENMARK, SC 29042.	
May 22, 2017, 8:08 am	Available for Pickup	DENMARK, SC 29042
May 22, 2017, 8:05 am	Arrived at Unit	DENMARK, SC 29042
May 20, 2017, 9:57 pm	Departed USPS Regional Facility	COLUMBIA SC PROCESSING CENTER

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/RegistrationAction_Input?app=UspsTools&

appURL=https%3A%2F

(https://www.usps.com/)

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Tracking Number: 70161370000198449318

Delivered

On Time
Updated Delivery Day: Monday, May 15, 2017 ⓘ

Product & Tracking Information

See Available Actions

Postal Product:
First-Class Mail®

Features:
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Return Receipt

See tracking for related item: 9590940214845329573627
(/go/TrackConfirmAction?tLabels=9590940214845329573627)

DATE & TIME	STATUS OF ITEM	LOCATION
May 15, 2017, 10:20 am	Delivered, Left with Individual	DENMARK, SC 29042
	Your Item was delivered to an individual at the address at 10:20 am on May 15, 2017 in DENMARK, SC 29042.	
May 15, 2017, 8:38 am	Out for Delivery	DENMARK, SC 29042
May 15, 2017, 8:28 am	Sorting Complete	DENMARK, SC 29042
May 15, 2017, 8:16 am	Arrived at Unit	DENMARK, SC 29042

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FAQs (http://faq.usps.com/)	USPS Service Updates (http://about.usps.com/news/service-alerts/welcome.htm)	Inspector General (http://www.uspsoig.gov/)	FOIA (http://about.usps.com/who-we-are/foia/welcome.htm)
	Forms & Publications (http://about.usps.com/forms-publications/welcome.htm)	Postal Explorer (http://pe.usps.gov/)	No FEAR Act EEO Data (http://about.usps.com/who-we-are/no-fear-act/welcome.htm)
	Government Services (https://www.usps.com/gov-services/gov-services.htm)	National Postal Museum (http://www.postalmuseum.si.edu/)	
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C | B | P | H
CROMER BABB PORTER & HICKS, LLC
Attorneys and Counselors at Law

J. Lewis Cromer * Julius W. Babb, IV * J. Paul Porter
Ryan K. Hicks * Shannon M. Polvi * Samantha E. Albrecht

May 18, 2017

VIA CERTIFIED MAIL 7013 2250 0002 3732 2883

Dr. Christopher Hall, Interim President
Denmark Technical College
1126 Solomon Blatt Blvd.
Denmark, SC 29042

RE: Carla N. Jackson Grievance for Termination

Dear Dr. Hall:

Our firm represents Carla Jackson. Ms. Jackson's employment was terminated by letter dated May 11, 2017. In accordance with the grievance policy, this letter is Ms. Jackson grieving her termination. Ms. Jackson expressly refutes all alleged grounds for her termination and requests to be immediately reinstated to her employment with Denmark Technical College.

Ms. Jackson was terminated from employment for "your willful violation of rules, regulations and written policies, which constitute conduct unbecoming a state employee." Such grounds are unfounded and Ms. Jackson has not been given a single document supporting the accusations against her. Ms. Jackson did not violate any rules, regulations or written policies.

Ms. Jackson met with you on two separate occasions and with Dr. Hardee on one occasion during the "investigative suspension" from February 15, 2017 to May 11, 2017. Ms. Jackson fully cooperated throughout the "investigation" and she answered all questions posed to her.

The claim that because Ms. Jackson received tuition reimbursement payments years ago is somehow grounds to terminate her employment now is ridiculous. Ms. Jackson expressly articulated to you, to the Human Resources representatives who were present during the previous meetings, to Mr. Boykin, to myself, and to Dr. Hardee that she applied for tuition reimbursement and was granted tuition reimbursement. Ms. Jackson did nothing wrong in such actions to apply for and to receive tuition reimbursement. Ms. Jackson was an employee of the College when she applied for and received tuition reimbursement and Ms. Jackson's education was directly related to her employment with the College as clearly evidenced by her positions as an Interim Dean of the College since October 2015, as an adjunct instructor for multiple years, and previously as Administrative Coordinator in the College President's Office. Ms. Jackson received tuition

reimbursement at the authorization of the College years ago. There is no fault on Ms. Jackson's part in applying for or receiving tuition reimbursement.

The second claim alleged as grounds to terminate Ms. Jackson is equally preposterous. The second claim is "in your role as Administrative Coordinator I (to the President), you received pay increases, which were approved using the President's stamp, but had no supporting documentation. Your conduct in this matter violated all reasonable controls in our system and, I believe, violated the South Carolina Ethics Act which prohibits a public employee from using his/her position for personal gain." Ms. Jackson expressly denied that she ever used the President's stamp on any of her own personnel documents. Ms. Jackson expressly informed you, the Human Resources representatives who were present during the previous meetings, Mr. Boykin, myself, and Dr. Hardee that the President's stamp is used by each of the recent sitting Presidents of Denmark Technical College and is used for high volume documentation and at the express instruction of the sitting President. Ms. Jackson expressly informed you that she used the President's stamp at the instruction of the former President of Denmark Technical College and the stamp was never used on her own documentation. Ms. Jackson expressly informed you that she never used the stamp for any personal gain. Ms. Jackson did not receive a pay increase; she received supplemental pay when she performed additional duties. Any and all supplements in Ms. Jackson's pay were expressly authorized by the supervisory chain above Ms. Jackson and by Human Resources. The accusation that Ms. Jackson somehow gave herself raises is utterly absurd. Ms. Jackson has not even been employed in the President's Office since October 2015 when she was promoted to Interim Dean.

Ms. Jackson requests that: she be reinstated to employment in her position held at the time she was suspended, all adverse documentation relating to her "investigative suspension" and termination be removed from her personnel file, she be paid back pay and benefits, a lump sum for the damages she has sustained as a result of the suspension and termination, and for attorney's fees and costs.

This treatment of Ms. Jackson is outrageous and I am truly shocked at the decision to terminate Ms. Jackson's employment. Such conduct violates Ms. Jackson's rights and we intend to defend her rights to the fullest extent of the law.

Sincerely

Shannon Polvi

cc: Carla Jackson, Grievant (via email)
Charles Boykin, Esq. (via email)

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May 22, 2017, 8:08 am	Available for Pickup	DENMARK, SC 29042
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Marcia S. Adams, *Executive Director*

admin
THE SOUTH CAROLINA
DEPARTMENT *of* ADMINISTRATION

DIVISION *of* STATE HUMAN RESOURCES
Kim Aydlette, Director
8301 Parklane Road, Suite A220
Columbia, SC 29223
803.896.5300
803.896.5050 Fax

August 8, 2017

Ms. Shannon Polvi
Cromer Babb Porter & Hicks
P.O. Box 11675
Columbia, South Carolina 29211

Ms. Kandy Peacock
Vice President and Chief Human Resources Officer
Division of Human Resource Management
SC Technical College System
111 Executive Center Drive, Enoree Building
Columbia, South Carolina 29210

Re: Carla Jackson v. S.C. Technical College System (TECH)

Dear Ms. Polvi and Ms. Peacock:

The State Human Resources Director has determined that jurisdictional requirements have been met under the State Employee Grievance Procedure Act concerning the appeal of Ms. Carla Jackson v. TECH. A hearing is scheduled before the State Employee Grievance Committee on **November 28, 2017 at 9:00 AM, 8301 Parklane Road, Suite A220, Columbia, South Carolina**. A mediator who has been assigned by the State Human Resources Director will meet with both parties prior to the hearing in an effort to resolve the appeal, avoiding the additional time and costs that a hearing requires. To accomplish a timely resolution at this stage, it is essential that the parties or their representatives attending a mediation conference have full authority to negotiate and recommend settlement.

The mediation effort should not interfere with the timely preparation and exchange of necessary information leading to the date of the hearing before the Committee. The State Employee Grievance and Appeal Regulations contain specific time frames for submitting documents, requesting subpoenas, and exchanging witness lists. These regulations have the force and effect of law and both parties must comply with them, regardless of the ongoing attempt to resolve the appeal by mediation. Therefore, the appeal process leading up to the scheduled hearing date does not stop unless a mediation agreement is signed by both parties prior to the hearing date.

If the appeal is not resolved through mediation, the employee has the burden to establish, at the hearing before the Committee, that the agency's decision to discipline the employee is improper based upon §8-17-340(E) of the S.C. Code of Laws of 1976, as amended.

The Administrative Procedures Act in §1-23-320 of the S.C. Code of Laws requires that both parties to an appeal be afforded a statement of the matters asserted. This letter is intended to comply with that law.

Ms. Jackson contends:

1. she did not violate any rules, regulations or written policies; and
2. she was not given a single document to support the allegations against her.

TECH contends:

1. Ms. Jackson was terminated effective February 15, 2017, from Denmark Technical College after the conclusion of an investigatory suspension; and
2. the grounds for Ms. Jackson's termination are her willful violation of rules, regulations and written policies, which constitute conduct unbecoming a state employee.

Prior to the hearing the employee is requested to identify and state why, on the enclosed Grounds for Appeal Form, which portions of §8-17-340(E) (see enclosure) would require the Committee to change the agency's disciplinary action. The Grounds for Appeal Form should be returned to the Division of State Human Resources, 8301 Parklane Road, Suite A220, Columbia, South Carolina 29223 and received no later than seven calendar days before the date of the Committee hearing.

All documents submitted concerning this appeal, which could possibly include polygraph examination results, will be forwarded to the Committee for review approximately one week prior to the hearing date. All objections raised by either party to these documents before transmittal to the Committee, including objections to any polygraph examination results, must be made to this office prior to that time. This time frame, however, will not preclude appropriate evidentiary objections from being raised by either party at the hearing.

The State Employee Grievance and Appeal Regulations contain specific time frames for submitting documents, requesting subpoenas, and exchanging witness lists. These regulations have the force and effect of law and both parties must comply with them.

Please refer to our website at http://www.admin.sc.gov/humanresources/employee-information/alternative-dispute-resolution for further information regarding the State Employee Grievance Procedure Act; the State Employee Grievance and Appeal Regulations; a copy of the Witness and Representative forms; a copy of the Grounds for Appeal form; a flowchart for the steps in the Grievance Committee process; and a sample opening statement. If you do not have internet access, please contact Mr. Spencer Miller at (803) 896-5194 for a copy of the State Employee Grievance Procedure Act, the State Employee Grievance and Appeal Regulations, and the forms listed above.

Please call me if you have any questions.

Sincerely,

Terry M. Baggott
Alternative Dispute Resolution Program

Enclosure

c: Dr. Tim Hardee, President (without enclosure)

STATE EMPLOYEE GRIEVANCE COMMITTEE

~Grounds for Appeal Form~

Please identify which ground(s) listed below from §8-17-340(E) of the S.C. Code of Laws you contend would require the Committee to change the agency's decision. In addition, state why these grounds are relevant to your appeal.

(E) The committee may sustain, reject, or modify a grievance hearing decision of an agency as follows:

(1) In cases involving actual or threatened abuse, neglect, or exploitation, to include those terms as they may be defined in Section 43-35-10 or 63-7-20, of a patient, client, or inmate by an employee, the agency's decision must be given greater deference and may not be altered or overruled by the committee, unless the covered employee establishes that:

(a) The agency's finding that the covered employee abused, neglected, or exploited or threatened to abuse, neglect, or exploit a patient, client, or inmate is clearly erroneous in view of reliable, probative, and substantial evidence;

(b) The agency's disciplinary action was not within its established personnel policies, procedures, and regulations; or

(c) The agency's action was arbitrary and capricious.

(2) In all other cases, the committee may not alter or overrule an agency's decision, unless the covered employee establishes that the agency's decision is one or more of the following and prejudices substantial rights of the covered employee:

(a) in violation of constitutional or statutory provisions;

(b) in excess of the statutory authority of the agency;

(c) made upon unlawful procedure;

(d) affected by other error of law;

(e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or

(f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Please return this from to: Division of State Human Resources
8301 Parklane Road, Suite A220
Columbia, South Carolina 29223

Also, please send a completed copy of this document to the agency.

From: Shannon Polvi
To: Miller, Spencer; Boykin, Charles
Subject: FW: Carla Jackson
Date: Tuesday, September 05, 2017 4:29:05 PM
Attachments: 8-25-17 Ltr to Miller re Grievance Documents.pdf
2-14-17 Ltr from Hall re Supplemental Pay.pdf
2-14-17 Pay Retraction Form.pdf
Academic Affairs Payroll Action Form.pdf
AIU Acceptance Letter.pdf
AIU Tuition Spreadsheet.pdf
DTC president removed; commissioner says chairman acted "illegally" Local thetandd.pdf
Interim Dean Payroll Action Form.pdf
LLR Wage Complaint Ltr 2-21-17.pdf
LLR Wage Complaint Ltr 3-31-17.pdf
Ltr in re Interim Dean of Business, Computers, and Related Technologies 9-21-16.pdf
Position Description - Administrative Assistant.pdf
Position Description - Interim Dean.pdf
Position Posting - Administrative Coordinator – President's Office.pdf
Resume.pdf
Transitional Studies Payroll Action Form.pdf
Tuition Assistance Application.pdf

Dear Spencer,

Thanks for following up. The files let me attach to this email, so they're not too large to send electronically. In addition to the cover letter, there are 16 PDFs for the record on appeal.

Thanks,
Shannon

Shannon Polvi
Cromer Babb Porter & Hicks, LLC

1418 Laurel St., Suite A (29201) | P.O. Box 11675 | Columbia, SC 29211
Phone 803.799.9530 | Fax 803.799.9533
shannon@cbphlaw.com
www.cbphlaw.com

This electronic mail may be attorney/client privileged and may contain confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copy of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone (803) 799-9530 and delete the message immediately. Thank you.

From: Miller, Spencer [mailto:Spencer.Miller@admin.sc.gov]
Sent: Tuesday, September 05, 2017 4:06 PM
To: Shannon Polvi <Shannon@CBPHlaw.com>; Boykin, Charles <boykinc@sctechsystem.edu>
Subject: RE: Carla Jackson

Good Afternoon Shannon,

C | B | P | H

CROMER BABB PORTER & HICKS, LLC

Attorneys and Counselors at Law

J. Lewis Cromer * Julius W. Babb, IV * J. Paul Porter
Ryan K. Hicks * Shannon M. Polvi * Samantha E. Albrecht

August 25, 2017

Via Email & US Postal Service

Mr. Spencer Miller
Division of State Human Resources
8301 Parklane Road, Suite A220
Columbia, SC 29223
Spencer.Miller@admin.sc.gov

Re: Carla Jackson v. SC Technical College System
Appeal Hearing: November 28, 2017

Dear Spencer:

This law firm has been retained by Ms. Jackson in connection with her grievance appeal to the grievance hearing committee scheduled for November 28, 2017.

We request subpoenas be issued of the following witnesses:

1. Dr. Leonard McIntyre
   105 Belleclave Road, Columbia, SC 29223
2. Dr. Lamin Drammeh
3. Teresa Mack
4. Gwendolyn Bamberg
5. Sherry Donaldson

We do not have the current addresses for the last four witnesses listed above. We request that Denmark Technical College provide to the Department of Administration, the last known addresses for the above referenced witnesses, as all such witnesses were employees of Denmark Technical College and addresses would be available to Denmark Technical College within their own records.

We also request subpoenas for the following document production:

1. Personnel File, Shift File, Shadow File and any other employee file maintained on Carla Jackson.
2. All document(s) referencing Carla Jackson's tuition reimbursement.

3. All documents regarding tuition reimbursements applied for and received by employees at Denmark Technical College in the last 10 years.

4. All documents that Denmark Technical College alleges on which Carla Jackson used the President's stamp. This request is specifically requesting all documents which are the basis of the accusation in the termination notice dated May 11, 2017, specifically stating: "Additionally, in your role as Administrative Coordinator I (to the President), you received pay increases, which were approved using the President's stamp, but had no supporting documentation. Your conduct in this matter violated all reasonable controls in our system, and, I believe violates that South Carolina Ethics Act which prohibits a public employee from using his/her position for personal gain."

5. All documents relating to Carla Jackson's pay complaint, including but not limited to communications to and from the South Carolina Department of Labor and the fine issued to Denmark Technical College.

Also, enclosed is a disk with 16 documents we are submitting to be included in the Record on Appeal before the State Employee Grievance Committee on November 28, 2017.

Lastly, please find enclosed Ms. Jackson's Grounds for Appeal Form, List of Names of Witnesses Form, and List of Names of Representatives Form.

All of this information is also being sent to Ms. Peacock by mail and everything but the disk to Mr. Boykin by email.

With kind regards, I remain

Sincerely,

Shannon Polvi

Enclosures

cc: Charles Boykin, Attorney for Agency (via email)

Ms. Kandy Peacock, Vice President and Chief Human Resources Officer (via US Mail)
Division of Human Resources Management
SC Technical College Systems
111 Executive Center Drive, Enoree Building
Columbia, SC 29210

Carla Jackson (via email)

DENMARK
TECHNICAL COLLEGE

MEMORANDUM

TO: Ms. Carla Jackson

FROM: Dr. Christopher Hall, Interim President

RE: Supplemental Pay

DATE: February 14, 2017

The purpose of this memo is to inform you that beginning with the February 16th payroll, all supplemental pay will be suspended until the validity of such supplements can be determined. This suspension is the result of ongoing investigations into college operations. You will continue to receive your annualized base pay for the state position to which you were hired.

Should you have justification or believe the supplement(s) you are receiving are indeed valid, please contact Ms. Mary Oakman-Long in the System Office's Human Resource Services Division no later than February 21, 2017, at 803-896-5314. Should the validity of such payments be determined by February 21st, the supplemental pay will continue with no interruption of pay.

Contract Christy Jo Hall 2/14/17

DTC Departmental Request for Personnel/Payroll Action Form

Please complete all sections

I. PERSONNEL DATA

1. Employee Name Last: Jackson, First: Carla MI:

This section to be completed by HR only

2. Employee ID # or SSN: 104403 | Date of Birth: | 4. Sex: ___ Male ___ Female

II. DEPARTMENT DATA

Department Name

Requestor's Position: President

Requestor's Name: Dr. Leonard McIntyre

Requestor's Signature:

III. TYPE OF ACTION

___ New Hire	___ Merit Increase	___ Retirement
___ Rehire	X Salary Change 10 %	___ Leave without Pay
___ Transfer	___ Title Change	___ Request to Hire
___ Promotion	___ Change of Funding	___ Dual
___ Demotion	___ Re-allocation of funding	___ Other (Specify)
___ Separation		

Justification:

IV. POSITION TYPE

X Faculty ___ Staff
___ Student Worker ___ Contract

V. ASSIGNMENT

X Full Time ___ Part Time
___ Temporary

VI. CURRENT POSITION INFORMATION

Current Position Title: EXECUTIVE COORDINATOR
Position Number: 103363
Annual Salary/Hourly Rate: $49,897.00
FTE: 1.0 ___ .75 ___
Effective Date:

VII. NEW POSITION INFORMATION

New Position Title: EXECUTIVE COORDINATOR
New Position Number: 103363
Annual Salary/Hourly Rate: $54,886.70
FTE: 1.0 ___ .75 ___
Effective Date: January 16, 2017

VIII. ALLOCATION OF FUNDS

Account Fund	Amount or %

IX. SOURCE OF FUNDING

Department Name: President's Office
Division: Executive Coordinator
Departmental Budget #: 10-6510000-50158-0

X. (Please Complete in Chronological Order) AUTHORIZATIONS

1. Dean/Department Head (Print Name)	Signature	Date
2. Division Vice President (Print Name)	Signature	Date
3. Grants and Contracts (If Applicable) (Print Name)	Signature	Date
4. Vice President for Fiscal Affairs (Print Name)	Signature	Date
5. Director of Human Resources (Print Name)	Signature	Date
6 President	Signature L McIntyre	Date 1-26-17

DTC Departmental Request for Personnel/Payroll Action Form

Please complete all sections

I. PERSONNEL DATA

1. Employee Name Last: First: MI:
Jackson, Carla

This section to be completed by HR only

2. Employee ID # or SSN	Date of Birth	4. Sex	Male / Female

II. DEPARTMENT DATA

Department Name: Academic Affairs

Requestor's Position: Interim Vice President Academic Affairs

Requestor's Name: Tia Wright-Richards

Requestor's Signature:

III. TYPE OF ACTION

	New Hire		Merit Increase		Retirement
	Rehire		Salary Change		Leave without Pay
	Transfer		Title Change		Request to Hire
	Promotion		Change of Funding	x	Dual
	Demotion		Re-allocation of funding		Other (Specify)
	Separation				

IV. POSITION TYPE

x	Faculty		Staff
	Student Worker		Contract

V. ASSIGNMENT

	Full Time		Part Time
x	Temporary		

Justification:
Interim Dean of BCRT – see attachments

VI. CURRENT POSITION INFORMATION

Current Position Title: Interim Dean, TS

Position Number: 136422

Annual Salary/Hourly Rate: $301.95

FTE: 1.0 x .75

Effective Date: 08/20 15

VII. NEW POSITION INFORMATION

New Position Title: Interim Dean, BCRT

New Position Number: 135887

Annual Salary/Hourly Rate: $415.81

FTE: 1.0 .75

Effective Date: 10/3/2016

VIII. ALLOCATION OF FUNDS

Account Fund	Amount or %
	100%

IX. SOURCE OF FUNDING

Department Name: Business, Computers, and Related Technologies

Division: Academic Affairs

Departmental Budget # 10-2110100-50177-0

X. (Please Complete In Chronological Order) AUTHORIZATIONS

	Signature	Date
1. Dean/Department Head (Print Name) Tia L. Wright-Richards		9/27/16
2. Division Vice President (Print Name) Tia L. Wright-Richards		9/27/16
3. Grants and Contracts (If Applicable) Teresa Mack		
4. Vice President for Fiscal Affairs Ram'on Wideman		10/12/16
5. Director of Human Resources Cheryl Washington		
6. Vice President for IRPD & Special Asst. to the President Dr. Lamin Drammeh		10/12/16
7. President Dr. Leonard McIntyre	Leonard McIntyre	10/20/14

AMERICAN INTERCONTINENTAL UNIVERSITY Online

9/29/2013

Carla Jackson
684 McCain Drive
Denmark, SC 29042
USA

Dear Carla Jackson,

Congratulations! I am pleased to notify you that you have been accepted to American InterContinental University (AIU) Online. You are enrolled in the Master in Business Administration program with a Specialization in Management, beginning on 11/11/2013. A Student Management Specialist will be in contact with you to complete the necessary milestones in preparing you to get acclimated during your first weeks as an AIU student.

We are proud of our student body, quality faculty, and relevant, industry-current curricula. AIU Online's programs and services are designed to meet the demands of the industry as well as your needs as a University student. We support your decision to earn this valuable credential. I am confident that you will find AIU Online an excellent match with your educational and career goals. If you have additional questions, please contact the University toll-free at 1-877-221-5800.

Congratulations, and we look forward to supporting you throughout your educational experience.

Sincerely,

George Miller
President, American InterContinental University
Chancellor, American InterContinental University

Find disclosures on graduation rates, student financial obligations and more at http://www.aiuniv.edu/disclosures

AMERICAN INTERCONTINENTAL UNIVERSITY™

Master of Business Administration: Management

Tuition and Fees

Effective as of 1/7/2013

For classes beginning on or after 1/7/2013

TUITION COST PER CREDIT HOUR	PROGRAM CHARGES	TOTAL PROGRAM COST (INCLUDES ALL SOFTWARE AND COURSE MATERIALS)
$ 582.00	$27,936.00	$27,936.00

Above is an excerpt from our official tuition and fee schedule. Please see the official published schedule for additional disclosures. Please note that costs listed are based upon standard program length. Actual program length and costs may vary due to transferred credit and/or repeated classes. The order in which classes are scheduled may vary by student. Please note that all of the following information is being provided strictly for use by employers that require such information to administer employer reimbursement programs for AIU Online students.

Per Session Charges

AIU Online charges tuition per credit hour each quarter throughout the student's program. Tuition is charged at the beginning of each quarter.

Academic Year	Quarter	Courses	Credits	Tuition	Total
1	1	MGT600	6	$3,492.00	$6,984.00
		MKT640	6	$3,492.00	
	2	FIN630	6	$3,492.00	$6,984.00
		BUS610	6	$3,492.00	
	3	MGT615	6	$3,492.00	$6,984.00
		MGT625	6	$3,492.00	
2	4	MGT656	6	$3,492.00	$6,984.00
		MGT680	6	$3,492.00	
			48		$27,936.00

Course Materials Charges

Words of Wisdom, LLC provides all course materials (textbooks and software) to students on behalf of AIU Online. Words of Wisdom, LLC is a company affiliated with AIU Online.

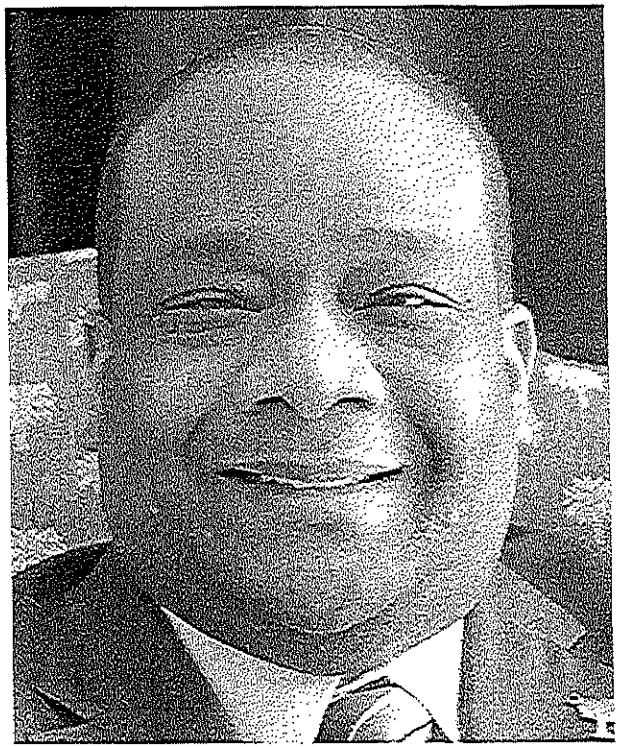
Institutional charges include a custom suite of course materials which are provided to the student by Words of Wisdom, LLC. At the University's discretion, books may be delivered in an electronic (e-Book) or standard textbook format. Students not wishing to use e-Books are responsible for any additional charges associated with purchasing standard textbooks.

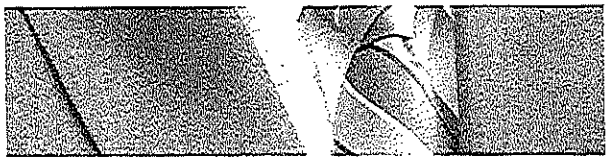
http://thetandd.com/news/local/dtc-president-removed-commissioner-says-chairman-acted-illegally/article_1b91822b-436c-5554-aa5b-e579ed9b20ed.html

FEATURED

DTC president removed; commissioner says chairman acted 'illegally'

CHRISTOPHER HUFF T&D Staff Writer 13 hrs ago





SPECIAL TO THE T&D

Hall

Buy Now

The acting president of Denmark Technical College was escorted off campus Thursday in a move questioned by some members of the Area Commission.

Area Commission member Calvin Wright said Chairman Thomas Williams acted "totally illegally" in having interim President Dr. Christopher Hall removed. Wright said the chairman doesn't have that authority.

"Mr. Williams should be stopped from acting unilaterally for the board," Wright said. "The board is not in session. He has no power."

The commission's executive committee -- made up of Williams, Secretary James Hayes and Vice Chair Peggy Faust -- met ahead of Thursday's events, Williams said.

That meeting violated board policies and included no notice to other commissioners, Wright said.

Williams said he believes he acted within his authority as the chair of the executive committee.

Hall's removal stemmed from a personnel matter.

Williams and Hayes wanted an employee reinstated and Hall refused to accommodate them, Wright said.

"They injected themselves into a personnel matter and that is totally illegal," he said.

Williams said that two college employees were suspended shortly after Hall was named interim president by the State Board of Technical and Comprehensive Education.

"They've tried to go through the grievance process and do everything they're supposed to do and they've been given the runaround by State Tech," Williams said.

One of the employees received a letter requesting a resignation by March 31 with a settlement that included back pay, he said.

"State Tech still hasn't found anything, any evidence of any wrongdoing," Williams said.

Williams and Hayes met with Hall on Thursday to ask that the employee be reinstated or for Hall to provide evidence requiring the employee's removal.

Williams said the employee is the school's liaison to the Southern Association of Colleges and Schools "and is the only person we've got at Denmark Tech that is connected to SACS and knows anything about SACS.

"So if we're going to ask this person to resign, we need to make sure this person has done something, because that's putting us in jeopardy of losing our accreditation."

Williams said he has appointed an interim president to replace Hall and will seek to have the full board ratify his decision at the next meeting.

Hall described what happened Thursday.

"Thomas Williams and Mr. Hayes ... showed up at the college today and asked me to leave," he said. "Basically, he (Williams) wanted me to change a personnel decision that I made when I first got there."

When Hall refused the request, he was asked to leave the campus, he said.

Asked what happens now, Hall said, "I have no idea."

"I just hope everyone does what's best for the students of Denmark," he said.

Commission member Dewayne Ennis said he learned of Hall's removal "basically in the street."

"No formal meeting was called, so of course, he (Williams) did not meet FOIA, he did not call and inform me," Ennis said. "I don't have any formal information on it, nor did I vote for it or anything such as that."

He said he put a call into the school to have Williams call him but has heard nothing so far. But he said he would request an immediate meeting "because nothing like this should have taken place without the knowledge of the full board."

State Tech Vice President of Communications Kelly C. Steinhilper said, "The commission chair does not have the authority to remove a president.

"Actions like those of the board chair today demonstrate the dysfunction of the current board and reinforce the need for change," she said.

Steinhilper and Ennis both said the board is likely to meet on Monday, although Williams stated he doesn't know when the board will meet again.

Rep. Justin Bamberg, D-Bamberg, said he is still looking into the facts and trying to get both sides of what happened.

"My understanding of the situation is that a decision had been made to suspend an employee that has a very important position for the school, specifically with regards to SACS accreditation," he said.

He said Williams asked why the employee was suspended, why for so long and what evidence had been uncovered.

"My understanding is that there was nothing there, there was no evidence of anything," Bamberg said.

He stressed that his knowledge of the situation is limited, but from what he knows, the resignation and settlement offer came from the State Tech Board.

"Essentially, my understanding is that Mr. Williams did what he felt he needed to do to protect the institution that is Denmark Tech. It appeared to him that everything that was going on was tied to the underlying thought that the State Tech Board has a desire to attempt to close Denmark Tech," he said.

The State Tech Board has said there are no plans to close the school.

Bamberg said, "Some of the issues that Denmark Tech is having weren't created overnight and they won't be fixed overnight."

But he added that the legislative delegation – including himself, Sen Brad Hutto, D-Orangeburg, and Rep. Lonnie Hosey, D-Barnwell – are collectively committed "to doing everything in our power" to help the institution.

The incident is the latest development at Denmark Tech, where the commission removed former President Dr. Leonard McIntyre in January.

Wright said Williams was among McIntyre's supporters and opted, along with two other commissioners, not to vote in the 4-0 decision to oust the president.

"He never wanted the new president," Wright said. "He wanted to maintain the status quo."

In removing McIntyre, the board also decided to request that the State Tech Board send an official to serve as acting president. Hall took over the position. He is the dean of business and public service at Sumter's Central Carolina Technical College.

The incident also comes against the backdrop of local lawmakers pushing legislation to make changes at the college.

Hutto previously introduced a plan to dissolve Denmark Tech's Area Commission and hand control to the State Tech Board.

Under a compromise plan, new commissioners would be appointed to lead the school. Bamberg, Barnwell and Allendale county legislative delegation members submitted a list of replacement commissioners to Gov. Henry McMaster.

Williams, the only member of the present commission being recommended for reappointment, has said he is pleased with the compromise.

Denmark Tech has seen enrollment rates drop in recent years and struggled to use outdated equipment and software in various departments.

T&D Editor Lee Harter contributed to this story.

Currents



Stars we've lost so far in 2017



The Internet reacts to Trump and Merkel's awkward handshake moment



TOYOTA
Introducing the Prius Prime



The 40 granolas with the most sugar



Today In History, March 24: Academy Awards



Today's Birthdays, March 24: Louie Anderson



Today's top pics: Parliament attack in Britain and more



Your daily 6: Attack aftermath in London, decision day for health care and celebrating puppies



9-inch marble statue could sell for $3 million at auction



Amy Schumer drops out as Barbie in film based on doll



Zara Larsson: Taylor Swift and Katy Perry's beef is shady



National League West capsules

DTC Departmental Request for Personnel/Payroll Action Form

Please complete all sections

I. PERSONNEL DATA

1. Employee Name Last: Jackson First: Carla MI:

This section to be completed by HR only

2. Employee ID # or SSN: xxx-xx-8030

Date of Birth:

4. Sex: Male ___ Female X

II. DEPARTMENT DATA

Department Name: Transitional Studies

Requestor's Position: Vice President of Academic Affairs

Requestor's Name: Dr. Valerie Fields

Requestor's Signature: V. Fields

III. TYPE OF ACTION

___ New Hire	___ Merit Increase	___ Retirement
___ Rehire	___ Salary Change ___%	___ Leave without Pay
___ Transfer	___ Title Change	___ Request to Hire
___ Promotion	___ Change of Funding	___ Dual
___ Demotion	___ Re-allocation of funding	X Other (Specify)
___ Separation		

Justification:

IV. POSITION TYPE

___ Faculty X Staff
___ Student ___ Contract
___ Worker

V. ASSIGNMENT

___ Full Time ___ Part Time
___ Temporary

VI. CURRENT POSITION INFORMATION

Current Position Title:

Position Number:

Annual Salary/Hourly Rate: $

FTE: 1.0 ___ .75 ___

Effective Date:

VII. NEW POSITION INFORMATION

New Position Title: Transitional Studies Coordinator

New Position Number:

Annual Salary/Hourly Rate: $375.00

FTE: 1.0 ___ .75 ___ Per pay period

Effective Date: 10/1/15-9/30/15

VIII. ALLOCATION OF FUNDS

Account Fund	Amount or %
21-9842604 50162-0	100%

IX. SOURCE OF FUNDING

Department Name: Grants & Contracts

Division:

Departmental Budget #: 21-9842604 - 50162-0

X. PLEASE COLLECT ORIGINAL AUTHORIZATIONS

1. Dean/Department Head (Print Name)	Signature	Date
2. Division Vice President (Print Name) Valerie S. Fields	Signature V. Fields	Date 9/28/2015
3. Grants and Contracts (If Applicable) (Print Name)	Signature	Date
4. Vice President for Fiscal Affairs (Print Name) Mr. Ramon Wideman	Signature	Date 10/12/15
5. Director of Human Resources (Print Name) Ms. Alfredia Boyd	Signature Alfredia Boyd	Date 10/12/15
6 President Dr. Leonard McIntyre	Signature Leonard McIntyre	Date 10/14/15

DENMARK
TECHNICAL COLLEGE

September 15, 2015

Ms. Carla Jackson
684 McCain Drive
Denmark, SC 29042

Dear Ms. Jackson:

Please be informed that you are being appointed Interim Dean of Transitional Services effective October 1, 2015, until a new Dean of Transitional Services is hired.

Your immediate supervisor will be Dr. Valerie Fields. You will remain at your current salary and in your current position/classification but will assume the additional duties of Interim Dean of Transitional Services and receive a temporary salary adjustment of 15% of your current salary $48,327 to $55,576 for the duration of your interim appointment.

When interviews are being held to fill the Dean of Transitional Services, please know that you are eligible to apply and be interviewed for the position.

Please sign below acknowledging receipt of this letter and return a copy to the Human Resources Office.

Sincerely,

Leonard McIntyre

Leonard A. McIntyre, Ph.D.
President

Carla Jackson
Signature of Receipt

9/14/15
Date

cc: Human Resources Director
Personnel File

South Carolina
Department of Labor, Licensing and Regulation

Division of Professional and Occupational Licensing
Office of Investigations and Enforcement

Henry D. McMaster
Governor

Emily H. Farr
Interim Director

110 Centerview Drive
Post Office Box 11329
Columbia, SC 29211-1329
Phone: (803) 896-4470
FAX: (803) 896-4656

February 21, 2017

Carla Jackson
684 McCain Drive
Denmark, SC 29042

Re: Employer: Denmark Technical College
Case No.: 2017-253

Dear Jackson:

I am in receipt of your wage complaint. As an Investigator, I investigate employee wage complaints to determine whether an employer is in compliance with the S.C. Payment of Wage Law. If during the investigation it is determined that the employer is in violation of the Wage Payment Statute, the appropriate sanctions will be issued to the employer. You will be notified of the outcome of your case once my investigation is complete.

The Office of Wages and Child Labor **does not** have the authority to collect your wages or make an employer pay you. You have self serve rights under Section 41-10-80(C) of the South Carolina Payment of Wages Law.

Section 41-10-80(C) of the Payment of Wages Law states:

"In case of any failure to pay wages due to an employee as required by Subsection 41-10-40 or 41-10-50, the employee **may recover** in a Civil Action an amount equal to three times the full amount of the unpaid wages, plus costs and reasonable attorney's fees as the court may allow. Any civil action for the recovery of wages must be commenced within three years after the wages become due."

Any action you take in regards to a civil action is independent and separate from the actions and responsibilities of the Department of Labor.

Sincerely,

Robin Rawls
Investigator
(803) 896-4802
Robin.Rawls@llr.sc.gov

253

0851

LLR
SC.GOV

Division of Professional and Occupational Licensing
Office of Investigations and Enforcement
110 Centerview Drive
Post Office Box 11329
Columbia, SC 29211-1329

Hasler FIRST-CLASS MAIL $000.45[3]
ZIP 29210
011E12650545

OPEN BY ADDRESSEE ONLY

CONFIDENTIAL

Carla Jackson
684 McCain Drive
Denmark, SC 29042

AYY-SMP 29042

933

South Carolina
Department of Labor, Licensing and Regulation

Division of Professional and Occupational Licensing
Office of Investigations and Enforcement

Henry D. McMaster
Governor

Emily H. Farr
Director

110 Centerview Drive
Post Office Box 11329
Columbia, SC 29211-1329
Phone: (803) 896-4470
FAX: (803) 896-4656

March 31, 2017

Carla Jackson
684 McCain Drive
Denmark, SC 29042

Re: Denmark Technical College
Case No.: 2017-253

Dear Carla Jackson:

The Department of Labor, Licensing and Regulation, through its Office of Investigations and Enforcement, has completed the investigation of your complaint against the above-referenced employer.

A warning was issued to the employer for failing to provide written notice to their employees as required under S.C. Code Ann. § 41-10-30. Any subsequent violations will result in monetary fines being issued by this office.

A citation will be issued for violations under the S.C. Payment Statute, S.C. Code Ann. § 41-10-40, for failing to pay all wages to you and/or other employees as required under the law. Specifically, the investigation revealed that $207.90 wages were due to you.

If you still have not received your wages, you may pursue legal action in court under S.C. Code Ann. § 41-10-80(C) of the S.C. Payment Statute. This section of the law allows for triple unpaid wages, court cost and reasonable attorney fees.

The Department has officially closed this file. If you have any questions, please feel free to contact me.

Sincerely,

Robin Rawls
Investigator
(803) 896-4802
Robin.Rawls@llr.sc.gov

DENMARK
TECHNICAL COLLEGE

September 21, 2016

Carla Jackson
684 McCain Drive
Denmark, SC 29042

Dear Ms. Jackson:

Please be informed that you are being appointed Interim Dean of Business, Computers, and Related Technologies (BCRT) effective October 1, 2016, until a permanent Dean of BCRT is hired to provide leadership for the department.

Your immediate supervisor will remain Mrs. Tia Wright-Richards, Interim Vice President for Academic Affairs. You will remain at your current salary and in your current position/classification, but will assume additional duties of Interim Dean of BCRT. You will continue to receive a temporary salary adjustment of $415.81 for the duration of your interim appointment as a Dean. Your temporary salary adjustment for distance education will be end effective September 30, 2016.

Please sign below accepting this appointment and return a copy to the Office of Human Resources.

Sincerely,

L. McIntyre

Leonard McIntyre, Ph.D.
President

Signature of Receipt

Date 9/21/16

cc: Human Resources Director
Personnel File

STATE OF SOUTH CAROLINA POSITION DESCRIPTION

GENERAL INFORMATION

0 0 0 1 0 3 3 6 3 — Position Number

S 5 0 — Agency Code

Denmark Technical College — Agency Name

President's Office — Division / Section / Unit

Denmark/Bamberg — City / County

Employee Name

0 5 — County Code

X — Y/N Is Position in Central Office?

Administrative Assistant — Current State Title

A A 7 5 — Alphanumeric Code

0 0 0 4 — Slot

0 4 — Band

F 5 2 — Full / Part Time Indicator

3 7 . 5 0 — Hours Per Week

2 5 5 0 — Base Hours

College President — Supervisor State Title

U A 2 0 — Alphanumeric Code

C 0 0 1 — Slot

SOURCE OF FUNDING

1 0 0 — State %

Federal %

Other %

☐ OHR COPY ☐ AGENCY COPY

OFFICE OF HUMAN RESOURCES

E 6 0 — Agency Code

A E 1 0 — Alphanumeric Code

0001 — Slot

10 16 2010 — Authorized Date

☒ Delegated ☐ New Position ☐ Prototype

☒ Some Title Changes ☐ Update

Administrative Coordinator I — Approved State Title

Tanika Boyce — Approval Signature

09/24/2010 — Date Approved

REQUESTED ACTION INFORMATION

Reclassification — Requested Action

Administrative Coordinator I — Requested State Title

A E 1 0 — Alphanumeric Code

2 — FLSA Designation

Supervisor's Signature

Date

Other Required Signature

09/24/10 — Date

THE FOLLOWING SECTION OF THE POSITION DESCRIPTION IS TO BE COMPLETED BY THE SUPERVISOR

1. What are the minimum requirements for the position (*Minimum requirements must at least meet the state minimum requirements for classified classes but may include additional requirements.*)?

A bachelor's degree and two (2) years of relevant experience in business management, public administration, or administrative services; or an associate degree and four (4) years of relevant experience in business management, public administration, or administrative services.

2. What knowledge, skills, and abilities are needed by an employee upon entry to this job including any special certification or license?

Thorough knowledge of principles and practices of public and business administration, thorough knowledge of modern office practices, including the use of equipment and working knowledge of word processing and data processing. The ability to carry out complex oral and written instructions. The ability to type 55 corrected words per minute and the use of dictation. The ability to work independently and to solve special situations of a non-occurring nature. Must have the ability to establish and maintain good interpersonal relationships and possess a positive attitude.

3. Describe the guidelines and supervision an employee receives to do this job, including the employee's independence and discretion.

Under general supervision of the College President, serves an administrative coordinator. Must have the ability to work independently and demonstrate sound judgement, maintain confidentiality, be diplomatic and ethical.

4. Indicate additional comments regarding this position (*e.g., work environment, physical requirements, overnight travel*).

Ability to work in a fast pace environment with some travel required.

MISCELLANEOUS DATA

Employee Number

Position Dept. Number

257

STATE OF SOUTH CAROLINA POSITION DESCRIPTION

0855

GENERAL INFORMATION

0000	H6Q	Denmark Technical College
Position Number	Agency Code	Agency Name
Academic Affairs/BCRT		Denmark/Bamberg
Division / Section / Unit		City / County
Carla Jackson	05	N Y/N
Employee Name	County Code	Is Position in Central Office ?
Interim DEAN	UD09	00
Current State Title	Alphanumeric Code	Band

F39
Full / Part Time Indicator

03750
Hours Per Week

1560
Base Hours

Vice President for Academic Affairs | UC07 | 0000
Supervisor State Title | Alphanumeric Code | Slot

SOURCE OF FUNDING

State %	Federal %	Other %
100 00		

☐ OHR COPY ☐ AGENCY COPY

OFFICE OF HUMAN RESOURCES

H6Q	UD09	0010
Agency Code	Alphanumeric Code	Slot

Authorized Date

☒ Delegated ☐ New Position ☐ Prototype
☐ State Title Changes ☒ Update

DEAN
Approved State Title

Approval Signature | Date Approved

REQUESTED ACTION INFORMATION

UPDATE - Interim
Requested Action

DEAN | UD09
Requested State Title | Alphanumeric Code

E FLSA Designation

Supervisor's Signature | Date | Other Required Signature | Date

THE FOLLOWING SECTION OF THE POSITION DESCRIPTION IS TO BE COMPLETED BY THE SUPERVISOR

1. What are the minimum requirements for the position (Minimum requirements must at least meet the state minimum requirements for classified classes but may include additional requirements.)?

A master's degree plus three (3) years of progressively responsible related work/teaching experience. Some positions will require discipline related licenses or certifications. All faculty must meet SACSCOC guidelines. The Dean must also meet all professional requirements, State Tech, and Denmark Technical College policies and have appropriate certification, license, etc., as required.

2. What knowledge, skills, and abilities are needed by an employee upon entry to this job including any special certification or license?

Must demonstrate willingness to work cooperatively with others and independently, along with the ability to learn and adapt to new ideas/techniques in support of instructional responsiblities, the mission and goals of the institution are essential. Must exhibit high level of ethics, good judgment, personnel skills, cooperative attitude and skills in planning and achieving college divisional goals and objectives. Ability to effectively use interpersonal and communications skills and to assess and prioritize multiple tasks, projects, and requests.

3. Describe the guidelines and supervision an employee receives to do this job, including the employee's independence and discretion.

The Dean works under the direct supervision of the Vice President for Academic Affairs and is guided by the policies set forth in the Faculty Orientation Manual of the College, the established operating policies and procedures of the College, the division, the instructional area and the State Board for Technical and Comprehensive Education.

4. Indicate additional comments regarding this position (e.g., work environment, physical requirements, overnight travel).

May require some local travel and extended work hours during registration.

MISCELLANEOUS DATA

Employee Number

Position Dept. Number

937

STATE OF SOUTH CAROLINA POSITION DESCRIPTION

1. Job Purpose:

Under limited supervision of the Vice President for Academic Affairs, provides curriculur leadership in relation to College-wide goals in sustaining, delivering, or eliminated academic programs in accordance with strategic planning goals. The Dean must provide administrative effectiveness as defined and measured by the FPMS to meet College and State Tech policies and procedures. Ensures administration adheres to academic quality of academic advising and special programs, facilities, centers, or institutes assigned to the institution. Responsible for directing the development and operation of the Distance Learning Program and providing support to students and faculty.

2. Job Functions:	Essential/ Marginal (E or M)	Percentage of Time
1. Provides curricular leadership in relation to College-wide goals by initiating, sustaining, delivering, or eliminating academic programs and school core curricula in accordance with strategic planning goals. Supervises conveners in the construction of timely class schedules based on student needs and institutional resources including advisement and registration.	E	20
2. Develops new curriculum and reviews and revises existing curriculum with conveners and unit faculty; teaches in the appropriate discipline.	E	20
3. Ensures documented unit, program, and course assessment through development of student learning outcomes, appropriate strategies, and feedback to ensure academic excellence and integrity of programs.	E	15
4. Supervises the administration of and ensures the academic quality of academic advising and special programs, facilities, centers, or institutes assigned to the school; supervises the operation of any labs, studios, or computer facilities in the school.	E	15
5. Responsible for all fiscal matters at unit level. Initiates funding opportunities, plans for, requests, and disburses operational, travel, and other funds legally, responsibly, and fairly within given budget limitations.	E	15
6. Participates in college-wide strategic planning activities, especially as related to academic matters. Develops/reviews academic policies and makes recommendations on all-college policies and procedures.	E	5
7. Responsible for human resource management of unit faculty and staff. Develops long-range staffing plans to include new faculty hires, retirements, and adequate support staff that are aligned with program delivery, enrollment, and market projection; prepares job descriptions/ads and other documentation for all positions, appoints search committees; supervises seach processes; recommends appointment of appropriately qualified faculty and staff; renders timely, professional judgement on periodic evaluations, reappointments, tenure and promotion.	E	10

3. Position's Supervisory Responsibilities:

If this position includes supervisory responsibilities, please indicate the state title and number of positions of the three highest subordinates.

	STATE TITLE	NUMBER
(1)	Instructor	6
(2)	Administrative Specialist II	1
(3)	Program Assistant	1

Number of employees directly supervised: 8

Total number supervised: 8

4. Comments:

Knowledge of traditional and online (web-based) instructional delivery from a generic viewpoint; knowledge of basic operations of LMS and CRM. Knowledge of current principles and practices of distance learning technology and applications in an educational environment. Ability to manage and implement organization-wide technology projects. Knowledge of technology system development principles and techniques and project planning and management principles.

5. The above description is an accurate and complete description of this job. _____ _____

Employee's Signature Date

STATE OF SOUTH CAROLINA
Denmark Technical College
P.O. Box 327
Denmark, SC 29042

http://www.jobs.sc.gov
INVITES APPLICATIONS FOR THE POSITION OF:
Administrative Coordinator-President's Office

An Equal Opportunity Employer

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

OPENING DATE: 09/24/10

CLOSING DATE: 09/29/10 05:30 PM

JOB TITLE: Administrative Coordinator-President's Office

CLASS CODE: AH10

POSITION NUMBER: 00000

SLOT NUMBER:

STATE SALARY RANGE:
$30,274.00 - $56,015.00 Annually

AGENCY HIRING RANGE - MIN:
AGENCY HIRING RANGE - MAX:

LOCATION: Bamberg County, South Carolina

JOB TYPE: FTE - Full-Time

NORMAL WORK SCHEDULE: Monday - Thursday 8:30- 5:30 and Friday 8:30- 12 noon

RESIDENCY REQUIREMENT:
RESIDENCY REQUIREMENT SPECIFICS (IF ANY):

AGENCY SPECIFIC APPLICATION PROCEDURES:

Please apply online

JOB RESPONSIBILITIES:

Working in a highly professional and confidential environment, the Administrative Coordinator performs complex and highly confidential executive assistant level related functions to ensure the President's Office runs smoothly such as: Prepares signature ready correspondence, reports, and forms, Coordinates small to medium size meetings and serve on project committees, Serves as a liaison between internal and external constituents and the

President, maintains President's calendar, Uses Microsoft Office to create files and records, assist with making travel arrangements, and budgeting, Reviews and prioritizes mail documents, Provides excellent customer service to visitors, Attends meetings and assumes responsibility for the orderly dissemination of material and the recording of proceedings. The Administrative Coordinator may also represent Denmark Technical College on behalf of the President.

MINIMUM AND ADDITIONAL REQUIREMENTS:

A high school diploma and relevant experience in business management, public administration, or administrative services or a bachelor's degree in business management or a related area may be substituted for the required work experience.

PREFERRED QUALIFICATIONS:

A Bachelor's Degree in business management or related area and 2 years of executive support-level experience is preferred. Additionally, planning, organizational, computer applications; advanced knowledge of Microsoft Word and Excel are a plus. Must be able to carry out activities involving skills in arranging meetings, planning, budgeting, recording meeting minutes and organizing. Experience using Datatel and Powerpoint is preferred.

ADDITIONAL COMMENTS:

Supplemental questions are considered part of the official application. Please complete the online application to include all current and previous work history and education. A resume will not be accepted in lieu of the online application.

APPLICATIONS MAY BE OBTAINED AND FILED ONLINE AT:
http://www.jobs.sc.gov
OR
P.O. Box 327
Denmark, SC 29042

Job #15013
ADMINISTRATIVE COORDINATOR-PRESIDENT'S OFFICE
TB

Carla Jackson
684 McCain Drive | Denmark, SC 29827 | (803) 308-7606 | carla.jackson78@yahoo.com

PROFESSIONAL SUMMARY

An organized, dedicated, highly motivated, and goal –oriented professional with 10+ years of diverse experience in organizational management, budgeting, instruction, policy development and strategic planning. Strong interpersonal skills with a strong track-record of top performance deliverance in team leadership, conflict resolution and critical thinking. Well-versed in all phases of higher education administration. Experience working with a diverse population of secondary education, traditional and nontraditional students, both inperson and in an online environment.

EDUCATION

American InterContinental University — 2015
Master of Business Administration — Schaumburg, IL
- **Specialization in Management**

Claflin University — 2006
Bachelor of Arts in Sociology/ — Orangeburg, SC
- **Criminal Justice Administration**

University of Madison Wisconsin — 2015
- **Certification of Fundamental Online Teaching** — Madison, WI

PROFESSIONAL EXPERIENCE

Denmark Technical College — 2015-Present
Interim Dean of Business, Computers, Related Technologies — Denmark, SC
Interim Dean of Transitional Studies/Distance Education

- Provides curricular leadership in relation to College-wide goals by initiating, sustaining, delivering, or eliminating academic programs and school core curricula in accordance with strategic planning goals.
- Develops new curriculum and reviews and revises existing curriculum with unit faculty. Ensures documented unit, program, and course assessment through development of student learning outcomes, appropriate strategies, and feedback to ensure academic excellence and integrity of programs.
- Supervises employees to ensure the academic quality of academic advising and special programs, facilities, centers, or institutes assigned to the school; supervises the operation of any labs or computer facilities in the school.Supervises employees in the construction of timely class schedules based on student needs and institutional resources including advisement and registration.
- Responsible for all fiscal matters at unit level. Initiates funding opportunities, plans for, requests, and disburses operational, travel, and other funds legally, responsibly, and fairly within given budget limitations.

DTC Departmental Request for Personnel/Payroll Action Form

Please complete all sections

I. PERSONNEL DATA

1. Employee Name Last: Jackson First: Carla MI:

This section to be completed by HR only

2. Employee ID # or SSN	Date of Birth	4. Sex	
xxx-xx-8030			Male
		X	Female

II. DEPARTMENT DATA

Department Name: Transitional Studies

Requestor's Position: Vice President of Academic Affairs

Requestor's Name: Dr. Valerie Fields

Requestor's Signature:

III. TYPE OF ACTION

New Hire	Merit Increase	Retirement
Rehire	Salary Change ____%	Leave without Pay
Transfer	Title Change	Request to Hire
Promotion	Change of Funding	Dual
Demotion	Re-allocation of funding	X Other (Specify)
Separation		

IV. POSITION TYPE

Faculty	X Staff
Student Worker	Contract

V. ASSIGNMENT

Full Time	Part Time
Temporary	

Justification: See attached

VI. CURRENT POSITION INFORMATION

Current Position Title:

Position Number:

Annual Salary/Hourly Rate: $

FTE: 1.0 .75

Effective Date:

VII. NEW POSITION INFORMATION

New Position Title: Distance Education Director

New Position Number:

Annual Salary/Hourly Rate: $375.00 Per pay period

FTE: 1.0 .75

Effective Date: 10/1/15-9/30/16

VIII. ALLOCATION OF FUNDS

Account Fund	Amount or %

IX. SOURCE OF FUNDING

Department Name: Grants & Contracts

Division:

Departmental Budget #: 21-9842604

X. (Please Complete in Chronological Order) AUTHORIZATIONS

	Signature	Date
1. Dean/Department Head (Print Name)		
2. Division Vice President (Print Name) Dr. Valerie Fields		9/28/2015
3. Grants and Contracts (If Applicable) (Print Name) Mrs. Teresa Mack	Teresa S. Mack	9/28/2015
4. Vice President for Fiscal Affairs (Print Name) Mr. Ramon Wideman		9/28/15
5. Director of Human Resources (Print Name) Ms. Alfredia Boyd		9/29/15
6 President Dr. Leonard McIntyre	L. McIntyre	10-7-15

(10/2014)

Distance Learning Education

Job Functions:

- Directs the efforts to identify new distance learning course materials, evaluates the appropriateness for Denmark Technical College use; disseminates materials to faculty,
and manages the approval process.

- Directs the planning, staff, and operations of the Distance Learning Program.

-Manages licensing and copying issues, determines costs and works with appropriate College officials to arrange access to distance learning materials.

-Coordinates new web-based products for instructional delivery and alignment of DTC's Distance Education program.

- Explores and implements innovate products to support a learning-centered college.

- Identifies new distance and distributive learning technologies and evaluates the appropriateness for DTC use.

- Works collaboratively with departments in scheduling Distance Learning courses.

DENMARK TECHNICAL COLLEGE
Denmark, South Carolina

Explanation of Policy Statement as Applied to Use of Title III Funds in Support of Policy Title: Institutional Advancement, Number 2-1-008

Guidelines Governing the Administration of Faculty and Staff Professional Development Programs with Title III Funds

As Governed by
The Office of The Chief Academic Officer

Denmark Technical College (DTC) believes that a highly skilled, fully competent body of faculty and professional staff is needed to facilitate the effective and efficient operation of the institution. To assure itself of competent workers, the college encourages its faculty and professional staff to purse relevant professional activities. The College will provide Title III funds for professional growth contingent upon needs to upgrade specific skills and knowledge subject to the availability of grant monies; determination of grant funds can only be made on a yearly basis. The following guidelines are issued to college personnel, with a minimum of two (2) years service to the college, for guidance in planning professional development activities and applying for Title III financial assistance:

1. The employee must complete and submit a Request for Professional Development Assistance. This document must be reviewed and approved by all of the employee's superior officers and receive the final approval of the President.

2. The purpose of the activity and a full explanation of the employee's time requirements must be reviewed and endorsed by all of the employee's superior officers. The employee's study schedule must also receive the final approval of the President.

3. Each person who receives Denmark Technical College Professional Development Assistance with Title III funds will be required to sign a pledge to provide services as a DTC employee (at the discretion of the college) equal to the number of years during which Title III funds were provided by DTC (for example, if the employee received assistance during 2010 and 2011, he/she will be expected to pledge his/her service for 2011 and 2012. If a degree seeking employee completes a 2-year program during 2010 – 2012 academic school year, he/she will be expected to pledge his/her service for 2013 – 2015 academic school year. If the degree-seeking student is in a non-tradition program time will be computed as the months he/she is in class paid by the College. If a degree-seeking resigns from DTC, after degree has been obtained and prior to fulfilling service requirement the employee will be required to reimburse the College in full the amount provided for the obtained degree.

4. Faculty and staff development activities may include college or university credit courses, workshops on and off campus, conferences, seminars and similar activities directly related and relevant to the professional growth of the employee.

Financial assistance with Title III funds, however, will be granted only in those instances where the employee verifies that the planned activity will improve job performance.

5. Degree studies, unless specifically related to the present position will not be approved for Title III funds.

6. For faculty and staff, professional development activities that include college or university credit courses, especially in instances where fees are exorbitant in comparison with comparable institutions, the employee will be requested to seek the most cost efficient program. Should employee elect the more costly courses, he/she will need to negotiate an agreement or contract for the Title III Program to defray no less than 75% and no more than 85% of the total cost of courses.

7. The steps for processing a Request for Professional Development Assistance are as follows:

   a. Submit request form to immediate supervisor;
   b. Immediate supervisor submits request to Division Head. In Academic Affairs, Division Head submits to Vice President for Academic Affairs.
   c. Staff Division Head, Academic Dean, or Vice President for Academic Affairs schedules and appearance before the Executive Council to explain/justify requests. Appearance before the Executive Council will be scheduled at least two weeks prior to the date that a decision is required by the requestor.
   d. The Executive Council decides and the Executive Council Secretary notes the decision in the minutes. Title III Director secures final approval and signature of President.
   e. President returns Request Form to Title III Director who will assist the requestor in filling out and processing the DTC Requisition for Purchase.
   f. Requisition will be processed in accordance with normal DTC procedures.
   g. Should an employee violate any of the terms of the Award he/she will be required to reimburse the institution in full.

8. In instances where the employee presents a schedule for courses leading to a degree and thereby obligates federal funds but fails to follow the agreed upon plan of study, the employee upon resuming studies must initiate a second request and receive approval in order to be assured that Title III funding is available.

9. In any case where the college provides financial assistance to an employee to participate in a professional development activity, the employee will be required to show evidence that he/she has successfully completed the activity within thirty days. If the employee fails to show acceptable evidence of successful completion, he/she will be required to reimburse the College in full. If the degree seeking employee resigns from the College prior to completing the program the employee will be required to reimburse the College in full. Withdrawal does not constitute successful completion and full reimbursement to the college will be required.

10. At the end of each semester, the Title III Director shall prepare a report of professional development activities based on information provided by employees seeking assistance for degree studies.

DENMARK
TECHNICAL COLLEGE

TITLE III FUNDED FACULTY AND STAFF DEVLEOPMENT PROGRAMS

My signature attest to my understanding and agreeing to the terms of the Guidelines governing the administration college sponsored faculty/staff development activities. I further understand and agree to provide services as a Denmark Technical College Employee that is equal to the number of months and/or years during which I receive financial assistance for professional development. Furthermore, I fully understand that the beginning of the period time that I am to provide the College begins **after full completion** of my course of study. I also understand that should I resign from my position prior to fulfilling my obligation of service, I will reimburse the College in full.

Signature of Applicant

10/1/13
Date

Witness

Date

DENMARK
TECHNICAL COLLEGE

REQUEST FOR PROFESSIONAL DEVELOPMENT ASSISTANCE

1. GENERAL INFORMATION

Name of Applicant: Carla Jackson
Job Title: Executive Administrative Coordinator
Home Address: Street 684 McCain Drive
City/State/Zip Denmark, SC 29042
Telephone (Home) 803-308-7606

Business Address: Campus building: Blatt Hall (024)
Telephone Extension: 5102
Number of Years Employed at DTC: 2 years 9 months

2. ORGANIZATONAL DATA

Area:
(x) Office of the President
( ) Administrative Affairs
( ) Institutional Advancement
( ) Business and Finance
( ) Academic Affairs
( ) Student Affairs
( ) Continuing Education

Division: President's Office
Department:
Program:
Immediate Supervisor: Dr. Joann Boyd-Scotland

3. Describe in detail the professional development activity for which you are requesting assistance

The professional development activity that I am requesting assistance for is a graduate program that provides a foundation in Business Administration and Management theories to convey strategies, policies, practices and procedures throughout the institution.

4. Describe the cost of the activity and show in detail how the total was calculated.

The total cost of the activity is $27,936.00. (See Attachment)

5. List the primary job duties that you are employed to perform at DTC and explain in detail how this activity will strengthen you in the performance of the job duties to which you are presently assigned.

The primary job duties are to perform complex and highly confidential functions to ensure that the President's office run smoothly; this includes supervising office staff, planning, reviewing, preparing correspondences, formulating reports, budgeting, coordinating travel arrangements and meetings.

6. Explain how your participation in this professional development activity relates to the college's stated objectives. How would DTC benefit form this experience?

My participation in this professional activity will enhance my leadership skills, provide effective approaches to setting and implementing organizational strategies, provide quality customer service, and thorough knowledge of principles and practices of public and business administration. In addition, have the capabilities to teach Business Courses on as needed basis.

7. Indicate your regular duty hours and explain how you can meet the time requirements of this activity and avoid any conflicts with your presently assigned duty hours.

My regular duty hours are Monday-Friday from 8:30a.m.– 5:00p.m daily, off weekends. I will meet the time requirements on evenings and weekends to avoid conflict with my assigned duty hours.

8. Indicate the study schedule you would be required to pursue to meet the requirements of this activity.

The activity is an online-class. Therefore, the times are flexible to meet (evenings or weekends). The courses requires student to participate at least (3) times a week, in order to meet activity requirement.

9. I have read, understand, and agree to the terms of the Guidelines governing the administration of college sponsored faculty/staff development activities. I further understand and agree to provide services as a Denmark Technical College employee (equal to the number of years during which I received financial assistance for professional development).

Signature of Applicant: Cynthia Jackson Date: 10/1/13

10. Attach the following: (a) Study schedule (b) Official information form sponsor describing the activity in full detail.

3

11. Endorsements: I have reviewed the request carefully and hereby tender the following action:

Signature of Immediate Supervisor/Date (✓) APPROVED ( ) NOT APPROVED

Signature of Division Director/Date ( ) APPROVED ( ) NOT APPROVED

Signature of Title III Director/Date (✓) APPROVED ( ) NOT APPROVED

Signature of Secretary to Executive Council/Date ( ) APPROVED ( ) NOT APPROVED

Signature of President/Date (✓) APPROVED ( ) NOT APPROVED

I just wanted to update you from our conversation on Friday regarding this letter. Our office has still not received the physical copy of the letter which enclosed the CD with the additional documents you requested to add to the record. If you would like for these documents to be added, please send our office a new copy of the letter and enclose the documents/CD and I will add these to the record. Please let me know if you have any questions.

Thanks,
Spencer

From: Shannon Polvi [mailto:Shannon@CBPHlaw.com]
Sent: Friday, August 25, 2017 5:03 PM
To: Miller, Spencer <Spencer.Miller@admin.sc.gov>; Boykin, Charles <boykinc@sctechsystem.edu>
Subject: Carla Jackson

Dear Spencer and Charles,

Please see the attached that was mailed today with an accompanying disk.

Sincerely,
Shannon

Shannon Polvi
Cromer Babb Porter & Hicks, LLC

1418 Laurel St., Suite A (29201) | P.O. Box 11675 | Columbia, SC 29211
Phone 803.799.9530 | Fax 803.799.9533
shannon@cbphlaw.com
www.cbphlaw.com

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Agency Exhibit # 1

SC Technical College System
Dual Employment Form

SECONDARY AGENCY (Agency Requesting Dual Employment)

AGENCY NAME Denmark Technical College

SECTION/DEPARTMENT Institutional Research, Planning, & Developmen SSN #112520

EMPLOYEE NAME Dr. Lamin E. Drammeh STATE JOB TITLE VP IRPD

DESCRIPTION OF SERVICES TO BE PERFORMED Direct Institutional Review and Development Study
See attached

DURATION OF SERVICES AND PROPOSED COMPENSATION

DATES (MONTH/DAY/YEAR:
FROM December 1, 2016
TO August 31, 2017

TIMES:
FROM See attached (AM/PM)
TO see attached (AM/PM)

TOTAL GROSS SALARY
HOURLY RATE (IF APPLICABLE) N/A

TOTAL HOURS

FLSA ☒ EXEMPT ☐ NON EXEMPT

EMPLOYEE'S SIGNATURE

DATE 11/28/16

DEPARTMENT HEAD/DEAN SIGNATURE L. McIntyre

DATE 12-7-16

AUTHORIZED REQUESTING AGENCY SIGNATURE L. McIntyre

DATE 12-7-16

HOME AGENCY (Agency of Employee's Primary Employment)

AGENCY NAME Denmark Technical College SECTION/DEPARTMENT IRDP

EMPLOYEE CLASS CODE UC04 SLOT 0001 FLSA ☒ EXEMPT ☐ NON EXEMPT CURRENT ANNUALIZED SALARY

NORMALLY SCHEDULED HOURS OF WORK: FROM 8:00 am (AM/PM) TO 6:00 pm (AM/PM)

(IF FACULTY)

OFFICE HOURS:	CLASS:	DAYS TAUGHT:	TIMES:
			(AM/PM) TO (AM/PM)
			(AM/PM) TO (AM/PM)
			(AM/PM) TO (AM/PM)

IS THE REQUESTING AGENCY AUTHORIZED TO PAY THE EMPLOYEE TRAVEL AND SUBSISTENCE? ☐ YES ☒ NO ☐ N/A

IF NECESSARY, HAVE ARRANGEMENTS BEEN MADE FOR THE EMPLOYEE TO TAKE ANNUAL LEAVE ☐ YES ☒ NO ☐ N/A
OR LEAVE WITHOUT PAY TO RENDER THE SERVICES DESCRIBED?

SIGNATURE OF SUPERVISOR (VERIFIES THAT STATEMENT OF HOURS WORKED IS CORRECT)

AUTHORIZED EMPLOYING AGENCY SIGNATURE DATE

HR COMMENTS

R / / 04

DTC Departmental Request for Personnel/Payroll Action Form

Please complete all sections

I. PERSONNEL DATA

1. Employee Name Last: Drammeh First: Lamin MI: E.

This section to be completed by HR only

2. Employee ID # or SSN	Date of Birth	4. Sex	
#112520	[redacted]/1975		x Male / Female

II. DEPARTMENT DATA

Department Name: President's Office

Requestor's Position: President

Requestor's Name: Dr. Leonard A. McIntyre

Requestor's Signature: Leonard A. McIntyre LAM

III. TYPE OF ACTION

New Hire	Merit Increase	Retirement
Rehire	Salary Change	Leave without Pay
Transfer	Title Change	Request to Hire
Promotion	Change of Funding	x Dual
Demotion	Re-allocation of funding	Other (Specify)
Separation		

Justification: Justification Attached

IV. POSITION TYPE

Faculty	x Staff
Student Worker	Contract

V. ASSIGNMENT

Full Time	Part Time
x Temporary	

VI. CURRENT POSITION INFORMATION

Current Position Title: Vice President for IRPD/Special Asst. to the President

Position Number: 139277

Annual Salary/Hourly Rate:

FTE: 1.0 x .75

Effective Date:

VII. NEW POSITION INFORMATION

New Position Title: IRS-Study Principal Investigator/ Director

New Position Number:

Annual Salary/Hourly Rate: $15,000

FTE: 1.0 .75

Effective Date: 12/1/2016

VIII. ALLOCATION OF FUNDS

Account Fund	Amount or %
21-9842713-50171	

IX. SOURCE OF FUNDING

Department Name: Institutional Research, Planning and Development

Division: Instituting Informal STEM Learning

Departmental Budget #: 21-9842713-50171

X. (Please Complete in Chronological Order) AUTHORIZATIONS

	Signature	Date
1. Dean/Department Head (Print Name) Dr. Leonard A. McIntyre	Leonard A. McIntyre	11/30/16
2. Division Vice President (Print Name) Dr. Lamin Drammeh		11/28/16
3. Grants and Contracts (If Applicable) Teresa Mack		11/30/16
4. Vice President for Fiscal Affairs Ramon Wideman		12/1/16
5. Director of Human Resources Cheryl Washington		12/1/16
6. Vice President for IRPD & Special Assistant to the President Dr. Lamin Drammeh		12/1/16
7. President Dr. Leonard McIntyre	L. McIntyre	12/7/16

Revised June 2016

Executive Summary

Institutional Review & Development Study: A Model for Reform and Student Success

The proposed IRD-Study will examine, develop, publish, and disseminate relevant research-based ideas that embrace approaches and strategies to, 1) support the enhancement of student learning, 2) support the College's retention strategies, and 3) apply effective instructional practices and learning theories in the classroom. These capacities coupled with external training will serve the college well, by preparing the students for the jobs of the "new" knowledge-economy; by re-tooling faculty with the models, methods, and efficacies that support student success and by rebuilding institutional reputation based on the quality of education, training, and services the college delivers to the stakeholders including students, faculty, parents, alumni, South Carolina Technical College System, state and federal agencies, constituents, external reporting entities, and supporters.

The overall goal of the study is two-fold; first, the IRD-Study will conduct a comprehensive review and assessment of institutional artifacts, processes, and capacities in order to understand the dreadful phenomenon behind the systemic challenges that have compromised the aforementioned student success measures. Secondly, the IRD-Study hopes to produce a framework that the divisions of Academic and Student Affairs, in conjunction with Fiscal Affairs, Information Technology, Continuing Education, and IRPD can adopt, and implement the findings to develop a more vibrant institution that champions teacher efficacy, embraces and facilitates professional development/training, anchored in student-centered philosophy; diversify academic programming, and pursue internationalization.

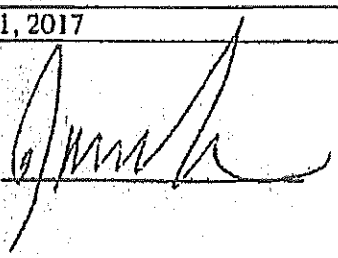
The IRD-Study will utilize research; and, apply data analytics to examine, analyze, develop, and publish an actionable report on current processes, instructional practices, and staffing capacities demanded by higher education in preparing workforce for the 21th century knowledge economy. Actionable items based on the study's conclusions will be adapted by the College to instill, impart, and improve best practices and lessons learned in teacher effectiveness (instruction (face to face and online), advising, mentoring, and professional development training. The main objectives of this Study are improving teacher efficacy, and institutional effectiveness with laser focus attention on impacting student success. These objectives will in turn, facilitate an increased demand for student learning, build new programs with K-12, enhance recruitment opportunities, strengthen retention, grow completion and graduation, and create a stable pathway to sound financial footing.

The Study hopes to examine and present methods to bridge the gaps between existing faculty practices and more recent instructional best practices. The findings of the study will enable educators, as well as administrators and staff to meet regularly, share expertise, and work collaboratively to improve the academic performance of students and thereby elevating DTC as a premier institution for preparing students for the workforce or transfer. Achieving the objectives of this study are essential to stemming the downward trajectory of the College's retention picture; prioritizing student satisfaction and other student performance indicators that guarantee success, build faculty and staff morale; reward hard work and excellence as our core goal; and marshaling community trust in the College.

Payment Plan

Find below payroll action form compensation amount and pay dates.

Date	Amount
December 31, 2016	$3,500.00
January 31, 2017	$1,400.00
February 28, 2017	$1,400.00
March 31, 2017	$1,400.00
April 30, 2017	$1,400.00
May 31, 2017	$1,400.00
June 30, 2017	$1,400.00
July 31, 2017	$1,400.00
August 31, 2017	$1,700.00

Signature: 

Dte 12/1/16

PLANNING STAGE DOCUMENT

Carla Jackson	Administrative Coordinator		Jan. 4, 2011
EMPLOYEE NAME	JOB CLASSIFICATION		JOB DATE
President's Office	Leonard A. McIntyre, Ph.D.	FROM	Dec. 1, 2013- Nov. 30 2014
ORGANIZATIONAL UNIT	RATER		RATING PERIOD

1. **JOB DUTY:** Coordinates special projects and events; works independently and within a team on special and non-recurring projects which may include disseminating information and organizing college-wide events. **25%**

   SUCCESS CRITERIA:
   1) Coordinates homecoming exercises, and other ongoing and non-recurring projects by successfully communicating with other key team members in the successful completion of the project.
   2) Keeps a tickler file on the due dates of all special projects, questionnaires, reports that are required of the College and maintains a system to ensure that the due dates are met by the appropriate department.
   3) Assists the President in planning the Area Commission Meetings; attends the meetings, maintain a file of Area Commission decisions.

2. **JOB DUTY:** Develops and maintains standard reporting structure for vital program statuses to include all Executive Committees. **20%**

   SUCCESS CRITERIA:
   1) Use of a functional standard reporting structure for vital program statuses of all Executive Committees which keeps the President informed of the active status of the committees.

3. **JOB DUTY:** Performs complex and highly confidential Executive related functions to ensure that the President's Office runs smoothly to include preparing signature ready correspondence, reports, and forms. **20%**

   SUCCESS CRITERIA:
   1) Prepares special reports, surveys, and other correspondence for the President's signature with 100% accuracy as required.
   2) Assists the President in matters relating to the function of the office to include managing the office budget and supervises other office personnel.
   3) Assist and advises Executive Council Members and other on special administrative problems that have been brought to the President's Office.

4. **JOB DUTY:** Provides ongoing tracking and monitoring of Presidential Ad Hoc Committees campus-wide. **15%**

   SUCCESS CRITERIA:
   1) Prepares and maintains files for each Ad Hoc Committee to include copies of agendas, minutes, and goals and objectives of the committee as they become available.
   2) Serves as the liaison for the committee chairs and the President.

5. **JOB DUTY:** Displays a positive attitude at initial point of verbal/written communications for the College's constituent groups. **10%**

   SUCCESS CRITERIA:
   1) Greets and responds appropriately to any visitors of the College and/or President's office. Answers and directs calls and written communications appropriately and professionally at all times.
   2) Prioritize all calls, written communications, and messages for the President for appropriate follow-up.

6. **JOB DUTY:** Coordinates small to mid-size meetings and serves on special project committees. **5%**

   SUCCESS CRITERIA:
   1) Informs employees appropriately of the meeting dates and times, sends reminders as needed, and reserves the meeting area as available.
   2) Attends special project committee meetings, conveys the meeting content to the President.

Agency Exhibit
#
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7. **JOB DUTY:** Performs other Executive duties as assigned by the President. **5%**

SUCCESS CRITERIA: 1) Monitors progress and make a report on directives given by the President to others.

I HAVE REVIEWED JOB DUTIES, PERFORMANCE CHARACTERISTICS, OBJECTIVES (IF APPLICABLE) AND EXPECTATIONS FOR PERFORMANCE (SUCCESS CRITERIA).

Carlo Jackson — EMPLOYEE SIGNATURE — 9/2/14 DATE

L. McIntyre — RATER SIGNATURE — 9-4-14 DATE

A. Nedra Durst — REVIEWER SIGNATURE — 9-7-14 DATE

PERFORMANCE CHARACTERISTICS
CHECK THOSE APPLICABLE

(✓) 1. TECHNICAL COMPETENCE – POSSESSES NECESSARY KNOWLEDGE AND SKILL TO EFFECTIVELY PERFORM DUTIES AND APPLIES THIS KNOWLEDGE APPROPRIATELY.

(✓) 2. SELF-MANAGEMENT – WORKS WITH MINIMAL SUPERVISION, MANAGES OWN TIME EFFECTIVELY, MAINTAINS CONTROL ON ALL CURRENT PROJECTS/ RESPONSIBILITIES AND ENSURES FOLLOW-UP.

(✓) 3. JOB KNOWLEDGE – POSSESSES NECESSARY FAMILIARITY WITH ASSIGNED POSITION AND FOLLOWS APPROPRIATE PROCEDURES.

( ) 4. QUANTITY OF WORK - PRODUCES AN AMOUNT OF ACCEPTABLE WORK IN ORDER TO MEET SCHEDULES OVER WHICH HE/SHE HAS CONTROL.

(✓) 5. QUALITY OF WORK – NEATLY THROUGHLY AND ACCURATELY COMPLETES JOB ASSIGNMENTS ACCORDING TO ESTABLISHED QUALITY STANDARDS.

(✓) 6. PROBLEM ANALYSIS – INDENTIFIES PROBLEMS AND RELEVANT ISSUES AND BREAKS PROBLEMS INTO COMPONENTS. SEES RELATIONSHIPS AND ALTERNATIVE SOLUTIONS AND ARRIVES AT SOUND CONCLUSIONS THROUGH LOGICAL PROCESS.

(✓) 7. ACCURACY OF WORK - MAKES MINIMUM NUMBER OF MISTAKES OR ERRORS THAT REQUIRE CORRECTION.

(✓) 8. USE OF WORK TIME – REPORTS FOR WORK PROMPTLY EFFECTIVELY AND EFFICIENTLY USES TIME TO ACCOMPLISH JOB TASKS.

( ) 9. SAFETY – FOLLOWS ESTABLISHED SAFETY PRACTICES AND CORRECTS UNSAFE WORK PRACTICES.

(✓) 10. RESPONSIBILITY – THE EXTENT TO WHICH THE EMPLOYEE CAN BE RELIED UPON TO PERFORM ASSIGNED DUTIES AND TO BE AWARE OF AND ACCEPTING OF ACCOUNTABILITY FOR SAME.

(✓) 11. JUDGEMENT - REASONS, COMPARES, UNDERSTANDS, AND THINKS RATIONALLY ON THE JOB. MAKES QUALITY WORK- RELATED DECISIONS BASED ON SOUND CONCLUSIONS AND SEPARATES FACTS FROM OPINIONS.

(✓) 12. LEADERSHIP – GUIDES OTHERS TO THE ACCOMPLISHMENT OF OBJECTIVES/ RESPONSIBILITIES, DEVELOPS TEAMWORK, AND RESOLVES CONFLICT.

(✓) 13. INITIATIVE - STARTS ASSIGNMENTS WITHOUT PROMPTING AND INDEPENDENTLY CONTRIBUTES IDEAS AND PROJECTS. SEES AND ACTS UPON NEW OPPORTUNITIES.

(✓) 14. DEPENDABILITY - MEETS WORK SCHEDULES AND FULFILLS JOB RESPONSIBILITIES AND COMMITMENTS.

( ) 15. RELIABILITY – CONSISTENTLY DELIVERS WHAT IS REQUIRED WITHIN DEADLINES AND INSTRUCTIONS.

( ) 16. DELEGATION – CLEARLY ASSIGNS RESPONSIBILITY TO OTHERS AND SEEKS TO PROVIDE THE APPROPRIATE RESOURCES.

(✓) 17. ACCEPTANCE – GAINS CONFIDENCE OF OTHERS AND EARNS RESPECT OF SUBORDINATES, PEERS, AND SUPERIORS.

(✓) 18. INTERNAL RELATIONS – WORKS EFFECTIVELY AND COOPERATIVELY WITH OTHERS TO ACHIEVE ORGANIZATIONAL GOALS.

( ) 19. ADAPTABILITY - ADAPTS TO JOB OR ORGANIZATIONAL GOALS.

(✓) 20. COMMUNICATION ABILITY – PRESENTS CLEAR AND ACCURATE INFORMATION BOTH VERBALLY AND WRITTEN.

I HAVE REVIEWED JOB DUTIES, PERFORMANCE CHARACTERISTICS, OBJECTIVES (IF APPLICABLE) AND EXPECTATIONS FOR PERFORMANCE (SUCCESS CRITERIA).

Carla Jackson — EMPLOYEE SIGNATURE — 9/2/14 — DATE

L. McIntyre — RATER SIGNATURE — 9-4-14 — DATE

REVIEWER SIGNATURE — DATE

Agency Exhibit # 3

SACS COC™

SOUTHERN ASSOCIATION OF COLLEGES AND SCHOOLS
COMMISSION ON COLLEGES

1866 Southern Lane
Decatur, Georgia 30033-4097

The Principles of Accreditation:

Foundations for Quality Enhancement

2018 Edition

404-679-4500
404-679-4558 (Fax)
www.sacscoc.org

Adopted by the College Delegate Assembly:
December 2017

Philosophy of Accreditation

Self-regulation through accreditation embodies a philosophy that a free people can and ought to govern themselves through a representative, flexible, and responsive system. Decentralization of authority honors the rich diversity of educational institutions in our pluralistic society and serves to protect both institutional autonomy and the broader culture of academic freedom in our global society. The empowerment flowing from self-regulation promotes both innovation and accountability in achieving the goals of educating and training citizens in a representative democracy. Consistent with these overarching values, accreditation is best accomplished through a voluntary association of educational institutions. Both a process and a product, accreditation relies on integrity; thoughtful and principled professional judgment; rigorous application of requirements; and a context of trust. The process provides an assessment of an institution's effectiveness in the fulfillment of its self-defined mission; its compliance with the requirements of its accrediting association; and its continuing efforts to enhance the quality of student learning and its programs and services. Based upon rigorous analysis and reasoned judgment, the process stimulates evaluation and improvement, while providing a means of continuing accountability to the institutions' stakeholders and to the public.

The culmination of the accreditation process is a public statement of an institution's continuing capacity to provide effective programs and services based on agreed-upon requirements. The statement of an institution's accreditation status with SACSCOC also represents an affirmation of an institution's continuing commitment to the Commission's principles and philosophy of accreditation.

The membership expects its peers to dedicate themselves to enhancing the quality of their programs and services within the context of their respective resources and capacities and to create an environment in which teaching and learning, research, and public service occur, as appropriate to the institution's self-defined mission.

At the heart of SACSCOC's philosophy of accreditation, the concept of quality enhancement presumes each member institution is to be engaged in ongoing improvement of its programs and services and be able to demonstrate how well it fulfills its stated mission. Although evaluation of an institution's educational quality and effectiveness in achieving its mission is a difficult task requiring careful analysis and professional judgment, an institution is expected to document the quality and effectiveness of all its programs and services.

SACSCOC supports the right of an institution to pursue its own educational mission as inherent in fundamental values of institutional autonomy; the right of faculty members to teach, investigate, and publish freely; the right of students to access opportunities for learning and for the open expression and exchange of ideas. However, the exercise of these rights should not substantially interfere with the overriding obligation of an institution to offer its students a sound educational experience that optimizes student achievement outcomes.

Section 1: The Principle of Integrity

Institutional integrity is essential to the purpose of higher education. Integrity functions as the basic covenant defining the relationship between the Southern Association of Colleges and Schools (SACSCOC) and its member and candidate institutions. The principle serves as the foundation of a relationship in which all parties agree to deal honestly and openly with both their constituencies and with one another.

1. **The institution operates with integrity in all matters.**
(Integrity) **[CR]**
(Note: While this principle is not addressed by the institution in its Compliance Certification or its application for accreditation, failure to adhere to this principle will lead to the imposition of a sanction, adverse action, or denial of authorization of a candidate committee.)

Section 2: Mission

A clearly defined and comprehensive mission guides the public's perception of the nature of the institution. It conveys a sense of the institution's uniqueness and identifies the qualities, characteristics and values that define the institution's role and distinctiveness within the diverse higher education community. Fundamental to the structure of an institution's effectiveness review, the mission reflects a clear understanding of the institution by its governing board, administration, faculty, students, staff and all constituents.

1. **The institution has a clearly defined, comprehensive, and published mission specific to the institution and appropriate for higher education. The mission addresses teaching and learning and, where applicable, research and public service.**
(Institutional mission) **[CR]**

Section 3: Basic Eligibility Standard

SACSCOC accredits degree-granting institutions in the southern region of the United States and those operating in select international locations. To gain or maintain accreditation with SACSCOC, an institution is a continuously functioning organization legally authorized to grant degrees and other academic credentials, and is able to demonstrate compliance with SACSCOC standards and policies.

1. **An institution seeking to gain or maintain accredited status**

   a. **has degree-granting authority from the appropriate government agency or agencies.**
   (Degree-granting authority) **[CR]**

   b. **offers all course work required for at least one degree program at each level at which it awards degrees.** (For exceptions, see SACSCOC policy "Documenting an Alternative Approach.") *(Course work for degrees)*

   c. **is in operation and has students enrolled in degree programs.**
   (Continuous operation) **[CR]**

Section 4: Governing Board

The institution's governing board holds in trust the fundamental autonomy and ultimate well-being of the institution. As the corporate body, the board ensures both the presence of viable leadership and strong financial resources to fulfill the institutional mission. Integral to strong governance is the absence of undue influence from external sources.

1. **The institution has a governing board of at least five members that:**
   (a) **is the legal body with specific authority over the institution.**
   (b) **exercises fiduciary oversight of the institution.**
   (c) **ensures that both the presiding officer of the board and a majority of other voting members of the board are free of any contractual, employment, personal, or familial financial interest in the institution.**
   (d) **is not controlled by a minority of board members or by organizations or institutions separate from it.**
   (e) **is not presided over by the chief executive officer of the institution.**
   (Governing board characteristics) **[CR]**

2. The governing board

   a. ensures the regular review of the institution's mission.
   (Mission review)

   b. ensures a clear and appropriate distinction between the policy-making function of the board and the responsibility of the administration and faculty to administer and implement policy.
   (Board/administrative distinction)

   c. selects and regularly evaluates the institution's chief executive officer.
   (CEO evaluation/selection)

   d. defines and addresses potential conflict of interest for its members.
   (Conflict of interest)

   e. has appropriate and fair processes for the dismissal of a board member.
   (Board dismissal)

   f. protects the institution from undue influence by external persons or bodies.
   (External influence)

   g. defines and regularly evaluates its responsibilities and expectations.
   (Board self-evaluation)

3. If an institution's governing board does not retain sole legal authority and operating control in a multiple-level governance system, then the institution clearly defines that authority and control for the following areas within its governance structure: (a) institution's mission, (b) fiscal stability of the institution, and (c) institutional policy.
   (Multi-level governance)

Section 5: Administration and Organization

The institution's chief executive officer has ultimate responsibility for priorities and initiatives that advance its board-approved mission, goals, and priorities. The chief executive officer oversees an organizational structure that includes key academic and administrative officers and decision makers with credentials appropriate to their respective responsibilities.

1. **The institution has a chief executive officer whose primary responsibility is to the institution.**
   (Chief executive officer) **[CR]**

2. The chief executive officer has ultimate responsibility for, and exercises appropriate control over the following:

   a. the institution's educational, administrative, and fiscal programs and services.
   (CEO control)

   b. the institution's intercollegiate athletics program.
   (Control of intercollegiate athletics)

   c. the institution's fund-raising activities.
   (Control of fund-raising activities)

3. For any entity organized separately from the institution and formed primarily for the purpose of supporting the institution or its programs:
   (a) The legal authority and operating control of the institution is clearly defined with respect to that entity.
   (b) The relationship of that entity to the institution and the extent of any liability arising from that relationship are clearly described in a formal, written manner.
   (c) The institution demonstrates that (1) the chief executive officer controls any fund-raising activities of that entity or (2) the fund-raising activities of that entity are defined in a formal, written manner which assures that those activities further the mission of the institution.
   (Institution-related entities)

4. The institution employs and regularly evaluates administrative and academic officers with appropriate experience and qualifications to lead the institution.
   (Qualified administrative/academic officers)

5. The institution publishes and implements policies regarding the appointment, employment, and regular evaluation of non-faculty personnel.
   (Personnel appointment and evaluation)

Section 6: Faculty

Qualified, effective faculty members are essential to carry out the mission of the institution and to ensure the quality and integrity of its academic program. The tradition of shared governance within American higher education recognizes the importance of both faculty and administrative involvement in the approval of educational programs. Because student learning is central to the institution's mission and educational degrees, the faculty has responsibility for directing the learning enterprise including overseeing and coordinating educational programs to ensure that each contains essential curricular components, has appropriate content and pedagogy, and maintains discipline currency.

Achievement of the institution's mission with respect to teaching, research, and service requires a critical mass of full-time qualified faculty to provide direction and oversight of the academic programs. Due to this significant role, it is imperative that an effective system of evaluation be in place for all faculty members that takes into account the institution's obligations to foster intellectual freedom of faculty to teach, serve, research, and publish.

1. **The institution employs an adequate number of full-time faculty members to support the mission and goals of the institution.**
   (Full-time faculty) [CR]

2. For each of its educational programs, the institution

   a. justifies and documents the qualifications of its faculty members.
      (Faculty qualifications)

   b. employs a sufficient number of full-time faculty members to ensure curriculum and program quality, integrity, and review.
      (Program faculty)

   c. assigns appropriate responsibility for program coordination.
      (Program coordination)

3. The institution publishes and implements policies regarding the appointment, employment, and regular evaluation of faculty members, regardless of contract or tenure status.
   (Faculty appointment and evaluation)

4. The institution publishes and implements appropriate policies and procedures for preserving and protecting academic freedom.
   (Academic freedom)

5. The institution provides ongoing professional development opportunities for faculty members as teachers, scholars, and practitioners, consistent with the institutional mission.
   (Faculty development)

Section 7: Institutional Planning and Effectiveness

Effective institutions demonstrate a commitment to the principles of continuous improvement. These principles are based on a systematic and documented process of assessing institutional performance with respect to mission in all aspects of the institution. An institutional planning and effectiveness process involves all programs, services and constituencies; is linked to the decision-making process at all levels; and provides a sound basis for budgetary decisions and resource allocations.

The Quality Enhancement Plan (QEP) is an integral component of the reaffirmation of accreditation process and is derived from an institution's ongoing comprehensive planning and evaluation processes. It reflects and affirms a commitment to enhance overall institutional quality and effectiveness by focusing on an issue the institution considers important to improving student learning outcomes and/or student success.

1. **The institution engages in ongoing, comprehensive, and integrated research-based planning and evaluation processes that (a) focus on institutional quality and effectiveness and (b) incorporate a systematic review of institutional goals and outcomes consistent with its mission.**
   (Institutional Planning) **[CR]**

2. The institution has a Quality Enhancement Plan that (a) has a topic identified through its ongoing, comprehensive planning and evaluation processes; (b) has broad-based support of institutional constituencies; (c) focuses on improving specific student learning outcomes and/or student success; (d) commits resources to initiate, implement and complete the QEP; and (e) includes a plan to assess achievement.
   (Quality Enhancement Plan)

3. The institution identifies expected outcomes of its administrative support services and demonstrates the extent to which the outcomes are achieved.
   (Administrative effectiveness)

Section 8: Student Achievement

Student learning and student success are at the core of the mission of all institutions of higher learning. Effective institutions focus on the design and improvement of educational experiences to enhance student learning and support student learning outcomes for its educational programs. To meet the goals of educational programs, an institution provides appropriate academic and student services to support student success.

1. **The institution identifies, evaluates, and publishes goals and outcomes for student achievement appropriate to the institution's mission, the nature of the students it serves, and the kinds of programs offered. The institution uses multiple measures to document student success.**
   (Student achievement) **[CR]**

2. The institution identifies expected outcomes, assesses the extent to which it achieves these outcomes, and provides evidence of seeking improvement based on analysis of the results in the areas below:

   a. student learning outcomes for each of its educational programs.
   (Student outcomes: educational programs)

   b. student learning outcomes for collegiate-level general education competencies of its undergraduate degree programs.
   (Student outcomes: general education)

   c. academic and student services that support student success.
   (Student outcomes: academic and student services)

Section 9: Educational Program Structure and Content

Collegiate-level educational programs emphasize both breadth and depth of student learning. The structure and content of a program challenges students to integrate knowledge and develop skills of analysis and inquiry.

General education is an integral component of an undergraduate degree program through which students encounter the basic content and methodology of the principle areas of knowledge. Undergraduate and graduate degrees develop advanced expertise in an integrated understanding of one or more academic disciplines or concentrations.

The institution is responsible for the delivery of an appropriate portion of the academic experiences applicable to the degrees or credentials awarded.

1. **Educational programs (a) embody a coherent course of study, (b) are compatible with the stated mission and goals of the institution, and (c) are based upon fields of study appropriate to higher education.**
   (Program content) **[CR]**

2. **The institution offers one or more degree programs based on at least 60 semester credit hours or the equivalent at the associate level; at least 120 semester credit hours or the equivalent at the baccalaureate level; or at least 30 semester credit hours or the equivalent at the post-baccalaureate, graduate, or professional level. The institution provides an explanation of equivalencies when using units other than semester credit hours. The institution provides an appropriate justification for all degree programs and combined degree programs that include fewer than the required number of semester credit hours or its equivalent unit.**
   (Program Length) **[CR]**

3. **The institution requires the successful completion of a general education component at the undergraduate level that:**
   (a) **is based on a coherent rationale.**
   (b) **is a substantial component of each undergraduate degree program. For degree completion in associate programs, the component constitutes a minimum of 15 semester hours or the equivalent; for baccalaureate programs, a minimum of 30 semester hours or the equivalent.**
   (c) **ensures breadth of knowledge. These credit hours include at least one course from each of the following areas: humanities/fine arts, social/behavioral sciences, and natural science/mathematics. These courses do not narrowly focus on those skills, techniques, and procedures specific to a particular occupation or profession.**

   (General education requirements **[CR]**

4. At least 25 percent of the credit hours required for an undergraduate degree are earned through instruction offered by the institution awarding the degree.
   (Institutional credits for an undergraduate degree)

5. At least one-third of the credit hours required for a graduate or a post-baccalaureate professional degree are earned through instruction offered by the institution awarding the degree.
   (Institutional credits for a graduate/professional degree)

6. Post-baccalaureate professional degree programs and graduate degree programs are progressively more advanced in academic content than undergraduate programs, and are structured (a) to include knowledge of the literature of the discipline and (b) to ensure engagement in research and/or appropriate professional practice and training.
   (Post-baccalaureate rigor and curriculum)

7. The institution publishes requirements for its undergraduate, graduate, and post-baccalaureate professional programs, as applicable. The requirements conform to commonly accepted standards and practices for degree programs.
   (Program requirements)

Section 10: Educational Policies, Procedures, and Practices

Effective academic policies related to an institution's educational programs are development in concert with appropriate input and participation of the constituencies affected by the policies, conform with commonly accepted practices and policies in higher education, accurately portray the institution's programs and services, and are disseminated to those benefiting from such practices. These academic policies lead to a teaching and learning environment that enhances the achievement of student outcomes and success.

To advance learning, all coursework taken for academic credit has rigor, substance, and standards connected to established learning outcomes. To protect the integrity of degrees offered, the institution is responsible for the quality of all coursework transcripted as if it were credit earned from the institution.

1. The institution publishes, implements, and disseminates academic policies that adhere to principles of good educational practice and that accurately represent the programs and services of the institution.
(Academic policies)

2. The institution makes available to students and the public current academic calendars, grading policies, cost of attendance, and refund policies.
(Public information)

3. The institution ensures the availability of archived official catalogs, digital or print, with relevant information for course and degree requirements sufficient to serve former and returning students.
(Archived information)

4. The institution (a) publishes and implements policies on the authority of faculty in academic and governance matters, (b) demonstrates that educational programs for which academic credit is awarded are approved consistent with institutional policy, and (c) places primary responsibility for the content, quality, and effectiveness of the curriculum with its faculty.
(Academic governance)

5. The institution publishes admissions policies consistent with its mission. Recruitment materials and presentations accurately represent the practices, policies, and accreditation status of the institution. The institution also ensures that independent contractors or agents used for recruiting purposes and for admission activities are governed by the same principles and policies as institutional employees.
(Admissions policies and practices)

6. An institution that offers distance or correspondence education:
   (a) ensures that the student who registers in a distance or correspondence education course or program is the same student who participates in and completes the course or program and receives the credit.
   (b) has a written procedure for protecting the privacy of students enrolled in distance and correspondence education courses or programs.
   (c) ensures that students are notified in writing at the time of registration or enrollment of any projected additional student charges associated with verification of student identity.
(Distance and correspondence education)

7. The institution publishes and implements policies for determining the amount and level of credit awarded for its courses, regardless of format or mode of delivery. These policies require oversight by persons academically qualified to make the necessary judgments. In educational programs not based on credit hours (e.g., direct assessment programs), the institution has a sound means for determining credit equivalencies.
(Policies for awarding credit)

8. The institution publishes policies for evaluating, awarding and accepting credit not originating from the institution. The institution ensures (a) the academic quality of any credit or coursework recorded on its transcript, (b) an approval process with oversight by persons academically qualified to make the necessary judgments, and (c) the credit awarded is comparable to a designated credit experience and is consistent with the institution's mission.
(Evaluating and awarding academic credit)

9. The institution ensures the quality and integrity of the work recorded when an institution transcripts courses or credits as its own when offered through a cooperative academic arrangement. The institution maintains formal agreements between the parties involved, and the institution regularly evaluates such agreements.
(Cooperative academic arrangements)

Section 11: Library and Learning/Information Resources

To provide adequate support for the institution's curriculum and mission, an institution's students, faculty, and staff have access to appropriate collections, services, and other library-related resources that support all educational, research, and public service programs wherever they are offered and at the appropriate degree level. The levels and types of educational programs offered determine the nature and extent of library and learning resources needed to support the full range of the institution's academic programs. Qualified, effective staff are essential to carrying out the goals of a library/learning resource center and the mission of the institution, and to contributing to the quality and integrity of academic programs.

1. **The institution provides adequate and appropriate library and learning/information resources, services, and support for its mission.**
(Library and learning/information resources) **[CR]**

2. The institution ensures an adequate number of professional and other staff with appropriate education or experiences in library and/or other learning/information resources to accomplish the mission of the institution.
(Library and learning/information staff)

3. The institution provides (a) student and faculty access and user privileges to its library services and (b) access to regular and timely instruction in the use of the library and other learning/information resources.
(Library and learning/information access)

Section 12: Academic and Student Support Services

Student success is significantly affected by the learning environment. An effective institution provides appropriate academic and student support programs and services, consistent with the institution's mission, that enhance the educational and personal development experience(s) of students at all levels; contribute to the achievement of teaching and learning outcomes; ensure student success in meeting the goals of the educational programs; and provide an appropriate range of support services and programs to students at all locations. Qualified and effective faculty and staff are essential to implementing the institution's goals and

mission and to ensuring the quality and integrity of its academic and student support programs and services. An effective institution has policies and procedures that support a stimulating and safe learning environment.

1. **The institution provides appropriate academic and student support programs, services, and activities consistent with its mission.**
   (Student support services) **[CR]**

2. The institution ensures an adequate number of academic and student support services staff with appropriate education or experience in student support service areas to accomplish the mission of the institution.
   (Student support services staff)

3. The institution publishes clear and appropriate statement(s) of student rights and responsibilities and disseminates the statement(s) to the campus community.
   (Student rights)

4. The institution (a) publishes appropriate and clear procedures for addressing written student complaints, (b) demonstrates that it follows the procedures when resolving them, and (c) maintains a record of student complaints that can be accessed upon request by SACSCOC.
   (Student complaints)

5. The institution protects the security, confidentiality, and integrity of its student records and maintains security measures to protect and back up data.
   (Student records)

6. The institution provides information and guidance to help student borrowers understand how to manage their debt and repay their loans.
   (Student debt)

Section 13: Financial and Physical Resources

Although missions vary among institutions, both a sound financial base and a pattern of financial stability provide the foundation for accomplishing an institution's mission. Adequate financial resources allow for deliberate consideration of the effective use of institutional resources to fulfill that mission. Adequate physical resources are essential to the educational environment and include facilities that are safe and appropriate for the scope of the institution's programs and services. It is reasonable that the general public, governmental entities, and current and prospective students expect sufficient financial and physical resources necessary to sustain and fulfill the institution's mission.

1. **The institution has sound financial resources and a demonstrated, stable financial base to support the mission of the institution and the scope of its programs and services.**
   (Financial resources) **[CR]**

2. **The member institution provides the following financial statements:**
   (a) **an institutional audit (or *Standard Review Report* issued in accordance with *Statements on Standards for Accounting and Review Services issued by the AICPA* for those institutions audited as part of a system wide or statewide audit) for the most recent fiscal year prepared by an independent certified public accountant and/or an appropriate governmental auditing agency employing the appropriate audit (*or Standard Review Report*) guide.**
   (b) **a statement of financial position of unrestricted net assets, exclusive of plant assets and plant-related debt, which represents the change in unrestricted net assets attributable to operations for the most recent year.**
   (c) **an annual budget that is preceded by sound planning, is subject to sound fiscal procedures, and is approved by the governing board.**

   For applicant and candidate institutions, including an applicant seeking separate accreditation from a current SACSCOC-accredited institution, the institution provides the financial information, including audit requirements, specified in the SACSCOC's policy entitled "Accreditation Procedures for Applicant Institutions."

   (Financial documents) **[CR]**

3. The institution manages its financial resources in a responsible manner.
   (Financial responsibility)

4. The institution exercises appropriate control over all its financial resources.
   (Control of finances)

5. The institution maintains financial control over externally funded or sponsored research and programs.
   (Control of sponsored research/external funds)

6. The institution (a) is in compliance with its program responsibilities under Title IV of the most recent Higher Education Act as amended and (b) audits financial aid programs as required by federal and state regulations. In reviewing the institution's compliance with these program responsibilities under Title IV, SACSCOC relies on documentation forwarded to it by the U. S. Department of Education.
   (Federal and state responsibilities)

7. The institution ensures adequate physical facilities and resources, both on and off campus, that appropriately serve the needs of the institution's educational programs, support services, and other mission-related activities.
   (Physical resources)

8. The institution takes reasonable steps to provide a healthy, safe, and secure environment for all members of the campus community.
   (Institutional environment)

Section 14: Transparency and Institutional Representation

An institution is responsible for representing accurately to the public its status and relationship with SACSCOC; reporting accurately to the public its status with state of the federal government if receiving funding from either or both; maintaining openness in all accreditation-related activities; ensuring the availability of institutional policies to students and the public; and publishing appropriate information with respect to student achievement. SACSCOC's philosophy of accreditation precludes removal from or denial of membership or candidacy to a degree-granting institution of higher education on any ground other than an institution's failure to meet the standards of the membership as determined by the professional judgment of peer reviewers, or failure to comply with SACSCOC's policies and procedures.

1. The institution (a) accurately represents its accreditation status and publishes the name, address, and telephone number of SACSCOC in accordance with SACSCOC's requirements and federal policy and (b) ensures all its branch campuses include the name of that institution and make it clear that their accreditation is dependent on the continued accreditation of the parent campus.
   (Publication of accreditation status)

2. The institution has a policy and procedure to ensure that all substantive changes are reported in accordance with SACSCOC's policy.
   (Substantive change)

3. The institution applies all appropriate standards and policies to its distance learning programs, branch campuses, and off-campus instructional sites.
   (Comprehensive institutional reviews)

4. The institution (a) represents itself accurately to all U.S. Department of Education recognized accrediting agencies with which it holds accreditation and (b) informs those agencies of any change of accreditation status, including the imposition of public sanctions. (See SACSCOC's policy "Accrediting Decisions of Other Agencies.")
   (Representation to other agencies)

5. The institution complies with SACSCOC's policy statements that pertain to new or additional institutional obligations that may arise that are not part of the standards in the current *Principles of Accreditation.*
   (Policy compliance)
   (Note: For applicable policies, institutions should refer to the SACSCOC website [http://www.sacscoc.org])

Agency Exhibit # 4

GRANTS and CONTRACTS OFFICE
DIRECT EXPENDITURE VOUCHER (D.E.V.)

DENMARK TECHNICAL COLLEGE
1126 SOLOMON BLATT BLVD/ POST OFFICE BOX 327
DENMARK, SC 29042

To: Accounts Payable

Vendor Name: Carla Jackson

From: Carla Jackson

Vendor Address: 684 McCain Drive
Denmark, SC 29042

Subject: Professional Development Reimbursement

Date: 4/ 5/15

Invoice Numbers:

Vendor/SS#
Minority Business
Payment Type:
Total Amt. Invoice(s) **$3492.00**

ACCOUNT	DESCRIPTION	AMOUNT
1-984-2515-59200	MGT 600 Business Research for Decision Making	$3492.00
	TOTAL	**$3492.00**

DIRECT EXPENDITURE INSTRUCTIONS:
A DIRECT EXPENDITURE VOUCHER MUST BE USED IN ALL CASES WHEN A P.O. IS NOT APPLICABLE. EVERY DIRECT EXPENDITURE TRANSACTION MUST BE APPROVED BEFORE SUBMISSION TO ACCOUNTS PAYABLE.
THE ORIGINAL (WHITE) DIRECT EXPENDITURE VOUCHER WILL BE ATTACHED TO EXPENDITURE DOCUMENTATION AND FORWARDED TO ACCOUNTS PAYABLE. YOU MUST MARK AX3 IF PARTIAL PAYMENT.

REQUESTOR Carla Jackson Date

SUPERVISOR _____ Date

V.P. AA/SS _____ Date

Grants & Contracts _____ Date

V.P. FISCAL AFFAIRS Clarence F. Bassette (for) 5/6/15 Date

PRESIDENT Leonard McIntyre Date

ACCOUNTING COPY

ACC-0005-052297

Monday, March 2, 2015 11:30:19 AM

Student Invoice

Name: Carla Jackson

School Status: Active

Address: 684 McCain Drive
Denmark, SC 29042
USA

Student ID: 2000824

Current Balance: $3,492.00

Date	Tran #	Check #	Term	Code	Descript	Charges	Payments	Balance
12/14/2014			1406D		Direct	$0.00	$3,492.00	$3,492.00
	10/6/2014	12/14/2014	1406D	01 MGT600	Business Research for Decision Making			
					Loan 2014-15			
			1406		Tuition	$3,492.00	$0.00	($3,492.00)
					Current Balance:	3,492.00		

This statement reflects charges posted and funds received on your account to date and does not represent your full financial obligation to American Intercontinental University Online.

** Please note, to better serve you, we are requesting that all student payments be mailed to the following Lockbox location:

American Intercontinental
University Online 13457
Collections Center Drive
Chicago, IL 60693

Thank you for your cooperation regarding this change.

Student Academics

Name : Carla Jackson
School Status: Active
Student ID: 2000824
Enrollment Status: Active
Student Advisor: Jen Ariano Jariano@aiuonline.edu (630) 622-5633

Showing 1 of 1 entries

Term	Start date	End date	Course Number	Section	Description	Instructor	Credits	Credits Earned	Letter Grade	Quality points	Actions
1406D	10 6 2014	12 14 2014	MGT 600	01	Business Research for Decision Making	Aaron Blossomi	6.0000	6.00	A		

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DIRECT EXPENDITURE VOUCHER (D.E.V.)

DENMARK TECHNICAL COLLEGE
1126 SOLOMON BLATT BLVD/ POST OFFICE BOX 327
DENMARK, SC 29042

To: Accounts Payable

Vendor Name: Carla Jackson

From: Carla Jackson

Vendor Address: 684 McCain Drive
Denmark, SC 29042

Subject: Professional Development Reimbursement

Date: 5/ 1/15

Invoice Numbers:

Vendor/SS#
Minority Business
Payment Type:
Total Amt. Invoice(s) **$3492.00**

ACCOUNT	DESCRIPTION	AMOUNT
	MGT 680 Strategic Management	$3492.00

21-5184-2515-53200

TOTAL **$3492.00**

DIRECT EXPENDITURE INSTRUCTIONS:
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THE ORIGINAL (WHITE) DIRECT EXPENDITURE VOUCHER WILL BE ATTACHED TO EXPENDITURE DOCUMENTATION AND FORWARDED TO ACCOUNTS PAYABLE. YOU MUST MARK AX? IF PARTIAL PAYMENT.

REQUESTOR Carla Jackson Date

SUPERVISOR _____ Date

V.P: AA/SS _____ Date

Grants & Contracts _____ Date

V.P: FISCAL AFFAIRS Clarence T. Bassett 5/6/15 Date

PRESIDENT Leonard McIntyre Date

ACCOUNTING COPY

ACC-0005-052297

Student Academics

Name : Carla Jackson
School Status: Active
Student ID: 2000824
Enrollment Status: Active
Student Advisor: Jen Ariano Jariano@aiuonline.edu (630) 622-5633

Showing 1 of 1 entries

Term	Start date	End date	Course Number	Section	Description	Instructor	Credits	Credits Earned	Letter Grade	Quality points	Actions
14070	10/6/2014	12/14/2014	MGT 680	01	Strategic Management	Alfred Sui			6.0000	6.00	A

Monday, March 2, 2015 11:30:19 AM

Student Invoice

Name: Carla Jackson

School Status: Active

Address: 684 McCain Drive
Denmark, SC 29042
USA

Student ID: 2000824

Current Balance: $3,492.00

Date	Tran #	Check #	Term	Code	Descript	Charge	Payments	Balance
12/14/2014			1407D		Direct	$0.00	$3,492.00	$3,492.00
	10 6 2014 12 14 2014		1407D	01 MGT680	Strategic Management			
					Loan 2014-15			
			1407		Tuition	$3,492.00	$0.00	($3,492.00)

Current Balance: 3,492.00

This statement reflects charges posted and funds received on your account to date and does not represent your full financial obligation to American Intercontinental University Online.

** Please note, to better serve you, we are requesting that all student payments be mailed to the following Lockbox location:

American Intercontinental
University Online 13457
Collections Center Drive
Chicago, IL 60693

Thank you for your cooperation regarding this change.

Date: 4/6/2015

American InterContinental University - Schaumburg, IL

231 North Martingale 6th floor
Schaumburg, IL 60173

Student: Carla Jackson SSN: xxx-xx-3030 LDA: 3/15/2015

Address: 684 McCain Drive Student #: 2000324 GPA: 3.95
Denmark, SC 29042

Grade History

Course Code	Course Description	Credits Attempted	Credits Earned	Grade	Quality Points
Program:	Master of Business Administration - PT12				
Enrollment#:	JA13095101	Enroll Status:	Graduate		
Start Date:	11/13/2013	Grad Date:	3/15/2015		
Term: TRANSFER	Transfer Credit				
Transferred from: SPRINGFIELD COLLEGE - ALL CAMPUSES 263 ALDEN STREET, SPRINGFIELD MA 01109-3797, USA					
MGT600	Business Research for Decision Making	6.00	6.00	TC	0.00
MGT680	Strategic Management	6.00	6.00	TC	0.00
		12.00	12.00		
Term GPA: 0.00	Cum GPA: 0.00				
Term: B1304P	Parent Term 4 B-2013	11/11/2013	2/9/2014		
FIN630	Global Financial Management	6.00	6.00	A-	22.20
		6.00	6.00		
Term GPA: 3.70	Cum GPA: 3.70				
Term: B1401P	Parent Term 1 B-2014	2/10/2014	4/27/2014		
MKT640	A Managerial Approach to Marketing	6.00	6.00	A	24.00
		6.00	6.00		
Term GPA: 4.00	Cum GPA: 3.85				
Term: B1402P	Parent Term 2 B-2014	4/28/2014	7/13/2014		
MGT615	Leadership and Ethics for Managers	6.00	6.00	A	24.00
		6.00	6.00		
Term GPA: 4.00	Cum GPA: 3.90				
Term: B1403P	Parent Term 3 B-2014	7/21/2014	9/28/2014		
MGT625	Legal Aspects of Business Decisions	6.00	6.00	A	24.00
		6.00	6.00		
Term GPA: 4.00	Cum GPA: 3.93				

Agency Exhibit # 5

** Indicates Retaken Course
R* Indicates Retaken Override

Not official unless signed.

Indicates Pass/Fail Course
♦ Indicates Associated Course

0896

AMERICAN INTERCONTINENTAL UNIVERSITY

ATLANTA
6600 Peachtree-Dunwoody Road,
500 Embassy Row
Atlanta, Georgia 30328
Phone: (404) 965-6500
Fax: (770) 604-9550
E-mail: pjones@aiuniv.edu

HOUSTON
9999 Richmond Avenue
Houston, Texas 77042
Phone: (832) 201-3622
Fax: (832) 201-6885
E-mail: jandre@houston.aiuniv.edu

ONLINE
231 North Martingale, 6th Floor
Schaumburg, Illinois 60173
Phone: (877) 221-5800, Option 3
Fax: (866) 566-9524
E-mail: studentrecords@aiuonline.edu

SOUTH FLORIDA
2250 N. Commerce Parkway
Weston, Florida 33326
Phone: (954) 446-6100
Fax: (224) 227-2661
E-mail: registrar@aiufl.edu

HISTORY

American InterContinental University (AIU), formerly known as the American College for the Applied Arts, was established in 1970. Campuses of the University include:

- Atlanta Buckhead, established in 1976; Atlanta Dunwoody, established in 1998; in June 2009, the AIU Buckhead and the AIU Dunwoody campuses combined to become AIU Atlanta.
- London, established in 1978; (closed June 30, 2014)
- Los Angeles, established in 1982 (closed December 31, 2010);
- South Florida, established in 1998;
- AIU Online (Hoffman Estates, Illinois) began in 2001 and was recognized as a separate campus in 2002. In February 2012, the official address of AIU Online changed from Hoffman Estates, to Schaumburg, Illinois.
- Houston, established in 2003.

RELEASE OF INFORMATION

This educational record is subject to the U.S. Family Education Rights and Privacy Act of 1974, as Amended and/or the U.K. Data Protection Act of 1998. It is furnished for official use only and may not be released to or accessed by outside agencies or third parties without the written consent of the student.

ACCREDITATION

American InterContinental University is accredited by The Higher Learning Commission and a member of the North Central Association. Additional information is available at 312-263-0456 or www.ncahigherlearningcommission.org.

The Bachelor of Fine Arts in Interior Design at the Atlanta campus is accredited by the Council for Interior Design Accreditation (CIDA).

American InterContinental University is accredited by the Accreditation Council for Business Schools and Programs to offer the following degree programs:

- Associate of Arts in Business Administration (AABA)
- Bachelor of Business Administration (BBA)
- Bachelor of Business Administration in International Business (BBA-IB)
- Master of Business Administration (MBA)
- Master of Business Administration in International Management (MBA-IM)

CALENDAR SYSTEM

The University Academic Calendar is based on the quarter system. Quarters are 10 weeks in length and academic progress is measured in quarter credit hours. Undergraduate and graduate quarters are 10 weeks in duration, with some courses also offered in two, 5-week sessions within the quarter. Two consecutive 5-week sessions compose a 10 week quarter. AIU ground campuses also offer a 5-week summer session for students.

COURSE NUMBERING LEGEND

001-099	Developmental Courses	300-399	Junior-Level Courses
100-199	Freshmen-Level Courses	400-499	Senior-Level Courses
200-299	Sophomore-Level Courses	500-699	Graduate-Level Courses

GRADING SYSTEM

Earned quality points are calculated for each course by multiplying the grade point value for the grade received for the course by the credit hour value of the course. The Cumulative Grade Point Average (CGPA) is calculated by dividing the total earned quality points by the total attempted credits.

For calculating rate of progress, grades of F (failure), W (withdrawn), repeated courses, and I (incomplete) are counted as hours attempted. Grades of F (failure) and W (withdrawn) are not counted as hours successfully completed. The student must repeat any required course in which a grade of F or W is received. Undergraduate students will only be allowed to repeat courses in which they received a grade of D (C- as of July 1, 2010) or below and graduate students will only be allowed to repeat courses in which they received a grade of C (B- as of July 1, 2010) or below.

Courses repeated due to non-satisfactory grades will be indicated as a repeated course with the highest grade calculated into the CGPA. Both original and repeated credits will be counted as attempted credits in rate of progress calculations.

PRIOR TO JULY 1, 2010			
Letter Code	**Description**	**Included in CGPA**	**Grade Points**
A	A	Yes	4.00
B	B	Yes	3.00
C	C	Yes	2.00
D	D	Yes	1.00
F	F	Yes	0.00
AU*	Audit	No	n/a
I	Incomplete	No	n/a
NC	Non-credit	No	n/a
P	Pass	No	n/a
PR	Proficiency Credit	No	n/a
R	Repeat	No	n/a
TC	Transfer	No	n/a
W	Withdrawn	No	n/a
WF	Withdraw Failing	No	n/a
WP	Withdraw Passing	No	n/a
PD	Pass Developmental Course	No	n/a
FD	Failed Developmental Course	No	n/a
INC	TSI Incomplete	No	n/a
CMP	TSI Complete	No	n/a
EXM	TSI Exempt	No	n/a

Effective July 1, 2010
The grading scale changed to include plus and minus for certain grades, and the letter grade L was added. All other grade letter codes above remain unchanged. While some grades are historical and provided for transcript legend purposes, other grades such as AU, FD, I, P, PD, PR, TC and W continue to be used in addition to the grades below.

Letter Code	Grade Points	Letter Code	Grade Points	Letter Code	Grade Points
A	4.00	B-	2.70	D+	1.30
A-	3.70	C+	2.30	D	1.00
B+	3.30	C	2.00	F	0.00
B	3.00	C-	1.70		

Letter Code	Description	Included in CGPA	Grade Points
L	Leave of Absence	No	n/a

Alteration or Forgery of this document may be a criminal offense.

ERICAN INTERCONTINENTAL UNIVERSITY • AMERICAN INTERCONTINENTAL UNIVERSITY • AMERICAN INTERCONTINENTAL

American InterContinental University - Schaumburg, IL

231 North Martingale, 6th floor
Schaumburg, IL 60173

Student: Carla Jackson SSN: xxx-xx-6630 LDA: 3/15/2015

Address: 684 McCain Drive
Denmark, SC 29042

Student #: 2000824 GPA: 3.95

Grade History

Course Code	Course Description	Credits Attempted	Credits Earned	Grade	Quality Points
Term: B1404P	Parent Term 4 B-2014	10/6/2014	12/14/2014		
BUS610	Economics for the Global Manager	6.00	6.00	A	24.00
		6.00	6.00		
Term GPA: 4.00	Cum GPA: 3.94				
Term: B1405P	Parent Term 2 B-2014	1/5/2015	3/15/2015		
MGT656	Quality Management and Continuous Improvement	6.00	6.00	A	24.00
		6.00	6.00		
Term GPA: 4.00	Cum GPA: 3.95				
	GPA: 3.95	48.00	48.00		

Master of Business Administration - PT12
Concentration(s): -Specialization in Management

*** End of Transcript ***

Authorized Signature

Date April 06, 2015

** Indicates Retaken Course
R* Indicates Retaken Override

Not official unless signed.

Indicates Pass/Fail Course
♦ Indicates Associated Course

ERICAN INTERCONTINENTAL UNIVERSITY • AMERICAN INTERCONTINENTAL UNIVERSITY • AMERICAN INTERCONTINENTAL

AMERICAN INTERCONTINENTAL UNIVERSITY

ATLANTA
6600 Peachtree-Dunwoody Road,
500 Embassy Row
Atlanta, Georgia 30328
Phone: (404) 965-6500
Fax: (770) 604-9550
E-mail: pjones@aiuniv.edu

HOUSTON
9999 Richmond Avenue
Houston, Texas 77042
Phone: (832) 201-3622
Fax: (832) 201-6885
E-mail: jandre@houston.aiuniv.edu

ONLINE
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Schaumburg, Illinois 60173
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Fax: (866) 566-9524
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PRIOR TO JULY 1, 2010			
Letter Code	Description	Included in CGPA	Grade Points
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B	B	Yes	3.00
C	C	Yes	2.00
D	D	Yes	1.00
F	F	Yes	0.00
AU*	Audit	No	n/a
I	Incomplete	No	n/a
NC	Non-credit	No	n/a
P	Pass	No	n/a
PR	Proficiency Credit	No	n/a
R	Repeat	No	n/a
TC	Transfer	No	n/a
W	Withdrawn	No	n/a
WF	Withdraw Failing	No	n/a
WP	Withdraw Passing	No	n/a
PD	Pass Developmental Course	No	n/a
FD	Failed Developmental Course	No	n/a
INC	TSI Incomplete	No	n/a
CMP	TSI Complete	No	n/a
EXM	TSI Exempt	No	n/a

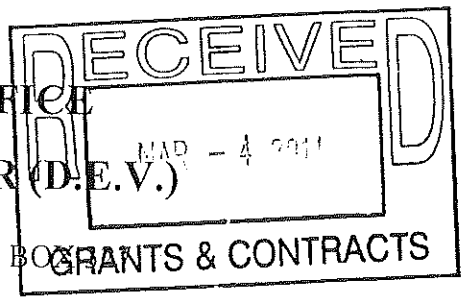
Effective July 1, 2010
The grading scale changed to include plus and minus for certain grades, and the letter grade L was added. All other grade letter codes above remain unchanged. While some grades are historical and provided for transcript legend purposes, other grades such as AU, FD, I, P, PD, PR, TC and W continue to be used in addition to the grades below.

Letter Code	Grade Points	Letter Code	Grade Points	Letter Code	Grade Points
A	4.00	B-	2.70	D+	1.30
A-	3.70	C+	2.30	D	1.00
B+	3.30	C	2.00	F	0.00
B	3.00	C-	1.70		

Letter Code	Description	Included in CGPA	Grade Points
L	Leave of Absence	No	n/a

Alteration or Forgery of this document may be a criminal offense.

Agency Exhibit
6



GRANTS and CONTRACTS OFFICE

DIRECT EXPENDITURE VOUCHER (D.E.V.)

DENMARK TECHNICAL COLLEGE
1126 SOLOMON BLATT BLVD/ POST OFFICE BOX 341
DENMARK, SC 29042

To: Accounts Payable

Vendor Name: Carla Jackson

From: Carla Jackson

Vendor Address: 684 McCain Drive
Denmark, SC 29042

Subject: Professional Development Reimbursement

Date: 3/3/14

Invoice Numbers:

Vendor/SS#
Minority Business
Payment Type:
Total Amt. Invoice(s) **$3492.00**

ACCOUNT	DESCRIPTION	AMOUNT
1-984-411-59200	FIN 630 Global Financal Management	$3492.00

TOTAL **$3492.00**

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THE ORIGINAL (WHITE) DIRECT EXPENDITURE VOUCHER WILL BE ATTACHED TO EXPENDITURE DOCUMENTATION AND FORWARDED TO ACCOUNTS PAYABLE. YOU MUST MARK AX@ IF PARTIAL PAYMENT.

REQUESTOR Carla Jackson 3/4/14 Date
SUPERVISOR _____ Date
V.P; AA/SS _____ Date
Grants & Contracts _____ Date
V.P; FISCAL AFFAIRS _____ Date
PRESIDENT _____ Date

ACCOUNTING COPY

ACC-0005-052297

Monday, March 03, 2014 10:10:19 AM

Student Invoice

Name: Carla Jackson

School Status: Active

Address: 684 McCain Drive
Denmark, SC 29042
USA

Student ID: 2000824

Current Balance: $3,492.00

Date	Tran #	Check #	Term	Code	Descrip	Charges	Payments	Balance
11/20/2013			B1304P		Direct Unsubsidized Stafford Loan **2013-14**	$0.00	$6,762.00	($6,762.00)
11/11/2013			**B1304P**	TUIT	Tuition	$3,492.00	$0.00	

Current Balance: 3,492.00

This statement reflects charges posted and funds received on your account to date and does not represent your full financial obligation to American Intercontinental University Online.

** Please note, to better serve you, we are requesting that all student payments be mailed to the following Lockbox location:

American Intercontinental
University Online 13457
Collections Center Drive
Chicago, IL 60693

Thank you for your cooperation regarding this change.

AMERICAN INTERCONTINENTAL UNIVERSITY Online

Monday, March 03, 2014 10:10:19 AM

Student Academics

Name: Carla Jackson

School Status: Active

Student ID: 2000824

Enrollment Status: Active

Student Advisor: Jen Ariano JAriano@aiuonline.edu 1-877-701-3800

Showing 1 of 1 entries

Term	Start date	End date	Course Number	Section	Description	Instructor	Credits	Credits Earned	Letter Grade	Quality points	Actions
1304D	11/11/2013	2/9/2014	FIN630	01	Global Financial Management	Alfred Siu	6.0000	6.00	A-	22.20	

Agency Exhibit #7

0903

985

PAYEE NAME / NUMBER	VOUCHER NUMBER / DATE	DUE DATE / STAT*DATE / TRANS NO	CHECK NUMBER / DATE	INVOICE NO / DATE / GL ACCOUNT NUMBER	DESCRIPTION / GL DISTRIBUTION	QTY	ITEM AMOUNT
arla N. Jackson 104575	V0110877 03/07/14	03/07/14 R*03/31/14	01*1117260 03/07/14	N/A 21-9842411-59200-0	03/07/14 PROFESSIONAL DEVELOPMENT 3,492.00	1.000	3,492.00
Totals for Voucher: V0110877					3,492.00		3,492.00
arla N. Jackson 104575	V0112804 05/02/14	05/02/14 R*05/31/14	01*1119034 05/02/14	N/A 10-6510000-53990-0	05/02/14 MISC. SUPPLIES 135.00	1.000	135.00
Totals for Voucher: V0112804					135.00		135.00
arla N. Jackson 104575	V0113079 05/30/14	05/30/14 R*06/30/14	01*1119260 05/30/14	N/A 21-9842411-59200-0	05/30/14 PROFESSIONAL DEVELOPMENT 3,492.00	1.000	3,492.00
Totals for Voucher: V0113079					3,492.00		3,492.00
arla N. Jackson 104575	V0115463 09/25/14	09/25/14 R*10/31/14	01*1120185 09/25/14	N/A 21-9842411-59200-0	09/25/14 PROFESSIONAL DEVELOPMENT 3,492.00	1.000	3,492.00
Totals for Voucher: V0115463					3,492.00		3,492.00
arla N. Jackson 104575	V0115609 10/15/14	10/15/14 R*10/31/14	01*1120280 10/15/14	N/A 10-6512400-55232-0	10/15/14 TRAVEL EXPENSES 160.30	1.000	160.30
Totals for Voucher: V0115609					160.30		160.30
arla N. Jackson 104575	V0118268 11/25/14	11/25/14 R*12/31/14	01*1122038 11/25/14	N/A 10-6510000-53990-0	11/25/14 SUPPLIES 41.39	1.000	41.39
				N/A 21-9842504-59200-0	11/25/14 PROFESSIONAL DEVELOPMENT 3,492.00	1.000	3,492.00
Totals for Voucher: V0118268					3,533.39		3,533.39
arla N. Jackson .04575	V0119411 03/11/15	03/11/15 R*03/31/15	01*1123523 03/11/15	N/A 10-6512400-55232-0	03/11/15 OFFICE SUPPLIES 19.44	1.000	19.44
Totals for Voucher: V0119411					19.44		19.44
arla N. Jackson .04575	V0119549 03/18/15	03/18/15 R*03/31/15	01*1123606 03/18/15	N/A 21-9842504-59200-0	03/18/15 PROFESSIONAL DEVELOPMENT 3,492.00	1.000	3,492.00
Totals for Voucher: V0119549					3,492.00		3,492.00

PAYEE NAME / NUMBER	VOUCHER NUMBER / DATE	DUE DATE / STAT*DATE / TRANS NO	CHECK NUMBER / DATE	INVOICE NO / GL ACCOUNT NUMBER	DATE / GL DISTRIBUTION	DESCRIPTION / Amount	QTY	AMOUNT
arla N. Jackson 104575	V0121634 05/14/15	05/14/15 R*05/31/15	01*1125554 05/15/15	N/A 21-9842515-59200-0	05/14/15	PROFESSIONAL DEVELOPMENT 3,492.00	1.000	3,492.00
Totals for Voucher: V0121634						3,492.00		3,492.00
arla N. Jackson 104575	V0121815 06/08/15	06/08/15 R*06/30/15	01*1126012 06/08/15	N/A 21-9842515-59200-0	06/08/15	PROFESSIONAL DEVELOPMENT 3,492.00	1.000	3,492.00
Totals for Voucher: V0121815						3,492.00		3,492.00
arla N. Jackson 104575	V0122565 06/22/15	06/22/15 R*07/31/15	01*1126071 06/23/15	N/A 21-9842515-59200-0	06/22/15	PROFESSIONAL DEVELOPMENT 3,492.00	1.000	3,492.00
Totals for Voucher: V0122565						3,492.00		3,492.00
arla N. Jackson 104575	V0123168 08/05/15	08/05/15 R*08/31/15	01*1127259 08/10/15	N/A 21-9842515-55010-0 21-9842515-55060-0	08/05/15	TRAVEL EXPENSES 58.00 2.50	1.000	60.50
Totals for Voucher: V0123168						60.50		60.50
arla N. Jackson 104575	V0123445 09/02/15	09/02/15 R*09/30/15	01*1127414 09/02/15	N/A 21-9842515-55040-0 21-9842515-55110-0 21-9842515-55060-0	09/02/15	TRAVEL EXPENSES 56.94 153.00 36.00	1.000	245.94
Totals for Voucher: V0123445						245.94		245.94
arla N. Jackson 104575	V0123673 09/28/15	09/28/15 R*09/30/15	01*1127583 09/28/15	N/A 24-9072312-59270-0	09/28/15	WORKSHOP FACILITATOR 250.00	1.000	250.00
Totals for Voucher: V0123673						250.00		250.00
arla N. Jackson 104575	V0123695 10/07/15	10/07/15 R*10/31/15	01*1127602 10/07/15	N/A 24-9072312-59270-0	10/07/15	WORKSHOP FACILITATOR 250.00	1.000	250.00
Totals for Voucher: V0123695						250.00		250.00
arla N. Jackson	V0125747	02/11/16	01*1129198	N/A	01/01/16	TRAVEL EXPENSES	1.000	706.42

PAYEE / VOUCHER / CHECK / ITEM									
NAME / NUMBER	VOUCHER NUMBER / DATE	DUE DATE / STAT*DATE / TRANS NO	CHECK NUMBER / DATE	INVOICE NO / GL ACCOUNT NUMBER	DATE	DESCRIPTION / GL DISTRIBUTION	Amount	QTY	AMOUNT
104575	02/11/16	R*02/29/16	02/11/16	21-9842608-55110-0			80.00		
				21-9842608-55140-0			224.00		
				21-9842608-55120-0			402.42		
Totals for Voucher: V0125747							706.42		706.42
arla N. Jackson	V0127410	06/15/16	01*1129903 N/A		06/14/16	AREA COMMISSION RETREAT		1.000	750.00
104575	06/15/16	R*07/01/16	06/16/16	10-6512400-53180-0			750.00		
Totals for Voucher: V0127410							750.00		750.00
arla N. Jackson	V0127414	06/20/16	01*1129932 N/A		06/20/16	MEALS AND TRAVEL EXPENSES		1.000	450.00
104575	06/20/16	R*06/22/16	06/20/16	10-6512400-55232-0			450.00		
Totals for Voucher: V0127414							450.00		450.00
arla N. Jackson	V0127918	07/28/16	01*1130937 N/A		07/28/16	TRAVEL EXPENSES		1.000	146.60
104575	07/28/16	R*08/31/16	07/28/16	21-9842609-55010-0			19.00		
				21-9842609-55040-0			95.60		
				21-9842609-55060-0			32.00		
Totals for Voucher: V0127918							146.60		146.60
arla N. Jackson	V0127926	07/28/16	01*1130937 N/A		07/28/16	TRAVEL		1.000	118.40
104575	07/28/16	R*08/31/16	07/28/16	21-9842608-55010-0			26.00		
				21-9842608-55040-0			92.40		
Totals for Voucher: V0127926							118.40		118.40
arla N. Jackson	V0128277	09/20/16	01*1131163 N/A		09/20/16	TRAVEL EXPENSES		1.000	204.52
104575	09/20/16	R*09/30/16	09/22/16	21-9842608-55110-0			97.00		
				21-9842608-55140-0			55.52		
				21-9842608-55160-0			52.00		
Totals for Voucher: V0128277							204.52		204.52
arla N. Jackson	V0128452	10/17/16	01*1131243 N/A		10/17/16	RETRO PAYMENT		1.000	3,021.75
104575	10/17/16	R*10/31/16	10/19/16	10-2320100-50178-0			3,021.75		
Totals for Voucher: V0128452							3,021.75		3,021.75
arla N. Jackson	V0128519	10/25/16	01*1131303 N/A		10/25/16	TRAVEL EXPENSES		1.000	292.34

PAYEE NAME / NUMBER	VOUCHER NUMBER / DATE	DUE DATE / STAT*DATE / TRANS NO	CHECK NUMBER / DATE	INVOICE NO / GL ACCOUNT NUMBER	DATE	DESCRIPTION / GL DISTRIBUTION	ITEM Amount	QTY	AMOUNT
104575	10/25/16	R*11/30/16	10/27/16	10-6510000-55110-0			191.00		
				10-6510000-55140-0			53.34		
				10-6510000-55160-0			48.00		
Totals for Voucher: V0128519							292.34		292.34
arla N. Jackson	V0129492	12/20/16	01*1131695	N/A	12/20/16	COMMUNITY WORKSHOP		1.000	250.00
104575	12/20/16	R*12/31/16	12/21/16	24-9072312-59270-0			250.00		
Totals for Voucher: V0129492							250.00		250.00
arla N. Jackson	V0129878	02/16/17	01*1132051	N/A	02/16/17	SALARY AMOUNT OWED		1.000	207.90
104575	02/16/17	R*03/17/17	02/16/17	10-6510000-50158-0			207.90		
Totals for Voucher: V0129878							207.90		207.90
Totals for Payee: Carla N. Jackson							35,246.50		35,246.50
Totals for AP Type: 0001							35,246.50		35,246.50
Grand Total:							35,246.50		35,246.50

ccount Number	Description	Debit	Credit
0-0100000-31021-0	DUE TO/FROM RESTRICTED : DTC	29,418.38	0.00
0-0100000-31024-0	Due To/From Current Restricted	750.00	0.00
0-2320100-50178-0	INSTRUCTOR SUMMER FULL TIME :	3,021.75	0.00
0-6510000-50158-0	CLASSIFIED-POSITIONS : DTC	207.90	0.00
0-6510000-53990-0	OTHER SUPPLIES : DTC	176.39	0.00
0-6510000-55110-0	OUT-OF-STATE-MEALS : DTC	191.00	0.00
0-6510000-55140-0	OUT-OF-STATE PRIV. AUTO MIL. :	53.34	0.00
0-6510000-55160-0	OUT-OF-STATE- MISC. TRAVEL EX	48.00	0.00
0-6512400-53180-0	FOOD SUPPLIES : DTC	750.00	0.00
0-6512400-55232-0	NON STATE EMPLOYEE TRAVEL : DT	629.74	0.00
1-9842411-59200-0	SCHOLARSHIPS : DTC	10,476.00	0.00
1-9842504-59200-0	SCHOLARSHIPS : DTC	6,984.00	0.00
1-9842515-55010-0	IN-STATE-MEALS : DTC	58.00	0.00
1-9842515-55040-0	IN-STATE-PRIV. AUTO MIL. : DTC	56.94	0.00
1-9842515-55060-0	IN-STATE MISC. TRAVEL EXPENSES	38.50	0.00
1-9842515-55110-0	OUT-OF-STATE-MEALS : DTC	153.00	0.00
1-9842515-59200-0	SCHOLARSHIPS : DTC	10,476.00	0.00
1-9842608-55010-0	IN-STATE-MEALS : DTC	26.00	0.00
1-9842608-55040-0	IN-STATE-PRIV. AUTO MIL. : DTC	92.40	0.00
1-9842608-55110-0	OUT-OF-STATE-MEALS : DTC	177.00	0.00
1-9842608-55120-0	OUT-OF-STATE LODGING : DTC	402.42	0.00
1-9842608-55140-0	OUT-OF-STATE PRIV. AUTO MIL. :	279.52	0.00
1-9842608-55160-0	OUT-OF-STATE- MISC. TRAVEL EX	52.00	0.00
1-9842609-55010-0	IN-STATE-MEALS : DTC	19.00	0.00
1-9842609-55040-0	IN-STATE-PRIV. AUTO MIL. : DTC	95.60	0.00
1-9842609-55060-0	IN-STATE MISC. TRAVEL EXPENSES	32.00	0.00
4-9072312-59270-0	STIPENDS : DTC	750.00	0.00
0-0100000-21111-0	A/P TRADE : DTC	0.00	35,246.50
1-0100000-31010-0	DUE TO/FROM CURRENT FUND : DTC	0.00	29,418.38
4-0100000-31010-0	DUE TO/FROM CURRENT FUND : DTC	0.00	750.00
		65,414.88	65,414.88

0907

989

Appellant Exhibit

1

DENMARK
TECHNICAL COLLEGE

TITLE III FUNDED FACULTY AND STAFF DEVLEOPMENT PROGRAMS

My signature attest to my understanding and agreeing to the terms of the Guidelines governing the administration college sponsored faculty/staff development activities. I further understand and agree to provide services as a Denmark Technical College Employee that is equal to the number of months and/or years during which I receive financial assistance for professional development. Furthermore, I fully understand that the beginning of the period time that I am to provide the College begins **after full completion** of my course of study. I also understand that should I resign from my position prior to fulfilling my obligation of service, I will reimburse the College in full.

Signature of Applicant

Date 10/30/12

Witness

Date

DENMARK TECHNICAL COLLEGE

REQUEST FOR PROFESSIONAL DEVELOPMENT ASSISTANCE

1. GENERAL INFORMATION

Name of Applicant: Jamie L. Wise
Job Title: Senior Accountant
Home Address: Street 3548 Faust Street
City/State/Zip Bamberg, SC 29003
Telephone (Home) (803) 378-0977

Business Address: Campus building: Blatt Hall
Telephone Extension: (803) 793-5144
Number of Years Employed at DTC: 9

2. ORGANIZATONAL DATA

Area:
( ) Office of the President
( ) Administrative Affairs
( ) Institutional Advancement
(x) Business and Finance
( ) Academic Affairs
( ) Student Affairs
( ) Continuing Education

Division: Division of Business and Finance
Department: Fiscal Affairs/Accounting
Program: N/A
Immediate Supervisor: Clarence F. Bonnette, Interim V.P. for Business Affairs

3. Describe in detail the professional development activity for which you are requesting assistance
Certified Public Accountant (CPA) Exam, Becker Professional Education

4. Describe the cost of the activity and show in detail how the total was calculated.
See Attached

5. List the primary job duties that you are employed to perform at DTC and explain in detail how this activity will strengthen you in the performance of the job duties to which you are presently assigned.

My primary job duties include preparing and supervise accounting principles and theories, assist in development and implementation of agencies policies and procedures. Additionally, I prepare the bank reconciliations and adjusting entries. I interpret budgetary policies and procedures, develop and/or explain the use of budget forms, review complex budget request and prepares budgetary reports and amendments for review.
The course of study I am pursuing will sharpen my accounting and business skills to equip me with a broader knowledge base to serve the College.

6. Explain how your participation in this professional development activity relates to the college's stated objectives. How would DTC benefit form this experience?

My participation in the professional development activity will provide me with both a broad perspective and the necessary in-depth knowledge needed to make strategic decisions as the Senior Accountant for Denmark Technical College.

7. Indicate your regular duty hours and explain how you can meet the time requirements of this activity and avoid any conflicts with your presently assigned duty hours.

My work schedule is Monday through Friday from 8:30 am to 5:00 pm
The CPA review is online, so all of my classes will begin at 6:00pm Monday through Friday.

8. Indicate the study schedule you would be required to pursue to meet the requirements of this activity.

Monday through Friday from 8:00pm to 9:00pm and Saturday from 3:00pm to 6:00pm.

9. I have read, understand, and agree to the terms of the Guidelines governing the administration of college sponsored faculty/staff development activities. I further understand and agree to provide services as a Denmark Technical College employee (equal to the number of years during which I received financial assistance for professional development).

Signature of Applicant: [signature] **Date:** 10/30/12

10. Attach the following: (a) Study schedule (b) Official information form sponsor describing the activity in full detail.

3

11. Endorsements: I have reviewed the request carefully and hereby tender the following action:

Vincent F. Bonsett Jr. ( ) APPROVED ( ) NOT APPROVED
Signature of Immediate Supervisor/Date

_____ ( ) APPROVED ( ) NOT APPROVED
Signature of Division Director/Date

Paula S. Mach ✓ APPROVED ( ) NOT APPROVED
Signature of Title III Director/Date

_____ ( ) APPROVED ( ) NOT APPROVED
Signature of Secretary to Executive Council/Date

_____ ( ) APPROVED ( ) NOT APPROVED
Signature of President/Date

EXHIBIT SHEET

Date of Hearing:	01/14/2020	Chairperson:	Glenise Elmore
Appellant:	Carla Jackson	Secretary:	Kristin Wicker
Agency:	SC Technical College System	Committee Attorney:	Harley Kirkland
Disciplinary Action:	Remand/Termination		

<table>
<tr><td colspan="4">EXHIBITS AND EXHIBIT NUMBERS</td><td>DESCRIPTION/IDENTIFYING INFORMATION</td><td></td></tr>
<tr><td colspan="4">COMMITTEE EXHIBITS</td><td></td><td></td></tr>
<tr><td colspan="2">Introduced (#)</td><td colspan="2">For Identification Only</td><td></td><td></td></tr>
<tr><td colspan="2">Carla Jackson v. SCTCS Exhibits</td><td colspan="2"></td><td>Documents submitted during the initial hearing of the appeal before the State Employee Grievance Committee including:
Committee Exhibit #1, pp. 1 – 270
Agency Exhibit #1, Dual Employment Form
Agency Exhibit #2, Jackson Planning Stage
Agency Exhibit #3, Principles of Accreditation
Agency Exhibit #4, Expend. Vouchers
Agency Exhibit #5, Jackson Transcript
Agency Exhibit #6, 3/3/14 Exp. Voucher
Agency Exhibit #7, Voucher Register
Appellant Exhibit #1, Wise Title III application</td><td></td></tr>
<tr><td colspan="2">Carla Jackson v. SCTCS Hearing Recordings</td><td colspan="2"></td><td>Recordings from Jackson v. SCTCS appeal hearing and the hearing related to the reconsideration request to the Committee from SCTCS.</td><td></td></tr>
<tr><td colspan="2">AGENCY EXHIBITS</td><td colspan="2">APPELLANT EXHIBITS</td><td rowspan="2"></td><td></td></tr>
<tr><td>Introduced (#)</td><td>For Identification Only</td><td>Introduced (#)</td><td>For Identification Only</td><td></td></tr>
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</table>

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SC TECHNICAL COLLEGE SYSTEM

February 19, 2020

Via E-mail to: Karen.Wingo@admin.sc.gov

Ms. Karen L. Wingo
State Human Resources Director
8301 Parklane Road, Suite A220
Columbia, South Carolina 29223

Re: Carla Jackson v. SCTCS

Dear Ms. Wingo:

On February 4, 2020, the South Carolina Technical College System ("SCTCS") received your certified letter containing the State Employee Grievance Committee's ("Committee") finding of fact (dated February 3, 2020, hereinafter "Finding") on the issue remanded for its determination in accordance with the Administrative Law Court's ("ALC") June 25, 2019 Order ("ALC Order").

SCTCS has a number of grounds upon which it will show that the Finding was clearly erroneous and tainted by errors of law, that the Committee failed to reach the only conclusion adequately supported by the relevant evidence, and that the Committee improperly disregarded the ALC Order's directions and the case-specific instructions that were given to it by the Committee Attorney at the January 14, 2020 hearing on remand. SCTCS intends to make a motion before the ALC to allow supplemental briefing so that its grounds for challenging the Finding can be set forth in detail, but before doing so it would be helpful if DOA could address a threshold procedural matter related to the Finding.

I note at the outset that if the Finding had been a typical Committee decision following a full hearing on the merits, SCTCS would have had the option of requesting reconsideration by the Committee and/or appealing to the ALC. For SCTCS to have pursued an appeal of a Committee decision in the ordinary course, it first would have had to obtain approval from the Department of Administration ("DOA") pursuant to S.C. Code § 8-17-340(F). However, the current procedural posture and attendant circumstances of this case cloud the avenue(s) by which SCTCS can challenge the Finding.

First, it appears that DOA's transmittal of the Finding to the ALC returned the lone issue on remand back to the ALC and that the entirety of the appeal now resides exclusively with the court. It thus appears that the Committee would have no jurisdiction to rule on a request for reconsideration of its Finding if such a request were made.

AFFORDABLE * ACCESSIBLE * RELEVANT

Second, although the Finding is a new matter and SCTCS's grounds to challenge it therefore are in addition to those argued in this case to date, it is unclear if DOA would deem such grounds to constitute the basis for a *new* appeal requiring DOA's approval since (1) approval to appeal this case was granted previously in a letter from DOA to SCTCS dated September 19, 2018 [R. p. 745] and (2) the appeal itself has at all times remained pending before the ALC, notwithstanding the limited remand that was given for the Committee to make its Finding.

Consequently, SCTCS requests clarification as to whether DOA (1) agrees that the Committee is without jurisdiction to entertain a request for reconsideration and (2) views its approval as necessary under S.C. Code § 8-17-340(F) for SCTCS to appeal or otherwise challenge the Finding before the ALC.

Thank you for your attention to this issue. I look forward to your response.

Sincerely,

Warren V. Ganjehsani
Chief Legal Counsel

WVG/lth

cc: Hon. Ralph King Anderson, III (via e-mail)
Shannon Polvi, Esq. (via e-mail)

Keever, Heather

From: Keever, Heather
Sent: Wednesday, March 4, 2020 12:25 PM
To: GANJEHSANIWSCTECHSYSTEM.EDU
Cc: Shannon Polvi
Subject: Re: Carla Jackson v. SCTCS

Good Afternoon Mr. Ganjehsani,

I have confirmed that SCTCS does not need approval from the Department of Administration to pursue an appeal of the Committee's ruling concerning the remand and that the Committee does not have jurisdiction to hear a request for reconsideration.

If you have any questions or concerns please let me know.

Heather Keever

Sent from my iPhone

> On Feb 20, 2020, at 9:21 AM, Keever, Heather <Heather.Keever@admin.sc.gov> wrote:
>

THE STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

The Honorable Ralph King Anderson, III, Chief Administrative Law Judge

---

Case No. 20-ALJ-30-0064-AP

South Carolina Technical College System (SCTCS),

Appellant,

vs.

Carla Jackson,

Respondent.

CERTIFICATE OF SERVICE

I, Heather Keever, Program Manager of the South Carolina Department of Administration, Alternative Dispute Resolution Program, do hereby certify that I have this day served a copy of the attached Record on Appeal on the parties listed below by causing same to be deposited in the United States mail, postage pre-paid, and addressed as follows:

Mr. Warren Ganjehsani, Esquire
S.C. Technical College System
111 Executive Center Dr.
Columbia, South Carolina 29210

Ms. Shannon Polvi, Esquire
Cromer Babb Porter & Hicks
P.O. Box 11675
Columbia, South Carolina 29211

_____
Heather Keever

Columbia, South Carolina
May 26, 2020

THE STATE OF SOUTH CAROLINA

ADMINISTRATIVE LAW COURT

South Carolina Technical College System,

Appellant,

v.

Carla Jackson,

Respondent.

Docket No. 20-ALJ-30-0064-AP

BRIEF OF APPELLANT

Warren V. Ganjehsani, Esq.
South Carolina Technical College System
111 Executive Center Drive
Columbia, South Carolina 29210
Phone: (803) 896-5923
E-mail: ganjehsani@sctechsystem.edu
Counsel for Appellant

Shannon M. Polvi, Esq.
Cromer Babb Porter & Hicks, LLC
P.O. Box 11675
Columbia, South Carolina 29211
Phone: (803) 799-9530
E-mail: shannon@cbphlaw.com
Counsel for Respondent

FILED
JUL 27 2020
SC ADMINISTRATIVE LAW COURT

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STATEMENT OF THE ISSUES ON APPEAL

I. The Committee's Remand Decision was clearly erroneous and tainted by errors of law.

A. Respondent's Appeal Form established conclusively that she was an Interim Dean and was not functioning as a Coordinator.

B. The binding effect of Respondent's statements on her Appeal Form made it improper for the Committee to consider matters appearing in the Record that were purportedly inconsistent with such statements.

II. The Committee abused its discretion by failing to reach the only conclusion adequately supported by the relevant evidence, and the Committee rendered an arbitrary and capricious decision that improperly disregarded the instructions it was given in the Remand Order and at the Remand Hearing.

STATEMENT OF THE CASE

This is an appeal from a decision of the State Employee Grievance Committee ("Committee") issued on February 3, 2020, pursuant to the June 25, 2019 Order of Remand ("Remand Order") from the Administrative Law Court ("ALC") in a companion case between the parties herein, ALC Docket No. 18-ALJ-30-0341-AP ("Original Case").

Respondent Carla Jackson ("Respondent") was employed by Denmark Technical College ("DTC") beginning on January 4, 2011, and she was suspended pending the conclusion of an investigation into her conduct effective February 15, 2017. [R. pp. 6, 8.] On May 11, 2017, Respondent's employment with DTC was terminated retroactively to February 15, 2017. [R. p. 8.] The South Carolina Division of State Human Resources ("DSHR") notified Respondent by letter dated May 17, 2017, that her termination "effectively moot[ed] [her] suspension pending investigation as well as the appeal of her suspension" to the State Human Resources Director ("Director") that was pending at the time. [R. p. 643.]

After Respondent exhausted the South Carolina Technical College System's ("Appellant" or "SCTCS") internal grievance procedures,[1] she initiated a grievance of her termination with the Director on July 5, 2017. [R. pp. 599-602.] A four-day hearing on the merits occurred before the Committee over the course of November 28, 2017; February 1-2, 2018; and March 2, 2018. [R. p. 6.] The Committee issued its final decision ("Original Decision") on March 22, 2018. [R. pp. 6-14.]

On April 19, 2018, Appellant submitted a Motion for Reconsideration ("Motion") of the Original Decision. [R. pp. 44-57.] The Committee denied the Motion in a decision issued August

[1] Appellant's agency procedures provide that it must issue the Step Three/final agency decision for grievances of terminations and certain disciplinary actions administered by the State's sixteen technical colleges, including DTC.

1, 2018. [R. pp. 17-27.] Thereafter, SCTCS appealed the Original Decision. After the parties submitted briefs in the Original Case, the ALC issued the Remand Order instructing the Committee to decide a specific issue of fact. [R. pp. 30-35.]

Pursuant to the Remand Order, a limited hearing ("Remand Hearing") was held by the Committee on January 14, 2020. [R. pp. 37-42.] On February 3, 2020, the Committee issued a decision containing its finding on remand ("Remand Decision"). [Id.] Appellant received the Remand Decision on February 4, 2020. [R. p. 43.] By letter dated February 19, 2020, Appellant submitted two questions to the South Carolina Department of Administration ("DOA") in connection with this matter: (1) whether it viewed the Committee as having jurisdiction to reconsider the Remand Decision and (2) whether it deemed DOA's approval as necessary under S.C. Code Ann. § 8-17-340(F) for SCTCS to appeal or otherwise challenge the Remand Decision. [R. pp. 913-914.] On March 4, 2020, DOA notified Appellant's counsel via e-mail that it answered both the foregoing questions in the negative. [R. p. 915.] This appeal followed.

STATEMENT OF FACTS

Respondent began her employment with DTC on January 4, 2011, as an Administrative Coordinator I ("Coordinator") to provide support to the DTC President's office. [R. p. 6.] Respondent described her primary duties in this role as "basically manag[ing]" the DTC President's office to assist the DTC President "with the executive level documents" and "to assist the executive staff as well." [R. p. 442.]

Respondent was in the Coordinator position until October 1, 2015, when she became Interim Dean of Transitional Studies and Distance Education. [R. p. 494.] She testified that she no longer performed the Coordinator duties or worked in the President's office as of October 1, 2015, except for a brief period of three months or less immediately thereafter to assist the person

who "fill[ed]" her "old position" to transition into this role. [R. pp. 494-496.] Respondent's supervisor, former DTC President Dr. Leonard McIntyre ("Dr. McIntyre"), and former DTC Chief of Staff Dr. Lamin Drammeh ("Dr. Drammeh") both testified that Gwendolyn Bamberg filled Respondent's previous role as Coordinator when Respondent vacated it to become Interim Dean of Transitional Studies. [R. pp. 272, 275-276, 377, 382.]

In October 2016, Respondent became the Interim Dean of Business, Computers and Related Technologies ("BCRT"). [R. p. 387.] An "Interim Dean" position description for Respondent described her duties as providing "curricular leadership in relation to . . . academic programs," supervising "the administration of and ensur[ing] the academic quality of academic advising and special programs," and being "[r]esponsible for human resource management of unit faculty and staff." [R. pp. 855-856.]

Respondent's counsel focused on this Interim Dean position description when questioning Dr. McIntyre about the differences between the jobs of Interim Dean and Coordinator. [R. pp. 421-422.] Dr. McIntyre emphasized that Respondent's job as an Interim Dean departed significantly from her previous Coordinator position:

> Respondent's counsel: [A]s the former President of a college, what would be the differences between what she was performing as an Administrative Coordinator and what might merit her receiving more pay for performing these Interim Dean roles.
>
> Dr. McIntyre: Well, certainly these duties required more credentials, in terms of . . . The qualifications. And more accountability, more responsibility. That's basically what I can tell you. There's a big difference between what is expected from one position to the next.
>
> Respondent's counsel: And would it be . . . As common sense, that someone couldn't be performing all of these full time roles at the same time, that even if Miss Jackson was keyed as one position she, as a full time job, would only have been doing one of these?
>
> Dr. McIntyre: Absolutely, only one.

[R. p. 422.]

In September/Octobter 2016, a Personnel/Payroll Action form was signed by the required DTC officials reflecting Respondent's move from her "Current Position Title" of Interim Dean of Transitional Studies (Position No. 136422) to the "New Position Title" of Interim Dean of BCRT (Position No. 135887). [R. pp. 31, 285-288, 836.] Dr. Drammeh testified that multiple signatures were required on Personnel/Payroll Action forms and that the sequence in which the signatures were obtained was important. [R. pp. 285-288.] The Record also contains a January 2017 Personnel/Payroll Action form bearing only one signature, reflecting the exact same "Coordinator" position as both the "Current" and "New" position titles, and listing "103363" as the former and "new" position numbers. No testimony was elicited by Respondent concerning the purported evidentiary weight of this document. [R. p. 835.]

Respondent was terminated effective February 15, 2017. [R. p. 621.] Respondent appealed this decision to the Director by submitting a State Appeal Form ("Appeal Form") to DSHR, and she identified her job classification on the document's first page as an "Interim Dean."[2] [R. p. 599.] Respondent's narrative explanation for her appeal to DSHR maintained that she was "an Interim Dean of [BCRT]," that she was a "Dean of the College" whose "entire job entail[ed] 'college operations,'" and that she had served as "an Interim Dean of the College since October 2015." [R. pp. 600-601.] Respondent represented that she had "previously" served as "Administrative Coordinator" in the DTC President's Office, but she "had not . . . been employed" in that capacity "since October 2015 when she was ***promoted to Interim Dean***." [R. pp. 600-601 (emphasis added).] DSHR's July 6, 2017 notification to SCTCS of Respondent's appeal reflected her job as "Interim Dean." [R. p. 603.]

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[2] The full title is cut off, but the description given is "Interim Dean of Business, Computers and Rel."

The Committee was subsequently tasked with determining which position Respondent was functioning in when she was terminated, as directed by the Remand Order and the Committee Attorney's instructions. [R. pp. 30-35, 219-224, 588-590.] The Remand Decision did not identify any Coordinator duties being performed by Respondent at the time of her termination. [R. pp. 37-42.] The Remand Decision nevertheless concluded that Respondent was functioning as a Coordinator on the date she was terminated. [Id.]

STANDARD OF REVIEW

This appeal pursuant to the South Carolina Administrative Procedures Act ("APA") is governed by S.C. CODE ANN. § 1-23-380(5), which provides for appellate review of a final agency action such as the Remand Decision under the following standard:

> The court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:
>
> (a) in violation of constitutional or statutory provisions;
>
> (b) in excess of the statutory authority of the agency;
>
> (c) made upon unlawful procedure;
>
> (d) affected by other error of law;
>
> (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
>
> (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. CODE ANN. § 1-23-380(5).

"Substantial evidence" as used in § 1-23-380(5)(e) "is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." South Carolina Dep't of

Mental Health v. Moore, 295 S.C. 42, 367 S.E.2d 27 (1988). Substantial evidence is "not a mere scintilla of evidence, nor the evidence viewed blindly from one side of the case, but is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion that the administrative agency reached in order to justify its action." Mullinax v. Winn-Dixie Stores, Inc., 318 S.C. 431, 435, 458 S.E.2d 76, 78-79 (Ct. App. 1995). An administrative body's findings will not be upheld in the absence of substantial evidence. Grayson v. Carter Rhoad Furniture, 317 S.C. 306, 310, 454 S.E.2d 320, 322 (1995).

ARGUMENT

I. The Committee's Remand Decision was clearly erroneous and tainted by errors of law.

A. Respondent's Appeal Form established conclusively that she was an Interim Dean and was not functioning as a Coordinator.

The Committee failed to apply the law set forth in its instructions from the Committee Attorney by erroneously concluding that Respondent was functioning as a Coordinator, even though she filed her appeal as an "Interim Dean" and identified herself repeatedly as such on her Appeal Form. It is reversible error when a tribunal's findings of fact are "tainted by errors of law." Callen v. Callen, 365 S.C. 618, 623-624, 620 S.E.2d 59, 62 (2005). The Committee neglected to adhere to the following instructions in reaching its Remand Decision:

> Parties are judicially bound by their pleadings. The allegations, statements, or admissions contained in a pleading are conclusive as against the pleader and a party cannot subsequently take a position contradictory of, or inconsistent with, his or her pleadings, and the facts which are admitted by the pleadings are taken as true against the pleader for the purpose of the case. A "pleading" includes any required form used to initiate an appeal or other proceeding that constitutes a contested case under the Administrative Procedures Act, including the State Employee Grievance Procedure State Appeal Form.

[R. pp. 223, 588-590.]

The foregoing instructions made clear that Respondent's Appeal Form was a "pleading" for purposes of this proceeding and the Original Case. The principle that parties "are judicially bound

by their pleadings" is well-settled law. Postal v. Mann, 308 S.C. 385, 387, 418 S.E.2d 322, 323 (Ct. App. 1992). This rule has been applied with equal force to statements of parties submitted on approved forms used by administrative agencies. Piers v. Rock Hill Sch. Dist., et al., No. 1521215, 2017 WL 5255904, at *1, *6 (S.C. Workers' Comp. Comm'n Aug. 30, 2017) (finding that a workers' compensation claimant was judicially bound by statements made on her Form 50).

The Appeal Form is an approved form required by State regulations for public employees submitting grievance appeals to the Director. S.C. CODE ANN. REGS. 19-718.05(C) (providing that DSHR "shall develop standard forms to be used in all appeal procedures"); S.C. CODE ANN. REGS. 19-718.05(D)(2) (referring to "the standard appeal application form" to be used in grievance appeals submitted to the Director). The instructions contained on the Appeal Form provide that the "employee or representative initiating the appeal **must complete this form** and return it to [DSHR]." [R. p. 599 (emphasis added)].

When Respondent submitted her Appeal Form to DSHR, she identified her job on the document's first page only as an "Interim Dean." [Id.] Her narrative statement on the Appeal Form amplified the fact that she was an Interim Dean at the time of her termination. [R. pp. 600-601.] Specifically, she maintained that she was "an Interim Dean of [BCRT]," that she had been a "Dean of the College" whose "entire job entail[ed] 'college operations,'" and that she had served as "an Interim Dean of the College since October 2015." [Id.]

Moreover, her Appeal Form made no mention of performing any of the duties of a Coordinator or otherwise identified herself in that capacity at the time of her termination. [Id.] Notably, she did not represent that she was a Coordinator who had been performing the "additional duties" of an Interim Dean – she said unequivocally that she was an Interim Dean when she was terminated. [Id.] Therefore, Respondent's declarations that she was an "Interim Dean" on her

Appeal Form were statements to which she was judicially bound and for which she was prohibited as a matter of law from subsequently taking a position inconsistent therewith.

B. The binding effect of Respondent's statements on her Appeal Form made it improper for the Committee to consider matters appearing in the Record that were purportedly inconsistent with such statements.

The statements on the Appeal Form were dispositive as to what position Respondent was functioning in at the time of her termination, and she was not permitted to subsequently deviate from such statements. Thus, the Committee should not have considered any other matter in the Record that was arguably contrary to or inconsistent with the substance of the Appeal Form.

In Towles v. United Healthcare Corp., 338 S.C. 29, 524 S.E.2d 839 (Ct. App. 1999), a medical director alleged in his wrongful discharge complaint that he had been employed by a specific company. However, he later submitted an affidavit in which he claimed he worked for a different entity. The Court of Appeals observed that the plaintiff was bound by the representation contained in his pleadings about who his employer was, and as a result the Court refused to consider the contents of the affidavit that ran contrary to his earlier statement. Id. at 33 n.1, 524 S.E.2d at 841 n.1.

Similarly, in Fisher v. South Carolina Dep't of Health and Envtl. Control, 309 S.C. 10, 419 S.E.2d 794 (Ct. App. 1992), a discharged public employee claimed she had grievance rights under the State Employee Grievance Procedure Act ("Act") despite alleging in her complaint that she was in probationary status. The Court of Appeals concluded that the plaintiff was bound by the statements in her pleadings, and as a result it disregarded the facts she pointed to as evidence of why she should be entitled to a grievance hearing. Id. at 12-13, 419 S.E.2d at 795.

The Committee's conclusion that Respondent was functioning as a Coordinator contravened the representations on her Appeal Form that she was an Interim Dean who had been

promoted into that position. There is nothing in the Remand Decision reflecting that the Committee considered the binding legal effect of the Appeal Form's contents in accordance with the instructions given, and the failure to do so is reversible error for this reason alone.

II. The Committee abused its discretion by failing to reach the only conclusion adequately supported by the relevant evidence, and the Committee rendered an arbitrary and capricious decision that improperly disregarded the instructions it was given in the Remand Order and at the Remand Hearing.

If the ALC does not determine that the statements on Respondent's Appeal Form are dispositive as to her position, the Remand Decision should be found arbitrary and capricious because the Committee ignored the instructions of the Remand Order and Committee Attorney, improperly conflated Respondent's initial Coordinator classification with her subsequent (and exclusive) Interim Dean functions, and otherwise abused its discretion by failing to reach the only conclusion supported by the evidence.

A Committee decision is reversible as clearly erroneous where "the Committee failed to reach the only conclusion adequately supported by the relevant evidence." South Carolina Dep't of Mental Health v. Moore, 295 S.C. 42, 45, 367 S.E.2d 27, 28-29 (1988). An abuse of discretion occurs when a "ruling is based upon an error of law or, when based upon factual conclusions, is without evidentiary support." Fontaine v. Peitz, 291 S.C. 536, 538, 354 S.E.2d 565, 566 (1987). An agency's decision is arbitrary if it is "without adequate determining principles" or "is governed by no fixed rules or standards." Deese v. South Carolina State Bd. of Dentistry, 286 S.C. 182, 184-185, 332 S.E.2d 539, 541 (Ct. App. 1985). A decision is also subject to reversal for being "capricious" when it is made "without any rational basis in the evidence and/or **the instructions of the court**." Toole v. Toole, 260 S.C. 235, 240, 19 S.E.2d 389, 391 (1973) (emphasis added). It is error when a tribunal does not follow instructions on remand and "fail[s] to conduct the analysis

directed by [a] court." Prince v. Beaufort Memorial Hosp., 392 S.C. 599, 609-610, 709 S.E.2d 122, 127-128 (Ct. App. 2011).

The Remand Order directed the Committee to make a finding as to whether Respondent was "*functioning* in a covered FTE position" in addition to the uncovered Interim Dean position. [R. p. 35 (emphasis added).] The Remand Order inventoried a number of facts in evidence supporting a finding that Respondent was functioning in an uncovered position as an Interim Dean at the time of her termination, and Appellant's Brief on Remand to the Committee contained citations to the Record[3] corresponding to the facts noted by the ALC. [R. pp. 30-35, 93-98.]

Consistent with the Remand Order, at the Remand Hearing the Committee Attorney gave five instructions to the Committee to consider the position in which Appellant was "functioning." [R. pp. 219-224, 588-590.] Two of these instructions directed the Committee to (1) "determine whether at the time of [Respondent's] termination she was *functioning* as an Interim Dean or as an Administrative Coordinator" and (2) "consider February 15, 2017, as the 'time of her termination' for the purpose of determining whether she was *functioning* as an Interim Dean or an Administrative Coordinator." [R. pp. 220, 224, 588-590 (emphasis added).]

Instead of following the aforementioned mandates, the Committee chose to concentrate on Respondent's "*classification* of Administrative Coordinator I" purportedly not having changed, and the Committee declared erroneously that "there [wa]s no evidence to indicate Appellant was promoted, demoted or that the position she occupied was reclassified." [R. p. 42.] The Committee's Remand Decision essentially repackaged items from the Original Decision concerning Respondent's job *classification* without rendering the specific determination compelled by the

[3] Citations to the Record in Appellant's Brief on Remand correspond to the pagination of the Record in the Original Case.

ALC and the Committee Attorney's instructions. Specifically, the Committee observed in the "Discussion" section of its Remand Decision that:

- "various [DTC] Personnel/Payroll Action Forms in the record reflect[ed] . . . changes to Appellant's job duties," but "[n]one of these actions would have resulted in a change to Appellant's position or her coverage status under the State Employee Grievance Procedure Act."

- "[a] letter dated September 15, 2015, notif[ied] Appellant that she was being appointed Interim Dean of Transitional Services" and that her "position classification would remain unchanged."

- "while Appellant was temporarily performing the duties of an Interim Dean [of BCRT], her position classification was Administrative Coordinator I" based on a September 21, 2016 letter appointing Respondent as an Interim Dean of BCRT.

- "Appellant's official state classification of Administrative Coordinator I never changed."

- "by memorandum dated February 14, 2017, . . . Appellant was notified that effective February 16, 2017, all supplemental pay w[ould] be suspended [and she would] continue to receive [her] annualized base pay for the position in which [she] was hired."

[R. p. 42.]

As a threshold matter, the Committee erred in claiming there was no evidence that Respondent's appointment as an Interim Dean was a promotion. It was Respondent's own Appeal Form that used the word "promoted" to characterize her transition to Interim Dean, and the Committee was instructed that she was bound by the statements appearing thereon. [R. pp. 223, 588-590, 601.] The Committee further erred by opining that her being an Interim Dean would not change Respondent's "coverage status" under the Act, insofar as such a conclusion contravened the instruction that "[w]hether the [Director] correctly forwarded this appeal to the Committee and whether the Committee had subject matter jurisdiction to hear this appeal are ultimately questions

of law that only the [ALC] can decide."[4] [R. pp. 221, 588-590.] Additionally, the Committee erred in considering a memorandum about what would happen to Respondent's pay from DTC effective February 16, 2017, inasmuch as the Committee was instructed to consider February 15, 2017 as her termination date – thereby mooting any pay actions which would have occurred after that date. [R. pp. 224, 588-590.]

The Committee also erred in its findings concerning other documents in the Record. In particular, the Committee overlooked the significance of the September/October 2016 Personnel/Payroll Action form reflecting Respondent's transition to Interim Dean of BCRT – the position she was in when she was terminated.[5] Dr. Drammeh testified that this document memorialized Respondent's move from her previous Interim Dean position to Interim Dean of BCRT. [R. pp. 286-287.] This form was signed by all necessary persons, and Respondent's counsel examined Dr. Drammeh about the reasons that multiple DTC officials were required to review and execute it. [R. pp. 31, 285-288, 836.]

Instead, the Committee focused on a January 2017 Personnel/Payroll Action form reflecting that Respondent's "position title" was a Coordinator. In contrast to the September/October 2016 form, the January 2017 form contained only one signature, even though several more signatures were required. [R. pp. 31, 835.] This document identified the same

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[4] Although the Committee was not authorized to express any opinion on this issue, it is worth noting that in other jurisdictions the role in which an employee is functioning has been determinative as to whether he or she has grievance rights. See, e.g., Greater Johnstown Area Voc.-Tech. Sch. v. Johnstown Area Voc.-Tech. Educ. Ass'n, 426 A.2d 1203, 1205 (Pa. Cmwlth. Ct. 1981) (holding that teachers who had grievance rights as "professional employees" could not pursue grievances when their contracts affording them duties as Student Congress Advisors were not renewed, insofar as they were "not included within the category of 'professional employees'" when they were "acting in th[e] capacity" of Advisors).

[5] Although this document is mentioned in the Remand Decision's Findings of Fact, there is no reference to it in the Discussion section where the Committee explained its reasoning behind the Decision. [R. pp. 37-42.]

"Coordinator" position as both the "Current" and "New" position titles, and the former and "new" position numbers likewise were identical. This document is inherently suspicious, because it does not reflect the Interim Dean of BCRT position into which Respondent had been placed just three months prior. Respondent introduced no testimony about this form, nor did she offer any legal foundation for the Committee to treat it as a valid document or otherwise give it any evidentiary weight. Moreover, the Committee made no attempt to reconcile the incongruities between this document and the September/October 2016 Personnel/Payroll Action form or the Appeal Form. Regardless of its dubious purpose, it was error for the Committee to have ascribed this document any legal significance because it was invalid on its face.

In sum, the evidence showed that Respondent was functioning solely as an Interim Dean and was not doing so as an "additional duty" while also functioning as a Coordinator. This point was amplified in testimony elicited by Respondent's counsel that proved Respondent was not – and, in fact, *could not* have been – functioning as both an Interim Dean and a Coordinator:

> Counsel: And would it be ... As common sense, that **someone couldn't be performing all of these full time roles at the same time, that <u>even if Miss Jackson was keyed as one position</u> she, as a full time job, would only have been doing one of these**?
>
> Dr. McIntyre: **Absolutely, only one.**

[R. p. 422 (emphasis added).]

The Committee's decision was thus fundamentally flawed, because not one of the sixteen[6] findings of fact in its Remand Decision reflected that Respondent was functioning as a Coordinator when she was terminated. [R. pp. 38-40.] The revelation that another person filled the Coordinator position once Respondent vacated it to become an Interim Dean further underscored that Respondent was not functioning in her former position at all. [R. pp. 275-276, 382.] Although the

[6] There are two other numbered items identified under the "Findings of Fact," but they consist only of recitations of the parties' respective arguments. [R. pp. 40-41.]

final sentence of the Remand Decision observed for the first and only time that Respondent "was *functioning* in the covered full-time FTE position [of] Administrative Coordinator I at the time of her termination," the Committee failed to articulate facts to support how it reached this conclusion. [R. p. 42.] Accordingly, the Committee's Remand Decision was not supported by substantial evidence.

CONCLUSION

For the reasons set forth above, Appellant asks that the ALC find that the Committee's Remand Decision was not supported by substantial evidence and issue an appropriate ruling.

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July 27, 2020

THE STATE OF SOUTH CAROLINA

ADMINISTRATIVE LAW COURT

South Carolina Technical College System,

Appellant,

v.

Carla Jackson,

Respondent.

Docket No. 20-ALJ-30-0064-AP

BRIEF OF RESPONDENT

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S.C. Code Ann. § 8-17-340.....passim

S.C. Code Ann. § 8-17-370.....10, 13

STATEMENT OF THE ISSUES

I. Whether this second appeal to the administrative Law Court seeks to reassert the same arguments.

II. Whether the State Employee Grievance Committee's decision should be upheld.

III. Whether the State Employee Grievance Committee's Decision passes all permissible scrutiny under S.C. Code Ann. § 1-23-380(5).

STATEMENT OF THE CASE

Respondent, Carla Jackson ("Ms. Jackson" and "Respondent"), is entitled to the relief granted by the State Employee Grievance Committee ("the Committee"). Appellant South Carolina Technical College System ("Appellant") is the state agency over Denmark Technical College ("the College") from which Ms. Jackson grieved her termination through the State Employee Grievance Procedures. The hearing of Ms. Jackson's grievance before the Committee spanned four days on November 28, 2017, February 1-2, 2018, and March 2, 2018.

The Committee found that Ms. Jackson established that the College's decision prejudiced her substantial rights and met one or more of the elements contained in S.C. Code Ann. § 8-17-340(E)(2). The Final Decision of the Committee was issued on March 22, 2018.

After the Final Decision of the Committee, the College filed a Motion for Reconsideration to the Committee. The College and Ms. Jackson filed documents in support of their respective positions and the Committee, having fully heard those positions, denied the College's Motion for Reconsideration.

The College appealed on August 31, 2018 and argued that Ms. Jackson was not entitled to state employee grievance rights. By Order issued on June 25, 2018, the Court remanded the case "for the Board to determine whether Jackson was an Interim Dean at the time of her termination (uncovered employee) or whether Jackson was also functioning in a covered FTE position." The

parties and the South Carolina Department of Administration sought clarification from the Court to confirm that the Board referred to in the remand Order was the State Employee Grievance Committee. The Court confirmed that the State Employee Grievance Committee was the body that needed to make the determination on remand. Thereafter, on February 3, 2020, the State Employee Grievance Committee issued its decision that Ms. Jackson was functioning in the covered full-time FTE position, Administrative Coordinator I, at the time of termination from the SCTCS.

Thus, the Committee's decision remains in Ms. Jackson's favor and Ms. Jackson requests that the decisions issued by the State Employee Grievance Committee be affirmed and that the relief granted to Ms. Jackson through the State Employee Grievances Procedures be awarded to Ms. Jackson in the timeliest manner possible.

STATEMENT OF FACTS[1]

Ms. Jackson began her employment with Appellant on January 4, 2011, upon hire as an Administrative Coordinator to assist Appellant's then President, Dr. Joann Boyd-Scotland (President Boyd-Scotland). [R. p. 6]. On October 1, 2013, Respondent submitted a "Request for Professional Development Assistance" to President Boyd-Scotland following her acceptance to American InterContinental University Online (AIUO) on September 29, 2013, which was approved by Tarshura Mack (Mack), Title III Director, and President Boyd-Scotland. [Id.]. In March of 2015, Respondent received her Master's Degree in Business Administration from AIUO. [Id.]. Between February 1, 2015, and October 3, 2016, Respondent was asked to take on several additional duties, including administrative and instructional responsibilities, and received salary increases accordingly. [R. pp. 6-8]. Specifically, on October 3, 2016, then interim Vice President

[1] Respondent craves reference to the Findings of Fact in the Final Decisions of the State Employee Grievance Committee issued on March 22, 2018 and February 3, 2020. [R. pp. 6-14; R. pp. 37-43].

of Academic Affairs, Tia Wright-Richards, submitted a request that Respondent begin acting as Interim Dean of the Business, Computers and Related Technologies Department as evidenced by the "DTC Departmental Request for Personnel/Action Form." [R. pp. 7-8].

Following an investigation and a suspension beginning February 15, 2017, Respondent received a termination letter dated May 11, 2017 informing her that her employment had been terminated as of the date her suspension began for various alleged violations of "rules, regulations and written policies." [R. p. 8]. Appellant accused Respondent of using the President's Stamp on her own personnel records and that she violated policies with her receipt of tuition assistance. [R. p. 621]. Both grounds were proven false during the hearing. [R. pp. 6-14].

Current and former employees of Appellant, including President McIntyre and Dr. Lamin Drammeh (Dr. Drammeh), testified to the contrary of such allegations. [R. pp. 7-9]. Specifically, President McIntyre and Dr. Drammeh testified that Respondent's master's degree was relevant to her position, that the reimbursement she received was a normal amount for tuition assistance, and that Respondent would have been unable to authorize her own pay raises because of the internal structure in place for such salary increases. [Id.]. President McIntyre further testified that he had authorized all of Respondent's pay increases. [R. p. 9]. Further, Appellant was in receipt of Respondent's transcript from AIUO and AIUO's fee schedule for the program in which Respondent was enrolled, which informed Appellant of the two transfer credits Respondent had from Springfield College and that the reported cost of the program may vary depending on the presence of such credits. [R. p. 10].

Given the totality of the circumstances presented and the evidence provided, the Committee found that Appellant's decision to terminate Respondent is unsupported and granted Ms. Jackson the relief permitted by the State Employee Grievance Procedure Act. [R. pp. 13-14].

ARGUMENT[2]

Standard of Review

Appellant is an agency under the Administrative Procedures Act, S.C. Code Ann. § 1-23-10 *et seq.* ("APA"); therefore, the APA's standard of review governs this appeal. S.C. Code Ann. §§ 1-23-380 and -600(D); S.C. Code Ann. § 8-17-340. "The scope of judicial review in . . . cases arising from the final decision of state agencies is governed by section 1-23-380 of the South Carolina Code." *Trowell v. S.C. Dep't of Pub. Safety*, 384 S.C. 232, 235, 681 S.E.2d 893, 895 (Ct. App. 2009). Section 1-23-380(5) provides:

> The court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:
>
> (a) in violation of constitutional or statutory provisions;
> (b) in excess of the statutory authority of the agency;
> (c) made upon unlawful procedure;
> (d) affected by other error of law;
> (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
> (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-380(5).

The party challenging an agency decision has the burden of proving convincingly that the agency's decision is unsupported by substantial evidence. *Waters v. S.C. Land Rs. Conservation Comm'n*, 467 S.E. 219, 467 S.E.2d 913 (1996). Substantial evidence is not a mere scintilla of evidence nor the evidence viewed blindly from one side of the case, but is evidence which,

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[2] Respondent also craves reference to her arguments in the record on appeal, including but not limited to her prior briefing before the State Employee Grievance Committee and the Administrative Law Court in Case No. 18-ALJ-30-0341-AP.

considering the record as a whole, would allow reasonable minds to reach the same conclusion as the agency. *Friends of the Earth v. Pub. Serv. Comm'n of S.C.*, 387 S.C. 360, 692 S.E.2d 910 (2010). When applying the substantial evidence rule, the factual findings of the administrative agency are presumed to be correct. *Rodney v. Michelin Tire* Co., 320 S.C. 515, 466 S.E.2d 357 (1996).

I. This second appeal to the Administrative Law Court seeks to reassert the same arguments.

Appellant appeals a second time on the same basis as its prior appeal in 2018, Case No. 18-ALJ-30-0341-AP. Appellant seeks to relitigate and file duplicative appeals of the same issue simply because it does not like the decision of the State Employee Grievance Committee. South Carolina jurisprudence precludes such duplicative appeals. See *St. Philip's Episcopal Church v. S.C. Alcoholic Beverage Control Comm'n*, 285 S.C. 335, 339, 329 S.E.2d 454, 456 (Ct. App. 1985). When an issue has already been decided, it must not be relitigated. *Id.*

The principles of collateral estoppel, also known as issue preclusion, are applicable here. See *Carolina Renewal, Inc. v. S.C. Dep't of Transp.*, 385 S.C. 550, 554, 684 S.E.2d 779, 782 (Ct. App. 2009). "Under the doctrine of collateral estoppel, when an issue of fact or law is actually litigated and determined by a valid and final decision of an administrative tribunal, and that determination is essential to the decision, the determination is conclusive in a subsequent matter between the parties, whether on the same or different claim." *Harmon B. Sprott, III, Sprott Oil Co., Inc. d/b/a in & Out Express, Petitioner*, No. 96-ALJ-17-0140-CC, 1996 WL 909380, at *2 (July 18, 1996) citing *Carman v. S.C. ABC Comm'n*, 451 S.E.2d 383 (1994); *St. Philip's Episcopal Church v. S.C. ABC Commission*, 285 S.C. 335, 329 S.E.2d 454 (Ct. App. 1985); see also *A & J Lounge, d/b/a A & J Lounge, Petitioner,* No. 12-ALJ-17-0163-CC, 2012 WL 7803742, at *4 (Oct. 29, 2012)(the Administrative Law Court concluded that the Petitioner was precluded by collateral

estoppel from relitigating the issues of whether A & J Lounge is a bona fide nonprofit organization or whether the location is a suitable one in which to operate a bar or nightclub). This doctrine is built on principles of equity. *Michael Squirewell, d/b/a Squirewell Builders v. S.C. Dep't of Labor, Licensing, and Regulation, S.C. Residential Builders Comm'n*, No. 13-ALJ-11-0057-AP at *4 (April 7, 2014). South Carolina courts apply the doctrine of collateral estoppel to the factual determinations made by the administrative bodies. *Id.* citing *Bennett v. S.C. Dep't of Corrections*, 305 S.C. 310, 408 S.E.2d 230 (1991).

Here, the doctrine of collateral estoppel prohibits the action that Appellant seeks – to relitigate whether Respondent is an employee covered by the State Employee Grievance Procedures Act. The doctrine of collateral estoppel prohibits this issue because this issue was litigated and determined by a valid and final decision of an administrative tribunal, and that determination of whether Respondent is a covered employee is essential to the decision, thus the State Employee Grievance Committee's determination is conclusive and cannot be appealed a second time. Accordingly, Appellant's second appeal to the Administrative Law Court is procedurally barred, and the substantive arguments need not be considered by this Court.

II. The State Employee Grievance Committee's decision should be upheld.

Respondent was an employee covered by the State Employee Grievance Procedure Act. The State Human Resources Director properly forwarded Respondent's appeal of her termination to the State Employee Grievance Committee because Respondent was an employee covered by the State Employee Grievance Procedure Act. Thereafter, the Committee reaffirmed that decision on February 3, 2020, and made the factual finding that Respondent was an employee covered by the State Employee Grievance Procedure Act.

For every single grievance hearing,[3] the position was undisputed that that Respondent satisfied the definition of 'employee' within the meaning of the State Employee Grievance Procedure. Such an interpretation is consistent with the statutory authority and reasonable interpretation S.C. Code Ann. 8-17-370. Furthermore, Appellant cannot argue that Respondent was not entitled to grievance rights when its own legal counsel acknowledged that Respondent was an Administrative Coordinator at the administrative hearing. [R. p. 242]. Appellant's legal counsel stated, "[i]n fact, the sole purpose that we are here today is the administrative coordinator's position is the only part that's covered." [Id.]. In making a final decision on the grievance, the DSHR considered all facts, evidence and testimonies of both the Respondent and Appellant and the State Employee Grievance Committee's Final Decision granting Ms. Jackson relief should be upheld.

Appellant points to the State OHR Appeal Form as the key argument to assert that Respondent was solely an Interim Dean of Business at the time of termination. [See Appellant's Brief, pp. 7-10]. The State OHR Appeal Form is a generic form and not dispositive on the position an employee is in at the time of the adverse employment action. The form merely asks for job classification, not state job title/position number. Furthermore, Respondent's personnel records were not available to her upon her suspension and termination.

Ms. Jackson was keyed as the Administrative Coordinator (state title/classification) since hire in 2011. All other duties have been supplemental, not a replacement position. The College's own letters and personnel actions forms support the factual finding of the State OHR[4] and the State

[3] The suspension and grievance hearings before the College President, State Technical System President, and the State Employee Grievance Committee.
[4] The procedural requirements have to be satisfied before the State OHR even refers the appeal to the State Employee Grievance Committee.

Employee Grievance Committee. Ms. Jackson was never hired as a Dean and her state position/title never changed. Respondent has failed to show any College documents or HR forms that prove otherwise. Instead, they grasp at straws wanting to use the State OHR form, which is not a DTC official form for personnel records or changes.

Moreover, upon suspension and termination, Dr. Hall, in his official capacity as the President of the College, issued Ms. Jackson two letters that unequivocally prove Ms. Jackson has State Employee Grievance rights.

The first is on February 14, 2017, Ms. Jackson received a letter from Dr. Hall, the Interim President of the College, stating that the supplemental pay Ms. Jackson was receiving was suspended. [R. p. 834]. Following the suspension of her supplemental pay, Ms. Jackson filed a complaint with the South Carolina Department of Labor, Licensing and Regulation on February 15, 2017. Later that day, Ms. Jackson was instructed to come to Dr. Hall's office where she was given a letter informing her that she was suspended without pay. [R. p. 666]. Therefore, as of February 15, 2017 and continuing until her termination, Ms. Jackson was in no other role and serving in no interim capacities.

Upon the suspension of her supplemental pay on February 14, 2017, Ms. Jackson was to receive her annualized salary solely limited to her Administrative Coordinator position, her covered FTE position, in which she was classified throughout the entirety of her employment with the College. [R. p. 834]. Dr. Hall specifically wrote, "...You will continue to receive your annualized base pay for the state position to which you were hired." [*Id.*]. Ms. Jackson was suspended without pay from February 15, 2017 until her termination on May 11, 2017.

The second key piece of evidence is the termination letter dated May 11, 2017. [R. p. 621]. The termination of employment uses the phrase "in your role as Administrative Coordinator I" in

the second paragraph of the termination notice and it expressly informs Ms. Jackson of her grievance rights to appeal. [*Id.*].

In addition, when following through the grievance process, repetitively over the next months, every official document issued by Respondent's officials reiterated Ms. Jackson's grievance appeal rights and steps to take to appeal under that State Employee Grievance Procedures Act. Many of these letters were generated by the State Tech System President, Tim Hardee, as well as VP of HR, Kandy Peacock, and Charles Boykin, legal counsel. [See i.e. R. pp. 624, 627, 628, and 633]. There can be no justification, though Respondent now tries to argue otherwise, to change the fact that every executive official at the highest level of the both the College and State Tech system affirmed that Ms. Jackson is a covered state employee with grievance rights.

Following the several step grievance appeal process, the State Human Resources Director correctly determined that Respondent was a covered employee under the State Employee Grievance Procedure Act. The College unnecessarily splits its arguments into several subcategories for the same single issue of whether Ms. Jackson was a covered employee entitled to a State Employee Grievance Hearing and again seeks to impermissibly relitigate the same issue.

The State Human Resources Director, pursuant to S.C. Code Ann. § 8-17-340(A), forwarded Respondent's appeal of her termination to the State Employee Grievance Committee for a hearing after determining that the jurisdictional requirements of the South Carolina Grievance Procedure Act (Act) had been met. [R. pp. 827-829]. Respondent, whose position is supported by the South Carolina Department of Administration, argues that the Director's determination that Respondent was an employee covered by the State Employee Grievance Procedure Act was correct

and not clearly erroneous as Appellant suggests, especially in light of the substantial evidence standard.

The South Carolina Grievance Procedure Act provides grievance rights to covered state employees absent certain exemptions, none of which are applicable to Respondent, including the exemption for academic administrators at four-year, post-secondary educational institutions. S.C. Code Ann. § 8-17-370(10). Ms. Jackson was continuously, up to her termination, classified as an "Administrative Coordinator". The documents in the Record support that finding. [*See*, for example, R. p. 38 (Respondent's position listing on the Grievance Committee's Final Decision]. For example, by letter dated February 1, 2015, the President of the College notified Ms. Jackson of her continued employment status as Administrative Coordinator, by unambiguously writing "[p]lease be informed that you will continue in the state position of, Administrative Coordinator to the President but, will have additional duties attached as of, February 1, 2015. Your immediate supervisor will remain Dr. Leonard McIntyre; you will remain at your current salary, position, and classification, but, you will assume additional duties as Assistant to the Area Commissioners..." and Plaintiff received a "temporary salary supplement." [R. p. 695].

The State Human Resources Director properly forwarded Respondent's appeal of her termination to the State Employee Grievance Committee, because the Respondent was a covered by the State Employee Grievance Procedure Act. The Respondent was hired by the College on January 4, 2011 as the Administrative Coordinator, her official state employee job classification. The Respondent became a covered state employee with grievance rights after one year of service, on Jan 4, 2012. The Respondent has assumed additional duties and roles during her tenure, such as adjunct teacher and interim dean while maintaining her current state job classification. The Respondent was never hired permanently or reclassified to any of these positions that Appellant

allegedly claims; she was only given a temporary supplement to assume appointed duties on an interim basis.

It is pivotal to consider that Appellant has failed to provide any Human Resource documentation or other written evidence to validate that the Respondent had a state job classification change or that she assumed a permanent, and no longer interim, position as dean. Further, the Appellant failed to provide any official or signed position description showing that Respondent had a state position change during her employment. The Appellant has failed to point to such evidence, because none exists. In fact, all documents within the Record before the Court verify that the Respondent maintained her current state positions/classification as a covered state employee while assuming temporary additional duties.

A logical conclusion from the witness testimony at the Hearing is that it is a standard practice of the State Technical College System, if someone assumes additional duties or interim roles; they would maintain their current state position until someone is hired permanently or reclassified into that vacant position. The employee serving in that interim role would receive a temporary supplement for additional duties during that period. [See i.e. R. p. 695]. The Respondent was never keyed as a dean, because she was never in that role, she was simply performing additional duties on a temporary basis while maintaining her state Administrative Coordinator position. [See. i.e. R. p. 697 ("temporary faculty member"); R. p. 701 ("Interim Dean of Transitional Services...you will remain at your current salary and in your current position/classification...")]. The Appellant has failed to identify any documentation to show otherwise.

The Respondent followed the grievance process according to SCBTE Policy 8-6-100, SCBTE Procedure 8-6-100-1. [R. pp. 609-670]. Moreover, prior to determining whether the

jurisdictional requirements were met, the State Human Resources Director requested all information surrounding the Respondent's termination, to include policies and steps used for the grievance process. [R. pp. 603, 604]. The Appellant complied and had no objections.

The Appellant has failed to preserve their position that the Respondent allegedly did not have grievance rights or rather the State Human Resources Director erred when it was determined that the Respondent met the jurisdictional requirement to appeal or grieve the actions taken. In fact, the Appellant initiated, corresponded, confirmed, and continued to guide the Respondent throughout the grievance process. It is preposterous now for the Appellant to make such claims to the ALC and the issue remains unpreserved for appeal. [R. pp. 228 – 575 (hearing transcript)].

Respondent was always keyed and classified as an Administrative Coordinator and she only held the Dean roles on an interim basis. Supporting such a conclusion is Ms. Jackson's notification of such Interim role on September 21, 2016. [R. p. 853]. The Letter from the College President states in pertinent part:

> Please be informed that you are being **appointed Interim** Dean of Business, Computers, and Related Technologies (BRCT) effective October 1, 2016, **until a permanent Dean of BCRT is hired** to provide leadership for the department.
>
> Your immediate supervisor will remain Mrs. Tia Wright-Richards, Interim Vice President for Academic Affairs. ***You will remain at your current salary and in your current position/classification***, but will assumed additional duties of Interim Dean of BCRT. You will continue to receive a ***temporary* salary adjustment**...

[R. p. 853](emphasis added). Similar language is found in the 2015 letter, stating "you will remain at your current salary and in your current position/classification... and receive a temporary salary adjustment...for the duration of your interim appointment... When interviews are being held to fill the Dean of Transitional Services, please know that you are eligible to apply and be interviewed for the position." [R. p. 701]. Ms. Jackson was not permanently hired for any Dean position. Ms. Jackson was never in any other position/classification than an Administrative Coordinator and

individuals in such positions are entitled to State Employee Grievance rights. Respondent was not reassigned; she was just given additional duties on a temporary basis. [R. pp. 701, 853].

The College's last "DTC Departmental Request for Personnel/Payroll Action Form" listed Ms. Jackson as a "Executive Coordinator" synonymous with "Administrative Coordinator" with the Position Number "103363". [R. p. 835]. This personnel action form validates that Respondent was still classified ***only*** in her current state position the day prior to the suspension on February 15, 2017. [R. p. 835]. The Interim President of the College, Dr. Hall, signed the top of this document on February 14, 2017 identifying Ms. Jackson's Current Position "Executive Coordinator" and her New Position as "Executive Coordinator" so Ms. Jackson's position was indisputably a covered position when she was suspended on February 15, 2017 and terminated on May 11, 2017. [Id.].

Dr. McIntrye was the College President during the time frame of the events that the College alleged were the basis of Ms. Jackson's termination (tuition reimbursement and use of the President's stamp). Dr. McIntyre testified before the Committee and stated, "When a person receives a new position as interim they maintain the old position on record until such time that they are appointed full time and permanent to that new area position. In other words, if something were to happen that I would no longer want her to serve as interim then she has the right to go back to her permanent position. That's why the language is there about the current position classification." [R. p. 407].

Furthermore, Dr. Hall, the Interim President after Dr, McIntyre, sent a letter to Ms. Jackson on February 14, 2017. [R. p. 834]. It shows that Dr. Hall suspended Ms. Jackson's supplement

pay[5] for the additional interim duties she was performing one day prior to placing her on an unpaid administrative suspension. [R. pp. 834, 666]. The letter from the head of the College expressly states, "You will continue to receive your annualized base pay for the state position to which you were hired." [R. p. 834]. Thus, by Appellant's very own words, documents, and actions, it acknowledged that Respondent was in a state employee position with grievance rights.

There can be no clearer evidence for relevancy to this issue than the termination letter; therein, Appellant validated Respondent had rights to grieve the actions taken and the termination letter also states Ms. Jackson's classified position, listed in the second paragraph as "Administrative Coordinator I." [R. p. 621]. Thereafter, the termination letter specifically states, "you have the right to grieve this action should you desire." [Id.].

At all steps throughout her grievance, the College acknowledged that Ms. Jackson was an employee covered by the State Employee Grievance Procedure Act. At no less than eight separate days of grievance hearings - suspension grievances, termination grievances, and then State Employee Grievance Hearing dates - the College continuously acknowledged that Ms. Jackson was a covered employee.

Dr. Hall, the College's Interim President, confirmed that Respondent had grievance rights in the First Step Grievance Letter. Ms. Jackson's first step grievance hearing was held on June 5, 2017. [R. p. 633]. Thereafter, on June 6, 2017, Dr. Hall issued his letter upholding Ms. Jackson's termination and within that letter Dr. Hall stated, "In accordance with the State Board for Technical and Comprehensive Education Policy No. 8-6-100, Grievance Appeal Procures and accompanying

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[5] Ms. Jackson received a temporary 15% salary adjustment to assume the additional duties of Interim Dean from $48,327 to $55,576, an amount that was consistent with other College employees performing additional duties in supplement to their current position. [See i.e. R. p. 870 (Lamin Drammeh received an additional $15,000 for his temporary Director duties that were interim in addition to his Vice President duties)].

Procedure No. 8-6-100.1 Grievances, your client may grieve my decision to Dr. Tim Hardee..." [R. p. 633].

Likewise, Dr. Hardee, SCTC System President, confirmed Respondent had grievance rights and copied Charles Boykins, legal counsel and Kandy Peacock, VP/Chief of HR on such correspondence. [R. p. 624]. Dr. Hardee's Step Two Grievance decision stated in part, "This is the final agency decisions regarding this matter. **Ms. Jackson now has the right to appeal to the State Employee Grievance Committee** by writing to Ms. Kim Aydlette, Director, South Carolina Department of Administration, Division of State Human Resources." [Id.](emphasis added).

The College cannot argue that Ms. Jackson was not entitled to grievance rights when the College's own legal counsel acknowledged that Ms. Jackson was an Administrative Coordinator at the hearing. [R. p. 242]. The College's legal counsel stated, "In fact, the sole purpose that we are here today is the administrative coordinator's position is the only part that's covered." [Id.].

Thus, there can be no clearer evidence that Ms. Jackson was a covered employee then those described above, in summary: (1) the words of its own legal counsel, (2) all of the personnel documentation preceding Ms. Jackson's termination that continuously classified Ms. Jackson as a covered employee, (3) at all stages in the grievance proceeding the College acknowledged that Ms. Jackson was a covered employee as an Administrative Coordinator, and (4) the College's Personnel/Payroll Action Forms memorializing it classified Ms. Jackson as a covered employee. It is beyond the pail of equity for the College now to argue that Ms. Jackson is not a covered employee by the State Employee Grievance Procedure Act.

Respondent's state job classification reflected that she was an Administrative Coordinator at the time of her termination, not an academic dean; therefore, she was a covered employee. Accordingly, the Committee had subject matter jurisdiction, pursuant to S.C. Code § 8-17-340, to

adjudicate Respondent's grievance, because she was a covered employee. The Committee's decision to reverse Respondent's termination was within its statutory authority, it upheld the issue again on remand, and it should be upheld.

III. The State Employee Grievance Committee's Decision passes all permissible scrutiny under S.C. Code Ann. § 1-23-380(5).

The evidence has continuously shown that Ms. Jackson was a state employee with grievance rights and the College prejudiced Ms. Jackson's substantial rights and that she met one or more of the required elements for the reversal of the College's termination of her employment.

Ms. Jackson was an employee of Denmark Technical College from January of 2011 until her termination on May 11, 2017. During Ms. Jackson's employment at the College, she served as the Administrative Coordinator in the President's Office, Interim Dean of Transitional Studies/ Distance Education, and Interim Dean of Business, Computer, and Related Technologies. Ms. Jackson also taught courses as an Adjunct Professor, and she also performed the duties of Executive Assistance to the College Board.

Ms. Jackson appealed her termination pursuant to S.C. Code Ann § 8-17-340(E)(2)(a), (b), (c), (d), (e), and (f) as the facts and circumstances leading to Ms. Jackson's termination are in violation of constitutional or statutory provisions; in excess of the statutory authority of the agency; made upon unlawful procedure; affected by other error of law; clearly erroneous in the view of the reliable, probative and substantial evidence on the whole record; and arbitrary and capricious and characterized by an abuse of discretion and clearly an unwarranted exercise of discretion. As reflected by the Findings of Fact in the Final Decision, the Committee heard from several witnesses and reviewed a series of documents supplied by Ms. Jackson and the College in support of their respective arguments.

At the State Employee Grievance Hearing, Ms. Jackson argued that the facts and circumstances leading to her termination are in violation of constitutional or statutory provisions. Ms. Jackson argued that she was denied due process on the basis that the agency failed to provide Ms. Jackson any notice for the grounds of a suspension that they termed an "investigatory suspension". [R. 666]. Ms. Jackson was never given grounds for such "investigatory suspension" in writing. Ms. Jackson's suspension letter simply said that Ms. Jackson was placed on an investigatory suspension without pay effective immediately for allegations surrounding her alleged involvement in improper conduct with regard to college operations. Yet, Ms. Jackson received no explanation beyond that vague phrase alleging "involvement in improper conduct with regard to college operations". [Id.]. The total lack of information given to Ms. Jackson deprived Ms. Jackson of an opportunity to defend herself and to rebut the allegations of "involvement in improper conduct with regard to college operations". [Id.].

Ms. Jackson participated in every grievance meeting in which she was given an opportunity to attend. [*See* R. pp. 599-670]. The College deliberately manipulated Ms. Jackson's suspension and grievance process by: failing to provide her with the specific charges made against her; failing to allow her to confront her witnesses and accusers; by pre-judging her grievance; and by failing to allow her a fair and impartial avenue of redress, including the finders of fact who were not themselves tainted in the process. [*Id.*].

Ms. Jackson was terminated from employment for "willful violation of rules, regulations and written policies, which constitute conduct unbecoming a state employee." [R. p. 621]. Ms. Jackson argued that such grounds are unfounded, and Ms. Jackson was not given documentation supporting the accusations against her. [See R. pp. 228-575]. Ms. Jackson did not violate any rules, regulations, or written policies. [Id.].

The first alleged ground for Ms. Jackson's termination relates to tuition reimbursement she received. [R. p. 621]. Ms. Jackson proved that her receipt of tuition reimbursement payments years ago was proper, was approved, and the documentation reflects her completion of her application, degree, and reimbursement with approval of the required necessary approvers. [*See* R. pp. 865-867; R. pp. 869-911]. That the College argues that such matters were grounds to terminate her employment is ridiculous, and Ms. Jackson proved such matters through the testimony of the witnesses and the documentation presented to the Committee. [See R. pp. 6-14; see also R. pp. 228-575]. Ms. Jackson expressly articulated that she applied for tuition reimbursement and was granted tuition reimbursement. [R. pp. 442-507].

Ms. Jackson was an employee of the College when she applied for and received tuition reimbursement, and Ms. Jackson's education was directly related to her employment with the College as clearly evidenced by her positions as an Interim Dean of the College since October 2015, as an adjunct instructor for multiple years, and continuously as Administrative Coordinator. Ms. Jackson's receipt of reimbursements was proper and was for the completion of her degree as required for reimbursement. [Id.]. The documents reviewed during the hearing clearly show that the documentation and numbers line up and support the conclusion that Ms. Jackson did nothing wrong. [Id.]. Ms. Jackson did nothing wrong in such actions to apply for and to receive tuition reimbursement as Ms. Jackson applied for and was approved for tuition reimbursement by the following department heads: Director of Grants/Contracts, VP of Finance, and the College Presidents. [Id.; see also R. pp. 6-14].

Ms. Jackson proved to the Committee that the second alleged ground to terminate her is equally preposterous. [Id.]. The second claim in Ms. Jackson's termination notice stated, "in your role as Administrative Coordinator I (to the President), you received pay increases, which were

approved using the President's stamp, but had no supporting documentation. Your conduct in this matter violated all reasonable controls in our system and, I believe, violated the South Carolina Ethics Act which prohibits a public employee from using his/her position for personal gain." [R. p. 621]. Ms. Jackson confirmed at the hearing, as she had previously done at her suspension grievance hearing, when asked about the President's stamp, Ms. Jackson expressly denied that she ever used the President's stamp on any of her own personnel documents. This was confirmed by the President of the College during his testimony at the hearing. [R. pp. 376-413].

The Committee heard for themselves that Ms. Jackson was paid for duties that she performed, that she was actually underpaid for such duties in that paying her to do an Interim role was cheaper for the College than hiring a permanent Dean at a higher salary, and that all pay adjustments for additional duties given to Ms. Jackson were properly approved by the supervisors above Ms. Jackson. [R. p. 382]. Ms. Jackson had no part in paying herself. [See i.e. R. pp. 382-384].

Ms. Jackson expressly informed College representatives that the President's stamp is used by each of the recent sitting Presidents of Denmark Technical College and is used for high volume documentation and at the express instruction of the sitting President. [R. pp. 297-314]. Ms. Jackson expressly informed the Agency representatives that she used the President's stamp at the instruction of the former President of Denmark Technical College and the stamp was never used on her own documentation. [Id.]. Ms. Jackson never used the stamp for personal gain. [Id.; see also R. pp. 451-454]. Further, Ms. Jackson testified, and the evidence showed, that she did not receive a pay increase; she received supplemental pay when she performed additional duties. Any and all supplements in Ms. Jackson's pay were expressly authorized by the supervisory chain above Ms. Jackson and by Human Resources.

The College's arguments fail, and the Committee properly determined that Ms. Jackson was wrongfully terminated. [R. pp. 6-14]. Ms. Jackson did not claim that a stamp was never used on her own documents. [R. p. 452]. In fact, Ms. Jackson testified that "she" never used a stamp on her own documents. [Id.]. Ms. Jackson would have no personal knowledge of anyone else's actions with regard to the stamp. [Id.]. The issue of whether or not a stamp was used to approve Ms. Jackson's supplemental pay is moot as Dr. McIntyre testified at the hearing that he authorized and approved all of Ms. Jackson's personnel documents and pay. [R. pp. 376-413]. Dr. McIntyre testified that he used the stamp on documents. [Id.]. Dr. McIntyre testified that he did not have any written procedure in place for the use of the stamp. [Id.]. The College failed to prove or show that there is a policy or procedure that requires, enforces, or have made deem necessary for all presidents or administrators to have a stamp procedure. [R. pp. 6-14]. The stamp was clearly a common practice by the College President's and to question the use of a hand-written signature or a stamped signature on an approved document is unlawfully punitive to Ms. Jackson's employment when there is incontrovertible evidence that Ms. Jackson's supplemental pay was approved by supervisors, not approved by herself, and was received for duties performed.

The College accused Ms. Jackson of allegedly improperly receiving tuition reimbursement and allegedly stamping her own pay increases documentation. [R. p. 621]. Both accusations factually date back several years and are untimely grounds to terminate Ms. Jackson and such allegations were wholeheartedly denied and the evidence supported Ms. Jackson's account that she had done nothing wrong in receiving supervisory approved tuition reimbursement and supervisory approved supplemental pay.

Ms. Jackson's suspension that culminated in her termination was her first such reprimand and Ms. Jackson showed that the action taken against her violated the Agency's progressive discipline policy. [R. p. 463].

The Committee heard testimony from Mr. Williams, the former Board Chair. [R. pp. 326-372]. Mr. Williams testified that he asked and requested for Dr. Hall, the Interim College President and Ms. Jackson's supervisor at the time, to provide the Board with evidence to substantiate the decision to take disciplinary actions against Ms. Jackson. [Id.]. Mr. Williams also testified that Dr. Hall could not produce any evidence supporting the action taken against Ms. Jackson and Dr. Hall indicated to Mr. Williams that he did not have any evidence against Ms. Jackson. [Id.]. Mr. Williams testified that Dr. Hall stated that he was following the instructions of SCBTE President, Dr. Hardee. [Id.]. The College's own rebuttal witness to Mr. Williams' testimony, Ms. Bright, also testified that she did not know why the action was taken against Ms. Jackson. [R. pp. 526-532].

The Committee did not even hear from the decision maker, Dr. Hall, the Interim President of Denmark Technical College. Dr. Hall was only at the College campus for about 10 days prior to him suspending Ms. Jackson. Comparatively, the Committee did hear from Dr. McIntrye, the President of Denmark Technical College during the timeframe relevant to the College's allegations against Ms. Jackson. Dr. McIntyre affirmed to the Committee that these grounds the College brought against Ms. Jackson are baseless.

Oddly, the College seemingly admitted to a violation of State Board policies and procedure in its Motion for Reconsideration prior to this appeal; which further shows that Ms. Jackson is not at fault for the things charged as a basis for her termination. [See R. pp. 45-55]. If the College has a different interpretation of the policies and procedures enforced by SCBTE, then it is the SCBTE's duty and responsibility to ensure that the College Administrators are carrying them out properly.

The employees cannot supersede the President's decisions, nor can Ms. Jackson be held accountable for the Administrators' error, if any.

Moreover, the College's Motion for Reconsideration argued that there was weakness in practices established by Dr. McIntyre, Mr. Williams, and also Dr. Boyd-Scotland, who worked at the College for at least 17 years with the same practices, yet the SCBTE never addressed any such alleged violations. [See R. pp. 45-55]. The Motion for Reconsideration seemed an attempt to throw the previous College Administrations[6] 'under the bus' in order to somehow show that its egregious conduct toward Ms. Jackson is somehow merited in fact, which it is not. [Id.]. The evidence before the Committee showed that the College's own witness at the hearing, Jamie Wise, also received tuition assistance, was still employed with the College. [R. pp. 539-563].

The Committee did not err in its decision as the College was on notice about Ms. Jackson's transfer courses. Ms. Jackson's application and program of study clearly included and identified the courses she would complete. Therefore, the College was made aware of and approved Ms. Jackson's completed courses. Ms. Jackson used tuition assistance for a program that was related to her position, per Dr. McIntyre and Dr. Drammeh's testimonies; both of whom were in the supervisory chain above Ms. Jackson. Ms. Jackson's tuition assistance application included the

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[6] Appellant's arguments, both previously and remand related, imply that failures sourced from the administrations of both prior College Presidents, Dr. Joann Boyd-Scotland and Dr. Leonard McIntyre. Dr. McIntyre testified at the hearing and expressly informed the Committee that both grounds cited as a basis for Ms. Jackson's termination were meritless. Ms. Jackson did not pay herself raises and she legitimately received tuition reimbursement. The tuition reimbursement approval sourced even earlier, from Dr. Boyd-Scotland's administration of the College. Dr. Boyd-Scotland has passed away, so she could not be called to testify at the hearing; however, the documentation in the record evidences her signature of approval of Ms. Jackson's tuition reimbursement and all of the witnesses with personal knowledge about that topic confirmed to the Committee that Ms. Jackson was approved for tuition reimbursement and hers was the only tuition reimbursement facing scrutiny by the College (comparatively Jamie Wise was not receiving such scrutiny).

details of her job positions and rationale for applying. Ms. Jackson's application was approved by Teresa Mack, the Director of Grants and Contracts and the College President, Dr. Boyd-Scotland, who also supervised Ms. Jackson.

The College has argued that Ms. Jackson knowingly, willfully, and intentionally applied for and received 100% reimbursement when the policy only allows 85% maximum. In fact, the Title III Funds policy (page 2, section 6) indicates otherwise. It states "[s]hould employee elect the more costly courses, he/she will need to negotiate an agreement or contract for the Title III Program to defray no less than 75% and no more than 85% of the total cost of courses." Ms. Jackson's courses costs were comparable to other institutions and/or enrolled in exact institutions other employees attended and received tuition reimbursement, such as Jamie Wise. Seemingly, like the College's other arguments, Appellant is making an argument that has no basis.

No evidence was shown that the College has ever been cited or rebuked for violating or misinterpreting its tuition assistance polices. Yet, out of all employees that received tuitions assistance under these common practices, seemingly only one, Respondent, has been accused of violating the tuition assistance policies and procedures. This, yet again, reinforces that targeted and arbitrary nature of the College's actions toward Ms. Jackson. The Committee properly found that the College's decision prejudiced Ms. Jackson's substantial rights and met one or more of the elements contained in S.C. Code Ann. § 8-17-340(E)(2). [R. pp. 6-14].

CONCLUSION

For the foregoing reasons, Respondent Carla Jackson asks that the Decision of the State Employee Grievance Committee be upheld.

Respectfully submitted,

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THE STATE OF SOUTH CAROLINA

ADMINISTRATIVE LAW COURT

South Carolina Technical College System,

Appellant,

v.

Carla Jackson,

Respondent.

Docket No. 20-ALJ-30-0064-AP

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STATEMENT OF THE ISSUES IN REPLY

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A. Respondent's arguments are not preserved for review because they relate to Instructions for which no timely objection was made.

B. Respondent's arguments cannot be considered due to the law of the case doctrine.

II. The present appeal is not barred by collateral estoppel.

III. Respondent's arguments improperly attempt to address matters which are irrelevant to this appeal or otherwise do not appear in the Record.

ARGUMENT

I. Respondent's grounds for arguing why the State Employee Grievance Committee's Remand Decision should be upheld are unpreserved and barred by the law of the case doctrine, because Respondent failed to timely object to the instructions given to the Committee at the Remand Hearing.

Respondent Carla Jackson's ("Respondent") failure to object to the instructions ("Instructions") given to the State Employee Grievance Committee ("Committee") at the January 14, 2020 remand hearing ("Remand Hearing") renders her arguments supporting the Committee's February 3, 2020 Remand Decision ("Remand Decision") unpreserved and otherwise futile, because the Instructions are now the law of the case and are conclusive on the facts and issues to which they relate.

A. Respondent's arguments are not preserved for review because they relate to Instructions for which no timely objection was made.

The Brief of Respondent ("Respondent's Brief") improperly raises challenges for the first time about matters that were disposed of by the Instructions. Respondent never objected to the Instructions, which are tantamount to jury charges. It is well settled that failing to contemporaneously object to a jury charge waives the right to challenge it on appeal. State v. Rios, 388 S.C. 335, 341-342, 696 S.E.2d 608, 612 (Ct. App. 2010). Failing to timely object to Committee instructions or rulings likewise waives the right to later challenge them. Cook v. South Carolina Dep't of Highways and Pub. Transp., 309 S.C. 179, 183, 420 S.E.2d 847, 849 (1992) (observing that appellate review of an issue was not permitted because "no formal objection was made before the Grievance Committee"); see also South Carolina Dep't of Corrections v. Bryant, No. 2014-UP-383, 2014 WL 5772997, at *1 (S.C. Ct. App. Nov. 5, 2014) (recognizing that "issue preservation rules apply in Committee hearings").

On December 13, 2019, Appellant South Carolina Technical College System ("Appellant" or "SCTCS") submitted Instructions to the Division of State Human Resources ("DSHR") that it wanted the Committee Attorney to give the Committee at the Remand Hearing. [R. pp. 219-224, 588-590.] At their essence, the Instructions made clear that (1) oral or written references to Respondent's grievance or appeal rights could not be considered as evidence of the position in which she was functioning and did not confer such rights to her if they did not otherwise exist; (2) the position in which Respondent was functioning had to be determined as of her February 15, 2017 termination date; (3) the DSHR Appeal Form was a "pleading" to which Respondent was judicially bound; and (4) the State Human Resources Director's decision to forward Respondent's appeal to the Committee was not evidence (a) of the position in which Respondent was functioning or (b) that the Committee had subject matter jurisdiction to reverse Respondent's termination. [Id.]

By letter dated December 17, 2019, DSHR notified Respondent that she had until December 27, 2019, to advise if she had "any objections to the Proposed Instructions." [R. p. 225.] Respondent was given ample opportunity to make objections to the Instructions prior to the Remand Hearing, but she did not do so. [R. pp. 226-227.] Accordingly, DSHR notified the parties on January 7, 2020, that the Committee Attorney determined that the Instructions would be given to the Committee at the Remand Hearing. [Id.] The Committee Attorney gave the Instructions at the Remand Hearing, and Respondent did not assert any objections thereto.[1] [R. pp. 588-590.] Therefore, she waived the right to make the arguments contained in Respondent's Brief that seek to have the Administrative Law Court ("ALC") consider the substance of the matters addressed by the Instructions.

[1] The Record reflects that no appearance was made at the Remand Hearing by Respondent or her counsel. [R. pp. 586-587.]

B. Respondent's arguments cannot be considered due to the law of the case doctrine.

Respondent's failure to timely object to the Instructions resulted in the Instructions becoming the law of the case. When a tribunal is given a charge or instruction without objection, the instruction becomes the law of the case for purposes of any appeal. Toyota of Florence, Inc. v. Lynch, 314 S.C. 257, 266, 442 S.E.2d 611, 616 (1994) (concluding that since no objection was made to a jury charge on the type of damages that could be awarded, the charge was "the law of the case in this appeal"). Once matters are deemed the law of the case, the parties are bound by them regardless of whether they are right or wrong. Davis v. Parkview Apts., 409 S.C. 266, 281, 762 S.E.2d 535, 543 (2014).

The following matters became the law of the case due to Respondent's failure to object to the Instructions:

> • Whether the State Human Resources Director correctly forwarded this appeal to the Committee and whether the Committee had subject matter jurisdiction to hear this appeal are ultimately questions of law that only the Administrative Law Court can decide.
>
> • [T]he State Human Resources Director's decision to forward [Respondent's] appeal to the Committee for a hearing is not a "fact" upon which the Committee can rely in determining the position [Respondent] was functioning in at the time of her termination.
>
> • Furnishing documentation to an employee indicating that she has grievance or appeal rights does not confer jurisdiction to the Committee to hear her appeal if such rights do not otherwise exist as a matter of law.
>
> • [R]eferences in documents from Denmark Technical College and [SCTCS] about [Respondent's] ability to file a grievance or appeal of her suspension and termination are not to be considered as evidence of the position she was functioning in at the time of her termination. Statements of this nature made by counsel for either party during the Committee appeal hearing likewise cannot be considered as evidence of the position in which [Respondent] was functioning.
>
> • Parties are judicially bound by their pleadings. The allegations, statements, or admissions contained in a pleading are conclusive as against the pleader and a party cannot subsequently take a position contradictory of, or inconsistent with, his or her pleadings, and the facts which are admitted by the pleadings are taken as true against the pleader for the purpose of the case. A "pleading" includes any required form used to initiate an appeal

or other proceeding that constitutes a contested case under the Administrative Procedures Act, including the State Employee Grievance Procedure State Appeal Form.

• Appellant was placed on investigatory suspension as of February 15, 2017. The termination of Appellant's employment was retroactively effective to the first day of her suspension on February 15, 2017. As a result, Appellant's suspension and her appeal of that suspension were rendered moot. Consequently, the Committee must consider February 15, 2017, as the "time of [Respondent's] termination" for the purpose of determining whether she was functioning as an Interim Dean or an Administrative Coordinator.

• The Committee's only authority on remand is to determine whether at the time of Appellant's termination she was functioning as an Interim Dean or as an Administrative Coordinator and issue a decision reporting this finding of fact to the Administrative Law Court.

[R. pp. 219-224, 588-590.]

Respondent nevertheless attempts to argue several points which directly contravene the Instructions. Respondent's Brief includes the following assertions:

• The State Human Resources Director properly forwarded Respondent's appeal to the State Employee Grievance Committee. [Respondent's Brief p. 9.]

• The [DSHR] Appeal Form is a generic form and not dispositive on the position an employee is in at the time of the adverse employment action. [Respondent's Brief p. 9.]

• [T]he State Human Resources Director correctly determined that Respondent was a covered employee under the State Employee Grievance Procedure Act. [Respondent's Brief p. 12.]

• The State Human Resources Director properly forwarded Respondent's appeal of her termination to the State Employee Grievance Committee, because the Respondent was a covered [*sic*] by the State Employee Grievance Procedure Act. [Respondent's Brief p. 13.]

• [Appellant's] legal counsel acknowledged that Respondent was an Administrative Coordinator at the administrative hearing. [Respondent's Brief p. 10.]

• For every single grievance hearing, the position was undisputed that Respondent satisfied the definition of 'employee' within the meaning of the State Employee Grievance Procedure. [Respondent's Brief p. 10.]

• [Respondent] was suspended without pay from February 15, 2017 until her termination on May 15, 2017. [Respondent's Brief p. 11.]

- [T]he termination letter dated May 11, 2017 . . . expressly informs [Respondent] of her grievance rights to appeal. [Respondent's Brief pp. 11-12.]

- [E]very official document . . . reiterated [Respondent's] grievance appeal rights and steps to take to appeal under the State Employee Grievance Procedures [*sic*] Act. [Respondent's Brief p. 12.]

- Appellant has failed to preserve . . . that the Respondent allegedly did not have grievance rights or rather the State Human Resources Director erred when it was determined that the Respondent met the jurisdictional requirement to appeal or grieve the actions taken. [Respondent's Brief p. 15.]

Notably, Respondent fails to articulate how she contends oral and written references to her alleged grievance or appeal rights can properly be considered when the Instructions gave a clear mandate to the contrary. Respondent also cites no authority to support her claim that the DSHR Appeal Form was "not dispositive" as to the position she was functioning in when she was terminated, even though one of the Instructions specified that the Form is a pleading to which Respondent was judicially bound. Respondent similarly does not explain her basis for arguing jurisdictional issues that were beyond the permitted scope of the Remand Decision and expressly reserved to the ALC by the Instructions.

In any event, Respondent's belated arguments are of no moment because her opportunity to have objected to the Instructions has passed. As a result, the Instructions are now binding on the parties. Respondent's foregoing arguments and any other assertion in Respondent's Brief in opposition to the Instructions therefore should be rejected summarily.

II. The present appeal is not barred by collateral estoppel.

Respondent alleges that collateral estoppel should prohibit the current appeal because it is "on the same basis as [Appellant's] prior appeal" in the companion case between the parties, ALC Docket No. 18-ALJ-30-0341 ("Original Case"). [Respondent's Brief pp. 8-9.] "Collateral estoppel occurs when a party in a second action seeks to preclude a party from relitigating an issue which

was decided in a previous action." Catawba Indiana Nation v. State, 407 S.C. 526, 536, 756 S.E.2d 900, 906 (2014). However, collateral estoppel can only apply to bar relitigation of an issue that was "actually litigated and determined by a valid and final judgment." Id. at 537, 756 S.E.2d at 906.

As a threshold matter, there has been no "final" judgment for purposes of collateral estoppel because the Original Case remains pending before the ALC. Insofar as the issue of which position Respondent was functioning in has never been determined by a final judgment, an essential element of collateral estoppel is absent. Id. at 536-539, 756 S.E.2d at 906-907 (finding the necessary elements of collateral estoppel were not present and that the trial court thus erred in applying the doctrine).

Moreover, the reason the ALC issued the June 25, 2019 Order of Remand was because the Committee "never made a finding as to what position [Respondent] held at the time she was terminated." [R. pp. 34-35.] As there was no such finding in existence prior to the Committee's issuance of the Remand Decision, it cannot plausibly be said that this issue was "actually litigated" in the Original Case. Consequently, Appellant cannot be collaterally estopped to appeal the Committee's Remand Decision.

III. Respondent's arguments improperly attempt to address matters which are irrelevant to this appeal or otherwise do not appear in the Record.

Much of Respondent's Brief attempts to shoehorn arguments into the present appeal that have no bearing on the limited issue that was remanded to the Committee to consider. In particular, the arguments contained in Section III of Respondent's Brief – entitled "The State Employee Grievance Committee's Decision passes all permissible scrutiny under S.C. Code Ann. § 1-23-380(5)" – delve into a number of issues concerning the Original Case that are not before the ALC in the present action. To the extent Respondent's Brief seeks to raise arguments that do not directly

address the position in which she was functioning at the time of her termination on February 15, 2017, they should be disregarded accordingly. Massaquoi v. South Carolina Dep't of Employment and Workforce, No. 16-ALJ-22-0010-AP, 2016 WL 1627219, at *1, *5 n.3 (S.C. Admin. Law. Ct. Apr. 14, 2010) (declining to consider issues that "are irrelevant to the disposition of this appeal").

Additionally, Respondent attempts to escape the consequences of having identified herself as an Interim Dean on her DSHR Appeal Form by claiming that her "personnel records were not available to her upon her suspension and termination." [Respondent's Brief p. 10.] As no such "fact" appears in the Record, Respondent's assertion on the matter cannot be considered in this appeal. ALC Rule 36(G) ("The Administrative Law Judge will not consider any fact which does not appear in the Record.").

CONCLUSION

For the foregoing reasons, SCTCS asks that the ALC find that the Committee's Remand Decision was not supported by substantial evidence and issue an appropriate ruling.

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THE STATE OF SOUTH CAROLINA

ADMINISTRATIVE LAW COURT

South Carolina Technical College System,

Appellant,

v.

Carla Jackson,

Respondent.

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STATEMENT OF THE ISSUES ON APPEAL

I. THE STATE HUMAN RESOURCES DIRECTOR ERRED IN FORWARDING RESPONDENT'S APPEAL OF HER TERMINATION TO THE STATE EMPLOYEE GRIEVANCE COMMITTEE, BECAUSE RESPONDENT WAS NOT AN EMPLOYEE COVERED BY THE STATE EMPLOYEE GRIEVANCE PROCEDURE ACT.

A. The State Human Resources Director's determination was clearly erroneous.

B. The erroneousness of the Director's determination is evidenced by the South Carolina District Court's finding that the exemption contained in S.C. Code Ann. § 8-17-370(10) applied to Respondent.

II. THE STATE EMPLOYEE GRIEVANCE COMMITTEE LACKED SUBJECT MATTER JURISDICTION TO CONSIDER RESPONDENT'S APPEAL OF HER TERMINATION, BECAUSE RESPONDENT WAS NOT AN EMPLOYEE COVERED BY THE STATE EMPLOYEE GRIEVANCE PROCEDURE ACT.

A. Respondent's position description established that she was an academic administrator who was not a covered employee at the time of her termination.

B. Respondent's non-covered job status deprived the Committee of subject matter jurisdiction when it purported to adjudicate her grievance.

C. Since the Committee lacked subject matter jurisdiction to adjudicate Respondent's grievance, its decision to reverse Respondent's termination exceeded its statutory authority and must be vacated.

III. IN THE ALTERNATIVE, EVEN IF SUBJECT MATTER JURISDICTION EXISTED THE STATE EMPLOYEE GRIEVANCE COMMITTEE'S DECISION WAS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE BECAUSE IT WAS BASED ON *ULTRA VIRES* ACTS.

STATEMENT OF THE CASE

This is an appeal from a decision of the State Employee Grievance Committee ("Committee") issued on March 22, 2018, in favor of Respondent Carla Jackson ("Respondent"). [R. pp. 5-13.] Respondent was employed by Denmark Technical College ("DTC") beginning on January 4, 2011, and she was suspended pending the conclusion of an investigation effective February 15, 2017. [R. pp. 5-7, 495.] On May 11, 2017, the South Carolina Technical College System ("Appellant" or "System Office") terminated Respondent's employment with DTC retroactively to the date of her suspension, February 15, 2017. [R. pp. 5-7, 450.] The South Carolina Division of State Human Resources ("DSHR") notified Respondent by letter dated May 17, 2017, that her termination "effectively moot[ed] [her] suspension pending investigation as well as the appeal of her suspension" to the State Human Resources Director ("Director") that was pending at the time. [R. p. 472.]

After Respondent exhausted Appellant's internal grievance procedures, she initiated a grievance of her termination with the Director on July 5, 2017. [R. pp. 439-462, 465-468.] A four-day hearing on the merits occurred before the Committee over the course of November 28, 2017; February 1-2, 2018; and March 2, 2018. [R. pp. 5, 74-421.] The Committee issued its final decision ("Decision") on March 22, 2018. [R. pp. 5-13.]

On April 19, 2018, Appellant delivered to DSHR a Motion for Reconsideration ("Motion") of the Decision. [R. pp. 29-42.] The Committee reconvened on July 9, 2018 to consider Appellant's Motion, and the Committee denied the Motion in a decision issued August 1, 2018. [R. pp. 17-26.] Prior to filing a Notice of Appeal of the Committee's decision with the Administrative Law Court ("ALC") on August 31, 2018, by letter dated August 24, 2018, Appellant requested permission to pursue an appeal in this matter from the South Carolina

Department of Administration ("DOA") in accordance with S.C. Code Ann. § 8-17-340(F) and S.C. Code Ann. Regs. 19-718.09. [R. pp. 741-744.] DOA subsequently granted Appellant such permission. [R. p. 745.]

STATEMENT OF FACTS

Respondent began her employment with DTC as an Administrative Coordinator I ("Coordinator") on January 4, 2011. [R. p. 5.] The classification code for Respondent's Coordinator position was "AH10," as reflected on the position description for the position at the time she was hired. [R. p. 683.] Respondent described her primary duties in this role being to "basically manage the operation of the [DTC President's] office to assist the president with the executive level documents in operation of the college, and to assist the executive staff." [R. p. 288.]

Respondent testified that on October 1, 2013, she applied for tuition reimbursement assistance from DTC in connection with a master's degree program she was seeking at American Intercontinental University ("AIU"). [R. pp. 291-294.] She stated that her supervisor at the time was Dr. Joann Boyd-Scotland, DTC's President, and that Theresa Mack was DTC's Title III director. [Id.] DTC's Institutional Advancement Policy No. 2-1-008 ("DTC's Policy") sets forth the conditions to which faculty and staff seeking professional development must adhere to receive Title III funds for tuition reimbursement. [R. pp. 573-574.] DTC's Policy required that a six-step process be followed for approval of tuition reimbursement assistance, including obtaining the signatures of at least five different DTC officials (in addition to the applicant) on the application in a specific sequence. [R. pp. 573-578.] DTC's former president and Respondent's supervisor (subsequent to Dr. Boyd-Scotland), Dr. Leonard McIntyre ("Dr. McIntyre"), testified that five signatures were required on the application and had to be obtained

in the following order: those of the applicant-employee's "immediate supervisor," "[the] department head" or dean, "the VP or the division head," the "director of grants and contracts," and finally "the president" of DTC. [R. pp. 231-232.] It was evident from Respondent's testimony and the application she submitted that the mandated process was not followed by her or DTC, as her application lacked some of the necessary signature authorizations. [R. pp. 317-320, 573-578.] Respondent signed the application, thereby attesting to her agreement with all applicable conditions which had to be met to obtain tuition reimbursement. [Id.]

Respondent enrolled at AIU in November 2013. [R. p. 291.] Respondent's AIU tuition and fee schedule reflected a two-year master's program consisting of four quarters of instruction. [R. pp. 570-572.] System Office Procedure 8-10-100.1 ("System Advancement Policy") required that a grade of "B" or above be received to qualify for tuition reimbursement for graduate-level courses. [R. pp. 628-635.] However, Respondent sought and received payment from DTC for two such courses – "MGT600" (Business Research for Decision Making) and "MGT680" (Strategic Management) – in which no letter grade was awarded, because these "courses" were actually *transfer credits* she had obtained at another educational institution. [R. pp. 392-397, 719-736.]

Respondent admitted that transfer credits accounted for some of the credit used toward obtaining her graduate degree, which enabled her to complete the AIU two-year program in one year – sometime in 2014. [R. pp. 325-326.] Respondent testified that these credits were from "Strayer University," but the transcripts reflected that they were from "Springfield College." [R. pp. 291, 325-326, 725-728.] Respondent admitted that DTC paid her the cost of *two years' worth of instruction* at AIU despite her having only completed one year of instruction. [R. pp. 325-326,

719-724, 732-736.] Respondent received $27,936.00 – the total cost of the AIU degree program – from DTC in connection with her obtaining a master's degree. [R. pp. 469-471, 570, 719-736.]

Respondent testified that she realized that System Office Procedure 8-0-105.1 ("System Ethics Policy") and the Ethics Act (S.C. Code Ann. § 8-13-700, *et seq.*) prohibited an employee such as her from using her position for personal gain. [R. pp. 593-597, 345-346, 636-642.] Moreover, she admitted that – under the guise of tuition "reimbursement" – she received money from DTC for AIU coursework she did not complete from that institution. [R. pp. 594-597.]

Respondent was in the Coordinator position until October 1, 2015, when she became Interim Dean of Transitional Studies and Distance Education. [R. pp. 288, 530.] In October 2016, Respondent became the Interim Dean of Business, Computers and Related Technologies. [R. pp. 233-234.] Respondent's position description was changed to reflect her "Current State Title" as "Interim Dean" and contained duties such as providing "curricular leadership in relation to . . . . academic programs," supervising "the administration of and ensur[ing] the academic quality of academic advising and special programs," and being "[r]esponsible for human resource management of unit faculty and staff." [R. pp. 684-685.] This position description reflected a classification code of "UD09," which corresponds to a job title of "Dean" in accordance with the DSHR identification system for unclassified higher education positions. [Id.] See *https://admin.sc.gov/files/Higher Ed Unclassified Titles with Federal Categories.pdf* (last visited January 30, 2019).[1]

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[1] The ALC can take judicial notice of this fact without treating it as evidence outside of the Record on Appeal, insofar as DSHR is required by state regulation to maintain job classification codes and such codes are publicly available from the South Carolina Department of Administration's website. SCRE 201(b); S.C. Code Ann. Regs. 19-706.02 (requiring DSHR to "maintain a position numbering system that will identify each unclassified position"); Martin v. Bay, 400 S.C. 140, 732 S.E.2d 667 (Ct. App. 2012) (finding that it was proper to take judicial notice of information promulgated by a public body pursuant to applicable law).

Dr. McIntyre testified that her duties were dramatically different between the Coordinator and Interim Dean jobs. [R. pp. 267-269.] Dr. McIntyre expressed the view that neither Respondent's Interim Dean position nor her role as a faculty member were covered positions under the Act. [R. p. 269.] Dr. McIntyre emphasized that Respondent's duties as an academic administrator departed significantly from her previous Coordinator position:

> Respondent's counsel: [A]s the former President of a college, what would be the differences between what she was performing as an Administrative Coordinator and what might merit her receiving more pay for performing these Interim Dean roles.
>
> Dr. McIntyre: Well, certainly these duties required more credentials, in terms of ... The qualifications. And more accountability, more responsibility. That's basically what I can tell you. There's a big difference between what is expected from one position to the next.
>
> Respondent's counsel: And would it be ... As common sense, that someone couldn't be performing all of these full time roles at the same time, that even if Miss Jackson was keyed as one position she, as a full time job, would only have been doing one of these?
>
> Dr. McIntyre: Absolutely, only one.

[R. p. 268.]

Respondent's compensation from DTC totaled over $100,000 after she became an academic administrator. [R. p. 494.] Respondent's six-figure compensation was tens of thousands of dollars more than the upper limit of the allowed salary range – $30,274 to $56,015 at the time of her hire[2] – for her previous Coordinator position. [R. p. 686.] Dr. McIntyre testified that the "multiple pay changes" resulting in Respondent's increased compensation from DTC were "appropriate for the duties she was performing" as an academic administrator. [R. p. 267.]

In 2016, the System Office received several complaints through its fraud hotline alleging incidents of self-dealing and mismanagement at the "highest levels" of DTC, and Respondent was the focal point of many of these allegations. [R. pp. 7, 469-471.] At the request of the South

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[2] The current salary range for an Administrative Coordinator I is $32,838 to $60,760. See *https://admin.sc.gov/ohr_class/AH10* (last visited January 30, 2019).

Carolina Inspector General's Office, Appellant initiated a review of the areas identified in the hotline complaints, including investigating Respondent for suspected misconduct involving DTC operations, fiscal resources, and her tuition reimbursement. [Id.] DTC's cooperation with Appellant's investigation of Respondent's suspected misconduct was "lacking and, in some areas, appeared to be oppositional." [Id.] While this review was underway, Dr. McIntyre was removed as DTC's President by the DTC Area Commission on January 30, 2017. [Id.] In April 2017, a report generated as a result of Appellant's investigation recommended that Respondent be terminated from DTC for willful violations of written rules, regulations, or written policies. [Id.]

In accordance with System Office Procedure 8-5-100.1, Respondent was terminated by letter dated May 11, 2017, for "willful violation of rules, regulations, and written policies, which constitute conduct unbecoming a state employee," including but not limited to using her position for personal gain and engaging in conduct designed solely for her own benefit. [R. p. 450.] Respondent's termination was ultimately a System Office decision because college presidents do not have authority to make final agency decisions on terminations. [R. p. 622.]

Respondent appealed this decision to the Director, and when Respondent submitted her Grounds for Appeal form to DSHR she identified her job classification on the document's first page as an "Interim Dean."[3] [R. p. 428.] Respondent's narrative explanation for her appeal to DSHR maintained that she was "an Interim Dean of Business, Computers and Related Technologies," that she had been a "Dean of the College" whose "entire job entail[ed] 'college operations,'" and that she had served as "an Interim Dean of the College since October 2015." [R. p. 429.] Respondent represented that she had "previously" served as "Administrative

[3] The full title is cut off, but the description given is "Interim Dean of Business, Computers and Rel."

Coordinator" in the DTC President's Office but "had not . . . been employed" in that capacity "since October 2015 when she was *promoted to Interim Dean.*" [R. pp. 429-430 (emphasis added).] DSHR's July 6, 2017 notification to Appellant of Respondent's appeal reflected her job classification as "Interim Dean." [R. p. 432.] The Director notified the parties by letter dated August 8, 2017, that she had "determined that jurisdictional requirements ha[d] been met under the State Employee Grievance Procedure Act concerning the appeal of [Respondent]." [R. pp. 656-658.]

Roughly two weeks before the Committee hearing began, on November 15, 2017, Respondent filed a lawsuit against DTC in the Allendale County Court of Common Pleas, and the case was later removed to federal court ("Court Case"). [R. pp. 273-274; see Jackson v. Denmark Tech. Coll., No. 1:17-03431-MGL, 2018 WL 3729743 (D.S.C. Aug. 6, 2018).[4]] In Respondent's Court Case, she alleged that she ceased serving as Coordinator on October 1, 2015, and that she subsequently held the positions of Interim Dean of Transitional Studies/Distance Education and Interim Dean of Business, Computers and Related Technologies, respectively. Jackson, 2018 WL 3729743, *1, 5.

Among the causes of action Respondent alleged in her Court Case was a claim against DTC for retaliation under the South Carolina Whistleblower Act, S.C. Code Ann. § 8-27-10, *et seq.* Id., *2, 4-5. The District Court determined that S.C. Code Ann. § 8-17-370(10) exempted "academic administrators" at post-secondary institutions listed in S.C. Code Ann. § 59-107-10 from coverage under the Whistleblower Act; that DTC was a technical college included among

[4] Counsel for DTC in the Court Case made an appearance at the Committee hearing and mentioned the foregoing litigation brought by Respondent. Even if counsel had not done so, the ALC can take judicial notice of related litigation involving the same parties currently before it in this appeal. SCRE 201(b); see Whole Woman's Health v. Hellerstedt, 136 S. Ct. 2292 n.24 (2016) (observing that a court "may properly take judicial notice of the record in [other] litigation between the same parties who are now before" it).

such institutions; and that Respondent's Interim Dean positions at DTC "were specifically excluded from" the definition of "employee" entitled to bring claims under the Whistleblower Act. Id., *4-5. The District Court dismissed Respondent's Whistleblower Act cause of action and denied her leave to amend her complaint "because the positions [Respondent] allege[d] she held at DTC [we]re expressly excluded from coverage" by the applicable statute.[5] Id.

The Committee's Decision reflected that Respondent was an Interim Dean at the time of her termination, but it nevertheless identified her "job classification" as an "Administrative Coordinator I." [R. pp. 5-13.] The Committee viewed Respondent's Interim Dean positions as the assumption of additional duties tacked on to her Coordinator position, rather than supplanting it. [Id.]

ARGUMENT

Standard of Review

This appeal pursuant to the South Carolina Administrative Procedures Act ("APA") is governed by S.C. Code § 1-23-380(5), which provides for appellate review of a final agency action such as the Committee's decision under the following standard:

> The court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:
>
> (a) in violation of constitutional or statutory provisions;
>
> (b) in excess of the statutory authority of the agency;
>
> (c) made upon unlawful procedure;

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[5] The District Court subsequently denied Respondent's motion to reconsider the dismissal of her Whistleblower Act claim. Jackson v. Denmark Tech. Coll., No. 1:17-03431-MGL, Order at ECF Entry No. 61 (D.S.C. November 14, 2018).

(d) affected by other error of law;

(e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or

(f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code § 1-23-380(5).

"Substantial evidence" as used in § 1-23-380(5)(e) "is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." South Carolina Dep't of Mental Health v. Moore, 295 S.C. 42, 367 S.E.2d 27 (1988). However, "decisions of the Committee [that] [a]re clearly erroneous in view of the substantial evidence on the whole record" are subject to reversal. Moore, 295 S.C. at 45, 367 S.E.2d at 28-29 (affirming the lower court's ruling because "the Committee failed to reach the only conclusion adequately supported by the relevant evidence").

I. THE STATE HUMAN RESOURCES DIRECTOR ERRED IN FORWARDING RESPONDENT'S APPEAL OF HER TERMINATION TO THE STATE EMPLOYEE GRIEVANCE COMMITTEE, BECAUSE RESPONDENT WAS NOT AN EMPLOYEE COVERED BY THE STATE EMPLOYEE GRIEVANCE PROCEDURE ACT.

A. The State Human Resources Director's determination was clearly erroneous.

The Director erred in finding that Respondent's appeal of her termination to DSHR met the necessary criteria for her grievance to proceed to the Committee. The only position Respondent represented that she held at DTC in her Grounds for Appeal form and the accompanying narrative statement submitted to the Director was as a "Dean" – which is an academic administrator position for purposes of the State Employee Grievance Procedure Act ("Grievance Act" or "Act"), S.C. Code Ann. § 8-17-310, *et seq.* [R. pp. 428-430.] In fact, Respondent expressly disavowed that she was a Coordinator at that time by proclaiming that she

had ceased serving in that role when she was "promoted" to her position as a Dean in October 2015. [Id.]

The Director is charged by statute with determining whether an adverse employment action complained of by a covered employee is grievable to the Committee. S.C. Code Ann. § 8-17-350 (providing that the Director shall make such a determination "[w]hen an appeal is filed" by an employee). If so, the Director "shall forward to the [C]ommittee for a hearing all appeals which meet jurisdictional requirements." S.C. Code Ann. § 8-17-340(A) (specifying that terminations are among the adverse employment actions grievable before the Committee); see also, S.C. Code Ann. § 8-17-350 (providing that the Director "shall forward the appeal and documents . . . to the designated [C]ommittee panel . . . for a hearing").

There are several statutorily-excluded groups of employees who are not covered by the Act. S.C. Code Ann. § 8-17-370 (identifying twenty categories of employees who are exempt from the Act). Specifically, § 8-17-370(10) exempts from the Act "teaching or research faculty, professional librarians, **academic administrators**, or other persons holding faculty appointments at a four-year post-secondary institution, including its branch campuses, if any, as defined in Section 59-107-10." S.C. Code Ann. § 8-17-370 (emphasis added).

South Carolina Code § 59-107-10 identifies public colleges and universities declared to be the "several state-supported institutions of higher learning," including "Technical Educations Colleges and Centers." The corresponding regulation to § 8-17-370(10) reaffirms the types of positions exempted by the statute: "Teaching and research faculty, professional librarians, academic administrators, and all other persons holding faculty appointments at post-secondary educational institutions . . . shall not be covered by th[e] Regulations" governing state employee grievances and appeals within the Act's purview. S.C. Code Ann. Regs. 19-718.01(D).

There is no dispute that DTC and other state-supported institutions under the jurisdiction of the State Board for Technical and Comprehensive Education ("State Board") are encompassed within the "Technical Education Colleges" referred to in § 59-107-10. S.C. Code Ann. § 59-53-20 (declaring that the State Board "shall have within its jurisdiction . . . all state-supported technical institutions and their programs"); S.C. Code Ann. §§ 59-53-600 to -640 (setting forth provisions relating to DTC). This point was underscored in Malone v. Edwards, 271 S.C. 401, 247 S.E.2d 454 (1978), in which the South Carolina Supreme Court confirmed that Trident Technical College had the same authority to issue bonds as all other institutions listed in § 59-107-10. Significantly, in reaching this conclusion the Court also reaffirmed that all of South Carolina's technical colleges fell within the definition of "state-supported institutions of higher learning" in § 59-107-10.

Insofar as DTC is such an institution, its academic administrators are excluded from the Act's coverage by § 8-17-370(10). As Respondent was an "academic administrator" at the time she appealed to the Director, she was excluded from the class of persons who could avail themselves of the administrative remedies provided under the Act. Hence, the statutory and regulatory authorities do not afford Respondent and others similarly situated the right to a hearing before the Committee, and the Director's determination to the contrary in the face of Respondent's unequivocally holding herself out as a "Dean" was clearly erroneous. [6]

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[6] The relevant DSHR regulation does not authorize a state agency to seek immediate appeal to the ALC of the Director's determination that jurisdictional requirements have been met, so Appellant was required to go through with a Committee hearing before seeking judicial relief. S.C. Code Ann. Regs. 19-718.05(E) (providing that "the covered employee may request reconsideration within 30 calendar days from notification of the [Director's] decision" or file a "notice of appeal seeking appellate review of the [Director's] decision" with the ALC, but making no mention of similar options being available to a state agency).

B. The clear erroneousness of the Director's determination is evidenced by the South Carolina District Court's finding that the exemption contained in S.C. Code Ann. § 8-17-370(10) applied to Respondent.

The District Court determined the Respondent's Interim Dean positions at DTC "were specifically excluded from" the definition of an "employee" entitled to bring claims under the Whistleblower Act. Jackson, 2018 WL 3729743 *4-5. The Whistleblower Act defines an "employee" who is entitled to bring a claim thereunder, but it also excludes from this definition "those persons enumerated within the provisions of Section 8-17-370." S.C. Code Ann. § 8-27-10(2). The District Court relied on the plain language of the statute in finding that Respondent occupied an "academic administrator or faculty" position such that she was among the "persons enumerated" in § 8-17-370. Tellingly, the District Court reached its decision based solely on how Respondent identified her position at DTC in her pleadings, which are akin to the representations Respondent put forth in her Grounds for Appeal that were reviewed by the Director. [R. pp. 429-430.] See Chase Home Finance, LLC v. Risher, 405 S.C. 202, 213, 746 S.E.2d 471, 477 (Ct. App. 2013) (recognizing appropriateness of looking to federal court decisions as "persuasive authority even on a matter litigated in a state court that does not present a federal question").

The Whistleblower Act relies on the same statutory exclusion as the Grievance Act: § 8-17-370(10). As such, a finding that Respondent is not covered under the former Act likewise means she is not covered under the latter. The Director's finding that jurisdictional requirements were met in her August 8, 2017 letter was clearly erroneous, and Respondent's appeal therefore should not have been forwarded to the Committee.

II. THE STATE EMPLOYEE GRIEVANCE COMMITTEE LACKED SUBJECT MATTER JURISDICTION TO CONSIDER RESPONDENT'S APPEAL OF HER TERMINATION BECAUSE RESPONDENT WAS NOT AN EMPLOYEE COVERED BY THE STATE EMPLOYEE GRIEVANCE PROCEDURE ACT.

Even if the court were to find that the Director did not err by forwarding the appeal to the Committee, the testimony and evidence introduced at the hearing before the Committee made clear that Respondent was not a covered employee under the Act. The Committee's disregard of the evidence showing that Respondent occupied an uncovered academic administrator position was clearly erroneous and arbitrary, capricious, or characterized by an abuse of discretion. The Committee's findings of fact and conclusions of law were a nullity because the decision it issued was in excess of the Committee's statutory authority. As the Committee lacked subject matter jurisdiction to hear Respondent's appeal of her termination, its decision must be vacated accordingly.

A. Respondent's position description established that she was an academic administrator who was not a covered employee at the time of her termination.

Although Respondent's position description conclusively demonstrated that she was an "academic administrator" for purposes of the Act, the Committee erroneously and arbitrarily found that she was still a Coordinator. [R. pp. 5-13.] In so finding, the Committee ignored the importance of the contents of Respondent's position description and the legal significance that attaches to this document. S.C. Code Ann. Regs. 19-702.04(B) ("[t]he position description shall serve as . . . a basis for other human resources decisions"); Op. S.C. Att'y Gen., 2005 WL 774135 (Mar. 10, 2005) (examining a public employee's position description in connection with evaluating whether the constitutional prohibition against dual office holding might be violated); Op. S.C. Att'y Gen., 1992 WL 682836 (Aug. 24, 1992) (same). The Committee's finding in this regard also ignored the representations of Respondent and the testimony of her supervisor, Dr.

McIntyre, that she ceased functioning as a Coordinator in October 2015 and could not have been performing simultaneously as both a Coordinator and a Dean. [R. pp. 267-269, 428-430.]

Respondent's position description constituted what DTC maintained as its official record of her job duties. S.C. Code Ann. Regs. 19-702.04(C) ("[t]he position description shall include an accurate description of assigned duties and responsibilities and other pertinent information concerning a position"); S.C. Code Ann. Regs. 19-702.04(B) ("[t]he position description shall serve as a record of the [individual's] duties"). Respondent's academic administrator position description reflected a classification code ("UD09") corresponding to a job title of "Dean" pursuant to the DSHR identification system for unclassified higher education positions – which stood in contrast to the classification code for Respondent's previous Coordinator position ("AH10"). [R. pp. 683-685.] See S.C. Code Ann. Regs. 19-706.02 (requiring DSHR to "maintain a position numbering system that will identify each unclassified position"). The academic administrator position description was dispositive as to what DTC's institutional view was of Respondent's job during the relevant time frame, and Dr. McIntyre's testimony underscored just how different the two positions were from a functional and practical standpoint. [R. pp. 267-269.] Nonetheless, the Committee erroneously conflated the two positions under the pretense that Respondent was merely assuming additional duties by taking on an academic administrator position while somehow remaining a Coordinator. [R. pp. 5-13.]

The substantial evidence on the whole record before the Committee demonstrated that Respondent's promotion to Dean carried with it attendant changes to her position description, job duties, and classification – all of which resulted in her not being covered under the Act because her job was no longer as a Coordinator. It follows that the Committee's refusal to recognize the foregoing was clearly erroneous and otherwise arbitrary, capricious or characterized by an abuse

of discretion. See Moore, 295 S.C. at 42, 367 S.E.2d at 27 (reversing a Committee's decision invalidating a termination based in part on the fact that the Committee ignored certain evidence in the record).

B. Respondent's non-covered job status deprived the Committee of subject matter jurisdiction when it purported to adjudicate her grievance.

Despite the Committee's clearly erroneous or otherwise arbitrary misapprehension that Respondent was in a covered job status, its decision is subject to reversal for lack of jurisdiction irrespective of whether the Committee or the parties devoted attention to the issue at the hearing. It is axiomatic that subject matter jurisdiction can be raised at any time – including for the first time on appeal. Tourism Expenditure Review Comm. v. City of Myrtle Beach, 403 S.C. 76, 81, 742 S.E.2d 371, 373 (2016) (acknowledging that "the issue of subject matter jurisdiction [can be] properly raised for the first time on appeal" by the court, even "where the parties do not raise such a challenge" themselves). While the Act mentions only that the Committee's "jurisdiction" shall be determined by the Director, this quite clearly refers to subject matter jurisdiction. See 8 S.C. Jur. Public Officers and Public Employees § 62 (addressing the "subject matter jurisdiction of the State Employee Grievance Committee"). Although there appears to be no South Carolina case law discussing subject matter jurisdiction in connection with Committee hearings, guidance can be found in North Carolina appellate court opinions interpreting analogous administrative remedies and statutory exemptions for that state's public employees.

In Woodburn v. North Carolina State Univ., 156 N.C. App. 549, 577 S.E.2d 154 (2003), a university employee who had been terminated from her position appealed the Office of Administrative Hearings' ("OAH") dismissal of her contested case in which she had claimed discrimination. The North Carolina Court of Appeals found that the petitioner's "instructional and research staff" position at a public university was "explicitly exempted" from the class of

employees who could initiate proceedings before the OAH. Woodburn, 156 N.C. App. at 553, 577 S.E.2d at 157. The Court therefore held that the OAH "ha[d] no subject matter jurisdiction to consider her contested case," because the OAH exerted no authority "over employees whose positions or departments were statutorily excluded from its reach." Id., 156 N.C. App. at 556, 577 S.E.2d at 159; see also, Hillis v. Winston-Salem State Univ., 144 N.C. App. 441, 443, 549 S.E.2d 556, 557 (N.C. App. 2001) (holding that the OAH lacked jurisdiction over the plaintiff's case, because her university position included teaching duties and state law "specifically exempt[ed] the instructional and research staff" of public universities from state-level grievance procedures).

Notably, the North Carolina Court of Appeals was unpersuaded by the Woodburn petitioner's argument that being denied an opportunity to have her case heard before the OAH deprived employees like her of "substantial rights." Woodburn, 156 N.C. App. at 555, 577 S.E.2d at 158. As the Court observed in another case finding a jurisdictional bar to an exempt university employee's appeal, "[i]f the Legislature desired to establish a public policy entitling" higher education faculty "to the protection [of the grievance procedures]" under state law, "it could have done so." Hillis, 144 N.C. App. at 444, 549 S.E.2d at 557 (brackets in original).

The same logic also holds true in Respondent's case, as acknowledging the statutory exemption's applicability to Respondent's position does not deny her substantial rights. See S.C. Code Ann. § 1-23-380(5) (including consideration of whether a party's "substantial rights" have been prejudiced as part of the ALC's review of agency action under the APA). The South Carolina General Assembly chose not to extend to Respondent and others similarly situated the right to pursue a grievance under the Act, and that is a legislative decision that cannot and should not be overridden by the courts or undermined by an administrative body such as the Committee.

C. Since the Committee lacked subject matter jurisdiction to adjudicate Respondent's grievance, its decision to reverse Respondent's termination exceeded its statutory authority and must be vacated.

The Committee acted in excess of its applicable statutory authority within the meaning of S.C. Code Ann. § 1-23-380(5)(b) when it purported to render a decision on Appellant's grievance without having the jurisdiction to do so. The Committee's authority is derived exclusively from the Act, and it therefore cannot exercise jurisdiction over matters that are not expressly conferred by statute. See Price v. Peachtree Elec. Servs., Inc., 396 S.C. 403, 407, 721 S.E.2d 461, 463 (Ct. App. 2012) (reasoning that because the Workers' Compensation Commission's authority was "derived strictly from statute in derogation of the common law," it lacked subject matter jurisdiction to deal with an equitable reimbursement claim). The fact that a hearing nevertheless took place before the Committee is irrelevant, because subject matter jurisdiction which would not otherwise exist cannot be obtained through the consent or waiver of the parties. City of Myrtle Beach, 403 S.C. at 81, 742 S.E.2d at 373 (recognizing well-settled rule that "parties cannot by consent or agreement" confer subject matter jurisdiction on the court).

A judgment or other decision issued by a court or administrative tribunal without the authority or jurisdiction to do so is invalid and of no legal effect. Price, 396 S.C. at 403, 721 S.E.2d at 461 (vacating Workers' Compensation Commission decision and subsequent Circuit Court order affirming same, because the Commission lacked subject matter jurisdiction to determine the petitioner's claim in the first place); City of Myrtle Beach, 403 S.C. at 82, 742 S.E.2d at 374 (vacating Circuit Court's declaratory judgment ruling for lack of subject matter jurisdiction, because the Declaratory Judgments Act could "not be invoked to avoid or circumvent the legislature's exclusive method for challenging [certain tax] funds expenditures" in proceedings before the ALC). Insofar as the Committee lacked subject matter jurisdiction when

it adjudicated Respondent's grievance, the decision it rendered was in excess of its statutory authority and must be vacated accordingly.

III. IN THE ALTERNATIVE, EVEN IF SUBJECT MATTER JURISDICTION EXISTED THE STATE EMPLOYEE GRIEVANCE COMMITTEE'S DECISION WAS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE BECAUSE IT WAS BASED ON *ULTRA VIRES* ACTS.

The Committee's ruling relied on the clearly erroneous and arbitrary view that decisions made by Respondent and others at DTC about her tuition reimbursement were authorized, when in fact they were in direct contravention of policy. "When a public officer acts outside the scope of his or her legal authority, that act is 'ultra vires,' meaning that it is unauthorized and beyond the power of the actor." Op. S.C. Att'y Gen., 2016 WL 3946153, *2 n.3 (July 5, 2016). Therefore, "attempts by an agency" or officials acting on its behalf to perform *ultra vires* acts "beyond the scope of [their] authority" would be "invalid," "unenforceable," and "null and void." Op. S.C. Att'y Gen., 2011 WL 2214062, *4 (May 11, 2011). This prohibition extends to purported policies, acquiescence to ongoing activities, or ratifications of acts that have already occurred by state agencies or government officials.

The law in South Carolina is clear that such *ultra vires* acts are without operative legal effect and cannot be countenanced. In Thomas v. South Carolina Dep't of Health and Envtl. Control, No. 09-ALJ-07-0301-CC, 2010 WL 5781627 (S.C. Admin. Law Ct. Nov. 8, 2010), the ALC considered DHEC's practice of routinely allowing a dock construction permit holder to build a smaller or shorter dock walkway than what was described in the applicable permit. The ALC took exception to DHEC's position "that any dock construction [wa]s compliant with the permit so long as it [wa]s smaller than what [wa]s described in the permit," and it observed that DHEC's interpretation was "contrary to the plain language" of the applicable statute, regulation, "and the permit itself." Thomas, 2010 WL 5781627, *8. The ALC thus concluded that "DHEC's

asserted 'policy' of giving after the fact blessing to a structure that [wa]s less than shown on permit drawings [wa]s *ultra vires* and invalid." Id. *Ultra vires* acts are likewise invalid when committed individually by a public official rather than as an institutional act by a government entity. See, e.g., Pascoe v. Wilson, 416 S.C. 628, 788 S.E.2d 686 (2016) (analyzing Solicitor David Pascoe's claim that his purported termination as a special prosecutor by Attorney General Alan Wilson was an *ultra vires* act and concluding that the attempted removal of Pascoe was ineffective because Wilson lacked the authority to do so).

Although no reported South Carolina cases appear to address *ultra vires* acts in the context of public employee grievances, administrative decisions from the state of West Virginia are instructive. In Fields v. Mingo Cty., No. 2013-1130-MinED, 2014 WL 1607528 (W.Va. Educ. St. Empl. Griev. Bd. Feb. 4, 2014), a school board employee whose contract was not renewed pursuant to a reduction in force claimed that her employer was required to have renewed her contract, because a human resources director allegedly had led her to believe her position was "safe." The West Virginia Public Employees Grievance Board ("Board") disagreed and observed that "even if the director of human resources had specifically promised [the employee] her contract would be renewed," the employee could not prevail because "such an act would be ultra vires" and not "legally authorized." Fields, 2014 WL 1607528, *3.

In so finding, the Board explained the "[u]ltra vires acts of a government agent, acting in an official capacity, **in violation of policy** or statute, are considered non-binding and cannot be used to force an agency" to commit to, repeat, or excuse a particular action. Id. (emphasis added); see also, Taylor v. Southern W. Va. Cmty. and Tech. Coll., No. 2015-0006-SWVCTC, 2015 WL 6655500, *8 (W.Va. Educ. St. Empl. Griev. Bd. Oct. 8, 2015) (rejecting a technical college administrator's claim that he should have received a salary increase based on a

memorandum issued by the college's president, because the memorandum "[wa]s not binding upon the [c]ollege" inasmuch as the president was "only empowered to recommend a salary increase" to the college's governing body).

The Committee misconstrued the System Office's general oversight authority of DTC and its employees and the corresponding duties imposed on those employees, such as Respondent. Appellant's policymaking jurisdiction extends by law to "all state-supported technical institutions and their programs." Specifically, § 59-53-20 provides as follows:

> **All personnel employed in the institutions** and programs within the jurisdiction and control of the [System Office] are designated state employees whether paid in whole or in part by state funds and **are subject to the regulations, guidelines, and policies of the [System Office]**, the Department of Administration, and the state personnel system.

S.C. Code Ann. § 59-53-20 (emphasis added).

To that end, state law provides that the System Office "shall establish statewide policies and procedures necessary to insure educational and **financial accountability** for operation of the technical education institutions and their programs." S.C. Code Ann. § 59-53-51 (emphasis added). Consequently, a violation of a System Office policy by an employee of one of the state's technical colleges can give rise to disciplinary action. It follows that neither Respondent nor her superiors were ever authorized to circumvent or override a System Office policy, and any attempt to have done so would have been *ultra vires*. A DTC policy (provided that it was not inconsistent with System Office policy) likewise would be binding on DTC personnel and could not be disregarded without consequences. The Committee's Decision arbitrarily and erroneously suggested otherwise.

The Committee's conclusions of law related to Respondent's tuition reimbursement included the following:

- "the former DTC President Boyd-Scotland, the Title III Director, and [Respondent's] immediate supervisor at the time all approved [Respondent's] request for tuition assistance";

- "Ms. Wise's testimony regarding her tuition assistance application and approval process was very similar to [Respondent's] testimony regarding her tuition assistance application and approval process";

- "Ms. Wise's completed Request for Professional Development Assistance form ha[d] the same authorizing signatures (DTC President, Title III Director, and immediate supervisor) as [Respondent's] request";

- "DTC [was] on notice regarding the possibility of [Respondent's] transfer credits being accepted towards her degree at AI[U]" and "it was DTC's responsibility to assess if it would reimburse [Respondent] for her transfer credits";

- "DTC should have been aware of [Respondent's] transfer credits from Springfield College to AI[U] based on her transcript and [her] reimbursement for the entire cost of her degree"; and

- "The Committee did not find that [Respondent] violated any rules or regulations concerning her . . . tuition reimbursements, therefore, the Committee finds [Respondent] was not unethical in th[is] matte[r]."

[R. pp. 5-13.]

Notwithstanding the Committee's conclusions, reviewing the testimony alongside the documentary evidence in this case yields a number of *ultra vires* acts committed by Respondent and others that resulted in her receiving $27,936.00 (the total program cost) in connection with her obtaining a master's degree from AIU. [R. pp. 469-471.] As the foregoing cases and decisions make clear, an asserted practice, representation, or course of dealing by a public official or agency cannot be used to subvert the plain language of an institutional policy or requirement.

DTC officials' payment of Respondent's tuition could not as a matter of law have been properly authorized, because it patently departed from DTC's Policy and the System Advancement Policy. Respondent conceded that DTC Policy was not followed on her tuition

reimbursement application because it was missing required signature authorizations. [R. pp. 317-320, 573-578, 691-696.] Respondent also failed to comply with the System Advancement Policy by seeking and obtaining reimbursement for two AIU courses in which she did not earn a "B" letter grade (as required) because she had *previously* completed the courses *at another school* and received only transfer credits as a result. [R. pp. 325-326, 594-597, 719-736.] Respondent testified that she realized that System Ethics Policy and the Ethics Act prohibited an employee such as her from using her position for personal gain, yet she clearly derived an improper benefit by claiming and receiving monies from DTC for coursework she admittedly did not take at (or receive a grade from) AIU in violation of this Policy. [Id.]

By willfully ignoring the mandates of DTC's Policy and the System Advancement Policy, Respondent obtained thousands of dollars in alleged "reimbursements" unlawfully. [Id.] The fact that the Committee concluded another DTC employee may also have benefited from a similar policy deviation does not absolve Respondent of wrongdoing for her own actions, nor should DTC's alleged practice of not insisting that the tuition application contain all the required signatures otherwise be countenanced in like manner. See Thomas, 2010 WL 5781627, *1.

Rather than properly viewing these acts as evidence of Respondent's unjust enrichment for knowingly violating applicable policies, the Committee erroneously ignored that Respondent's testimony evinced an awareness of her wrongdoing and excused her acts due to a perceived lack of institutional due diligence by DTC. This was clear error under the *ultra vires* doctrine. Reversal of the Committee's decision is thus warranted based upon these *ultra vires* acts on any one of the foregoing policy violation grounds alone, as the basis for her termination was willful violation of rules, regulations, and written policies. Bowers v. Coll. of Charleston, No. 2011-UP-569, 2011 WL 11736338, *2 n.1 (S.C. Ct. App. Dec. 20, 2011) (affirming a

college's termination of an employee for violating an agency policy, thereby rendering it unnecessary to consider "other grounds asserted by the College as justification for its decision"). Therefore, the Committee's failure to uphold Respondent's termination was clearly erroneous and otherwise arbitrary, capricious, or an abuse of discretion in light of the substantial evidence in this case.

CONCLUSION

For the foregoing reasons, Appellant asks that the decision of the Committee be reversed and vacated accordingly.

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Columbia, South Carolina

THE STATE OF SOUTH CAROLINA

ADMINISTRATIVE LAW COURT

South Carolina Technical College System,

Appellant,

v.

Carla Jackson,

Respondent.

Docket No. 18-ALJ-30-0341-AP

BRIEF OF RESPONDENT

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STATEMENT OF THE ISSUES

I. APPELLANT CONTINUES TO PURSUE A PURPOSELESS APPEAL IN ORDER TO PREVENT RESPONDENT FROM OBTAINING THE RELIEF AWARDED TO HER BY THE SOUTH CAROLINA STATE EMPLOYEE GRIEVANCE COMMITTEE.

II. THE STATE HUMAN RESOURCES DIRECTOR PROPERLY FORWARDED RESPONDENT'S APPEAL OF HER TERMINATION TO THE STATE EMPLOYEE GRIEVANCE COMMITTEE, BECAUSE RESPONDENT WAS AN EMPLOYEE COVERED BY THE STATE EMPLOYEE GRIEVANCE PROCEDURE ACT.

III. THE STATE EMPLOYEE GRIEVANCE COMMITTEE'S DECISION WAS SUPPORTED BY SUBSTANTIAL EVIDENCE AND WAS NOT BASED ON *ULTRA VIRES* ACTS.

STATEMENT OF THE CASE

Respondent, Carla Jackson ("Ms. Jackson" and "Respondent"), is entitled to the relief granted by the State Employee Grievance Committee ("the Committee"). Appellant, Denmark Technical College ("the College" and "Appellant"), is a college within the South Carolina Technical College System from which Ms. Jackson grieved her termination through the State Employee Grievance Procedures. The hearing of Ms. Jackson's grievance before the Committee spanned four days on November 28, 2017, February 1-2, 2018, and March 2, 2018.

The Committee found that Ms. Jackson established that the College's decision prejudiced her substantial rights and met one or more of the elements contained in S.C. Code Ann. § 8-17-340(E)(2). The Final Decision of the Committee was issued on March 22, 2018.

After the Final Decision of the Committee and before this appeal to the Administrative Law Court, the College filed a Motion for Reconsideration to the Committee. The College and Ms. Jackson filed documents in support of their respective positions and the Committee, having fully heard those positions, denied the College's Motion for Reconsideration.

The College now appeals and argues that Ms. Jackson was not entitled to state employee grievance rights. The College cannot argue that Ms. Jackson was not entitled to grievance rights when the College's own legal counsel acknowledged that Ms. Jackson was an Administrative Coordinator at the hearing. [R. p. 88]. The College's legal counsel stated, "In fact, the sole purpose that we are here today is the administrative coordinator's position is the only part that's covered."

Ms. Jackson requests that the decision issued on March 22, 2018 be confirmed and that the relief granted to Ms. Jackson through the State Employee Grievances Procedures be awarded to Ms. Jackson in the timeliest manner possible.

STATEMENT OF FACTS[1]

Ms. Jackson began her employment with Appellant on January 4, 2011, upon being hired as an Administrative Coordinator to assist Appellant's then President, Dr. Joann Boyd-Scotland (President Boyd-Scotland). [R. p. 5]. On October 1, 2013, Respondent submitted a "Request for Professional Development Assistance" to President Boyd-Scotland following her acceptance to American InterContinental University Online (AIUO) on September 29, 2013, which was approved by Tarshura Mack (Mack), Title III Director, and President Boyd-Scotland. [Id.]. In March of 2015, Respondent received her Master's Degree in Business Administration from AIUO. [Id.]. Between February 1, 2015, and October 3, 2016, Respondent was asked to take on several additional duties, including administrative and instructional responsibilities, and received salary increases accordingly. [R. pp. 5-6]. Specifically, on October 3, 2016, then interim Vice President of Academic Affairs, Tia Wright-Richards, submitted a request that Respondent begin acting as interim Dean of the Business, Computers and Related Technologies Department as evidenced by the "DTC Departmental Request for Personnel/Action Form." [R. pp. 6-7].

Following an investigation and a suspension beginning February 15, 2017, Respondent received a termination letter dated May 11, 2017 informing her that her employment had been terminated as of the date her suspension began for various alleged violations of "rules, regulations and written policies." [R. p. 7]. Appellant accused Respondent of using the President's Stamp on her own personnel records and that she violated policies with her receipt of tuition assistance. [R. p. 450]. Both grounds were proven false during the hearing. [R.pp. 5-13].

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[1] Respondent craves reference to the Findings of Fact in the Final Decision of the State Employee Grievance Committee. [R. pp. 5-12].

Current and former employees of Appellant, including President McIntyre and Dr. Lamin Drammeh (Dr. Drammeh), testified to the contrary of such allegations. [R. pp. 7-8]. Specifically, President McIntyre and Dr. Drammeh testified that Respondent's master's degree was relevant to her position, that the reimbursement she received was a normal amount for tuition assistance, and that Respondent would have been unable to authorize her own pay raises because of the internal structure in place for such salary increases. [Id.]. President McIntyre further testified that he had authorized all of Respondent's pay increases. [R. p. 8]. Further, Appellant was in receipt of Respondent's transcript from AIUO and AIUO's fee schedule for the program in which Respondent was enrolled, which informed Appellant of the two transfer credits Respondent had from Springfield College and that the reported cost of the program may vary depending on the presence of such credits. [R. p. 9].

Given the totality of the circumstances presented and the evidence provided, the Committee found that Appellant's decision to terminate Respondent is unsupported and granted Ms. Jackson the relief permitted by the State Employee Grievance Procedure Act. [R. pp. 12-13].

ARGUMENT

Standard of Review

Appellant is an agency under the Administrative Procedures Act, S.C. Code Ann. § 1-23-110 *et seq.* ("APA"); therefore, the APA's standard of review governs this appeal. S.C. Code Ann. §§ 1-23-380 and -600(D); S.C. Code Ann. § 8-17-340. "The scope of judicial review in . . . cases arising from the final decision of state agencies is governed by section 1-23-380 of the South Carolina Code." *Trowell v. S.C. Dep't of Pub. Safety*, 384 S.C. 232, 235, 681 S.E.2d 893, 895 (Ct. App. 2009). Section 1-23-380(5) provides:

> The court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:
>
> (a) in violation of constitutional or statutory provisions;
> (b) in excess of the statutory authority of the agency;
> (c) made upon unlawful procedure;
> (d) affected by other error of law;
> (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
> (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-380(5).

The party challenging an agency decision has the burden of proving convincingly that the agency's decision is unsupported by substantial evidence. *Waters v. S.C. Land Rs. Conservation Comm'n*, 467 S.E. 219, 467 S.E.2d 913 (1996). Substantial evidence is not a mere scintilla of evidence nor the evidence viewed blindly from one side of the case, but is evidence which, considering the record as a whole, would allow reasonable minds to reach the same conclusion as the agency. *Friends of the Earth v. Pub. Serv. Comm'n of S.C.*, 387 S.C. 360, 692 S.E.2d 910 (2010). When applying the substantial evidence rule, the factual findings of the administrative

agency are presumed to be correct. *Rodney v. Michelin Tire* Co., 320 S.C. 515, 466 S.E.2d 357 (1996).

I. APPELLANT CONTINUES TO PURSUE A PURPOSELESS APPEAL IN ORDER TO PREVENT RESPONDENT FROM OBTAINING THE RELIEF AWARDED TO HER BY THE SOUTH CAROLINA STATE EMPLOYEE GRIEVANCE COMMITTEE.

The College's appeal to the Administrative Law Court largely disregards and does not address the bulk of the content of the Grievance Hearing or the stated bases for its Motion for Reconsideration to the Committee.[2] Respondent respectfully requests the Court compare the College's Motion for Reconsideration (R. p. 30-40) and the Appellant's Brief; the issues focused upon as a basis for appeal are materially different.[3]

Nonetheless, nothing has changed; the evidence has continuously shown that Ms. Jackson was a state employee with grievance rights and the College prejudiced Ms. Jackson's substantial rights and that she met one or more of the required elements for the reversal of the College's termination of her employment.

Ms. Jackson was an employee of Denmark Technical College from January of 2011 until her termination on May 11, 2017. [R. p. 5]. During Ms. Jackson's employment at the College, she served as the Administrative Coordinator in the President's Office, Interim Dean of Transitional Studies/ Distance Education, and Interim Dean of Business, Computer, and Related Technologies. [R. pp. 6-7]. Ms. Jackson also taught courses as an Adjunct Professor, and she also performed the duties of Executive Assistance to the College Board. [*Id.*].

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[2] Respondent starts with this section in her Argument because Appellant's Brief largely ignores the bulk of the content of the State Employee Grievance Committee Hearing.

[3] This was also noted in footnote no. 1 of the South Carolina Department of Administration's Motion to Intervene and Memorandum in Support of Position, supporting the decision that Respondent's grievance was properly heard by the State Employee Grievance Committee.

Ms. Jackson appealed her termination pursuant to S.C. Code Ann § 8-17-340(E)(2)(a), (b), (c), (d), (e), and (f) as the facts and circumstances leading to Ms. Jackson's termination are in violation of constitutional or statutory provisions; in excess of the statutory authority of the agency; made upon unlawful procedure; affected by other error of law; clearly erroneous in the view of the reliable, probative and substantial evidence on the whole record; and arbitrary and capricious and characterized by an abuse of discretion and clearly an unwarranted exercise of discretion. [R. p. 417]. As reflected by the Findings of Fact in the Final Decision, the Committee heard from several witnesses and reviewed a series of documents supplied by Ms. Jackson and the College in support of their respective arguments. [R. pp. 5-13].

At the State Employee Grievance Hearing, Ms. Jackson argued that the facts and circumstances leading to her termination are in violation of constitutional or statutory provisions. Ms. Jackson argued that she was denied due process on the basis that the agency failed to provide Ms. Jackson any notice for the grounds of a suspension that they termed an "investigatory suspension". [R. p. 110]. Ms. Jackson was never given grounds for such "investigatory suspension" in writing. [Id.]. Ms. Jackson's suspension letter, found on page 68 of the Record on Appeal before the Grievance Committee, simply said that Ms. Jackson was placed on an investigatory suspension without pay effective immediately for allegations surrounding her alleged involvement in improper conduct with regard to college operations. [Id.]. Yet, Ms. Jackson received no explanation beyond that vague phrase alleging "involvement in improper conduct with regard to college operations". [Id.]. Ms. Jackson was an Interim Dean of the College and as such, her entire job entailed "college operations". [Id.]. The total lack of information given to Ms. Jackson deprived Ms. Jackson of an opportunity to defend herself and to rebut the allegations of "involvement in improper conduct with regard to college operations". [Id.].

Ms. Jackson participated in every grievance meeting in which she was given an opportunity to attend. [*See* R. pp. 428-499]. The College deliberately manipulated Ms. Jackson's suspension and grievance process by: failing to provide her with the specific charges made against her; failing to allow her to confront her witnesses and accusers; by pre-judging her grievance; and by failing to allow her a fair and impartial avenue of redress, including the finders of fact who were not themselves tainted in the process. [*Id.*].

Ms. Jackson was terminated from employment for "willful violation of rules, regulations and written policies, which constitute conduct unbecoming a state employee." [R. p. 450]. Ms. Jackson argued that such grounds are unfounded, and Ms. Jackson was not given documentation supporting the accusations against her. [R. p. 429]. Ms. Jackson did not violate any rules, regulations, or written policies. [*Id.*].

The first alleged ground for Ms. Jackson's termination relates to tuition reimbursement she received. [R. p. 450]. Ms. Jackson proved that her receipt of tuition reimbursement payments years ago was proper, was approved, and the documentation reflects her completion of her application, degree, and reimbursement with approval of the required necessary approvers. [*See* R. pp. 569-590; 719-740]. That the College argues that such matters were grounds to terminate her employment is ridiculous, and Ms. Jackson proved such matters through the testimony of the witnesses and the documentation presented to the Committee. [See R. pp. 5-12; see also R. pp. 74-421]. Ms. Jackson expressly articulated that she applied for tuition reimbursement and was granted tuition reimbursement. [R. pp. 288-353].

Ms. Jackson was an employee of the College when she applied for and received tuition reimbursement, and Ms. Jackson's education was directly related to her employment with the College as clearly evidenced by her positions as an Interim Dean of the College since October

2015, as an adjunct instructor for multiple years, and previously as Administrative Coordinator. Ms. Jackson's receipt of reimbursements was proper and was for the completion of her degree as required for reimbursement. [Id.]. Each of the classes Ms. Jackson sought reimbursement for were based on fact. [Id.; see also 569-590; 719-740]. The documents reviewed during the hearing clearly show that the documentations and numbers line up and support the conclusion that Ms. Jackson did nothing wrong. [Id.]. Ms. Jackson did nothing wrong in such actions to apply for and to receive tuition reimbursement as Ms. Jackson applied for and was approved for tuition reimbursement by the following department heads: Director of Grants/Contracts, VP of Finance, and the College Presidents. [Id.; see also R. pp. 5-13].

Ms. Jackson proved to the Committee that the second alleged ground to terminate her is equally preposterous. [Id.]. The second claim in Ms. Jackson's termination notice stated, "in your role as Administrative Coordinator I (to the President), you received pay increases, which were approved using the President's stamp, but had no supporting documentation. Your conduct in this matter violated all reasonable controls in our system and, I believe, violated the South Carolina Ethics Act which prohibits a public employee from using his/her position for personal gain." [R. p. 450]. Ms. Jackson confirmed at the hearing, as she had previously done at her suspension grievance hearing, when asked about the President's stamp, Ms. Jackson expressly denied that she ever used the President's stamp on any of her own personnel documents. [R. pp. 297-314]. This was confirmed by the President of the College during his testimony at the hearing. [R. pp. 224-256].

The Committee heard for themselves that Ms. Jackson was paid for duties that she performed, that she was actually underpaid for such duties in that paying her to do an Interim role was cheaper for the College than hiring a permanent Dean at a higher salary, and that all pay

adjustments for additional duties given to Ms. Jackson were properly approved by the supervisors above Ms. Jackson. [R. p. 234]. Ms. Jackson had no part in paying herself. [Id.].

Ms. Jackson expressly informed College representatives that the President's stamp is used by each of the recent sitting Presidents of Denmark Technical College and is used for high volume documentation and at the express instruction of the sitting President. [R. pp. 297-314]. Ms. Jackson expressly informed the Agency representatives that she used the President's stamp at the instruction of the former President of Denmark Technical College and the stamp was never used on her own documentation. [Id.]. Ms. Jackson never used the stamp for personal gain. [Id.].

Further, Ms. Jackson testified, and the evidence showed, that she did not receive a pay increase; she received supplemental pay when she performed additional duties. [R. p. 290]. Any and all supplements in Ms. Jackson's pay were expressly authorized by the supervisory chain above Ms. Jackson and by Human Resources. [R. p. 224-228]. The accusation that Ms. Jackson somehow gave herself raises is utterly absurd. [Id.]. Ms. Jackson was not even employed, physically, in the President's Office after October 2015 when she was promoted to her first Interim Dean.

The College's arguments fail, and the Committee properly determined that Ms. Jackson was wrongfully terminated. [R. p. 5-13]. Ms. Jackson did not claim that a stamp was never used on her own documents. [R. p. 297]. In fact, Ms. Jackson testified that "she" never used a stamp on her own documents. [R. pp. 297-298]. Ms. Jackson would have no personal knowledge of anyone else's actions with regard to the stamp. [Id.]. The issue of whether or not a stamp was used to approve Ms. Jackson's supplemental pay is moot as Dr. McIntyre testified at the hearing that he authorized and approved all of Ms. Jackson's personnel documents and pay. [R. pp. 297-314]. Dr. McIntyre testified that he used the stamp on documents. [Id.]. Dr. McIntyre testified that he did

not have any written procedure in place for the use of the stamp. [Id.]. The College failed to prove or show that there is a policy or procedure that requires, enforces, or have made deem necessary for all presidents or administrators to have a stamp procedural. [R. pp. 5-13]. The stamp was clearly a common practice by the College President's and to question the use of a hand-written signature or a stamped signature on an approved document is unlawfully punitive to Ms. Jackson's employment when there is incontrovertible evidence that Ms. Jackson's supplemental pay was approved by supervisors, not approved by herself, and was received for duties performed.

The College accused Ms. Jackson of allegedly improperly receiving tuition reimbursement and allegedly stamping her own pay increases documentation. [R. p. 450]. Both accusations factually date back several years and are untimely grounds to terminate Ms. Jackson and such allegations were wholeheartedly denied and the evidence supported Ms. Jackson's account that she had done nothing wrong in receiving supervisory approved tuition reimbursement and supervisory approved supplemental pay.

Ms. Jackson's suspension that culminated in her termination was her first such reprimand and Ms. Jackson showed that the action taken against her violated the Agency's progressive discipline policy. [R. p. 309].

The Committee heard testimony from Mr. Williams, the former Board Chair. [R. pp. 173-218]. Mr. Williams testified that he asked and requested for Dr. Hall, the Interim College President and Ms. Jackson's supervisor at the time, to provide the Board with evidence to substantiate the decision to take disciplinary actions against Ms. Jackson. [Id.]. Mr. Williams also testified that Dr. Hall could not produce any evidence supporting the action taken against Ms. Jackson and Dr. Hall indicated to Mr. Williams that he did not have any evidence against Ms. Jackson. [Id.]. Mr. Williams testified that Dr. Hall stated that he was following the instructions of SCBTE President,

Dr. Hardee. [Id.]. The College's own rebuttal witness to Mr. Williams' testimony, Ms. Bright, also testified that she did not know why the action was taken against Ms. Jackson. [R. pp. 372-378].

The Committee did not even hear from the decision maker, Dr. Hall, the Interim President of Denmark Technical College. Dr. Hall was only at the College campus for about 10 days prior to him suspending Ms. Jackson. Comparatively, the Committee did hear from Dr. McIntrye, the President of Denmark Technical College during the timeframe relevant to the College's allegations against Ms. Jackson. Dr. McIntyre affirmed to the Committee that these grounds the College brought against Ms. Jackson are baseless.

Oddly, the College seemingly admitted to a violation of State Board policies and procedure in its Motion for Reconsideration prior to this appeal; which further shows that Ms. Jackson is not at fault for the things charged as a basis for her termination. [See R. pp. 30-40]. If the College has a different interpretation of the policies and procedures enforced by SCBTE, then it is the SCBTE's duty and responsibility to ensure that the College Administrators are carrying them out properly. The employees cannot supersede the President's decisions, nor can Ms. Jackson be held accountable for the Administrators' error, if any.

Moreover, the College's Motion for Reconsideration argued that there was weakness in practices established by Dr. McIntyre, Mr. Williams, and also Dr. Boyd-Scotland, who worked at the College for at least 17 years with the same practices, yet the SCBTE never addressed any such alleged violations. [See R. pp. 30-40]. The Motion for Reconsideration seemed an attempt to throw the previous College Administrations 'under the bus' in order to somehow show that its egregious conduct toward Ms. Jackson is somehow merited in fact, which it is not. [Id.]. The evidence before the Committee showed that the College's own witness at the hearing, Jamie Wise, also received tuition assistance, was still employed with the College. [R. pp. 385-409].

The Committee did not err in its decision as the College was on notice about Ms. Jackson's transfer courses. Ms. Jackson's application and program of study clearly included and identified the courses she would complete. Therefore, the College was made aware of and approved Ms. Jackson's completed courses. Ms. Jackson used tuition assistance for a program that was related to her position, per Dr. McIntyre and Dr. Drammeh's testimonies; both of whom were in the supervisory chain above Ms. Jackson. Ms. Jackson's tuition assistance application included the details of her job positions and rationale for applying. Ms. Jackson's application was approved by Teresa Mack, the Director of Grants and Contracts and the College President, Dr. Boyd-Scotland, who also supervised Ms. Jackson.

The College continued to argue at the hearing and in its Motion for Reconsideration that Ms. Jackson knowingly, willfully, and intentionally applied for and received 100% reimbursement when the policy only allows 85% maximum. In fact, the Title III Funds policy (page 2, section 6) indicates for only instances that "Should employee elect the more costly courses, he/she will need to negotiate an agreement or contract for the Title III Program to defray no less than 75% and no more than 85% of the total cost of courses." Ms. Jackson's courses costs were comparable to other institutions and/or enrolled in exact institutions other employees attended and received tuition reimbursement, such as Jamie Wise. Seemingly, like the College's other arguments it raises in this appeal, the College is making an argument that has no basis because no audit or finding was made that there was any wrongdoing in Ms. Jackson's receipt of tuition assistance, or any other employee for that matter.

No evidence was shown that the College has ever been cited or rebuked for violating or misinterpreting its tuition assistance polices. Yet, out of all employees that received tuitions assistance under these common practices, seemingly only one has been accused of violating the

tuition assistance policies and procedures. This, yet again, reinforces that targeted and arbitrary nature of the College's actions toward Ms. Jackson. The Committee properly found that the College's decision prejudiced Ms. Jackson's substantial rights and met one or more of the elements contained in S.C. Code Ann. § 8-17-340(E)(2). [R. pp. 5-13].

II. THE STATE HUMAN RESOURCES DIRECTOR PROPERLY FORWARDED RESPONDENT'S APPEAL OF HER TERMINATION TO THE STATE EMPLOYEE GRIEVANCE COMMITTEE, BECAUSE RESPONDENT WAS AN EMPLOYEE COVERED BY THE STATE EMPLOYEE GRIEVANCE PROCEDURE ACT.

The State Human Resources Director correctly determined that Respondent was a covered employee under the State Employee Grievance Procedure Act. The College unnecessarily splits its arguments into several subcategories for the same single issue of whether Ms. Jackson was a covered employee entitled to a State Employee Grievance Hearing. Respondent herein this section of her legal argument rebuts each of the College's arguments in Section I and II of the Appellant's Brief.

The State Human Resources Director, pursuant to S.C. Code Ann. § 8-17-340(A), forwarded Respondent's appeal of her termination to the State Employee Grievance Committee for a hearing after determining that the jurisdictional requirements of the South Carolina Grievance Procedure Act (Act) had been met. [R. pp. 656-658]. Respondent, whose position is supported by the South Carolina Department of Administration, argues that the Director's determination that Respondent was an employee covered by the State Employee Grievance Procedure Act was correct and not clearly erroneous as Appellant suggests, especially in light of the substantial evidence standard.

The South Carolina Grievance Procedure Act provides grievance rights to covered state employees absent certain exemptions, none of which are applicable to Respondent, including the

exemption for academic administrators at four-year, post-secondary educational institutions. S.C. Code Ann. § 8-17-370(10).

Appellant asserts that the finding of the South Carolina District Court regarding Respondent's classification as a non-employee for purposes of her whistleblower claim are applicable here.[4] *Jackson v. Denmark Tech. Coll.,* No. 1:17-03431-MGL, 2018 WL 3729743 (D.S.C. Aug 6, 2018). The federal court's determination of Respondent's S.C. Whistleblower Act claim is not binding on the Grievance Committee, nor is it upon the Administrative Law Court. *See Tempel v. S.C. State Election Comm'n,* 400 S.C. 374, 385, 735 S.E.2d 453, 459 (2012)(reiterating *Laffite* that "a federal court decision interpreting state law is not binding on this Court"); *Laffitte v. Bridgestone Corp.*, 381 S.C. 460, 473 n.9, 674 S.E.2d 154, n.9 (2009)("a federal court decision interpreting state law is not binding on this Court"); *Ford v. Atl. Coast Line R. Co.*, 169 S.C. 41, 168 S.E. 143, 156 (1932), aff'd, 287 U.S. 502, 53 S. Ct. 249, 77 L. Ed. 457 (1933)("the courts of this state, except, of course, when federal questions are involved, are not controlled by decisions of the federal courts"); *Santee River Cypress Lumber Co. v. Query*, 168 S.C. 112, 167

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[4] Respondent respectfully and zealously disagrees with the federal court's finding with the College's argument that Ms. Jackson is not an employee under the S.C. Whistleblower Act. Respondent filed a Motion for Reconsideration and requested the federal court send a certified question to the South Carolina Supreme Court pursuant to Rule 244(a), SCACR because in Respondent's federal court case, there is a question of South Carolina law which is determinative of the whistleblower retaliation cause of action and there is no controlling precedent in the decisions of the South Carolina Supreme Court on this issue. Furthermore, Appellant could cite to no case law in support of its position, yet on a Motion to Dismiss the federal court granted the relief sought by Appellant as to the state whistleblower retaliation claim. Because the requirements of Rule 244(a), SCACR, are met and there is a precedent certifying such a question from the United States District Court for the District of South Carolina to the South Carolina Supreme Court, Respondent requested the federal court certify a question to the South Carolina Supreme Court about whether Ms. Jackson is an "employee" within the definition of the S.C. Whistleblower Act. The federal court declined to do so. The remainder of Respondent's claims continue in federal court and an interlocutory appeal would not be appropriate with the procedural status of that case.

S.E. 22 (1923)(noting it is not bound by the construction placed upon a state statute by any federal court); *State v. George*, 119 S.C. 120, 111 S.E. 889 (1921)(finding state courts are not bound to follow the federal decisions, except in cases involving a federal question). Respondent's case in federal court is a completely different preceding with different standards and facts at issue and the federal court's interpretation of law is not binding on South Carolina's interpretation of South Carolina law.

Appellant cites to several different cases in its Brief; yet, none are applicable here. Several cases are out of state cases and those that do source from South Carolina are largely irrelevant because only the interpretation of the South Carolina Grievance Procedures Act, S.C. Code Ann. §§ 8-17-110 *et seq.*, is truly at issue here.

Ms. Jackson was, continuously up to her termination, classified as an "Administrative Coordinator". The documents in the Record support that finding. [*See*, for example, R. p. 5 (Respondent's position listing on the Grievance Committee's Final Decision; R. p. 694 (Respondent's "Job Title" listed on her application to the College for Tuition Assistance); R. p. 683 (State of South Carolina Position Description)].

The State Human Resources Director properly forwarded Respondent's appeal of her termination to the State Employee Grievance Committee, because the Respondent was a covered by the State Employee Grievance Procedure Act. The Respondent was hired by the College on Jan 4, 2011 as the Administrative Coordinator, her official state employee job classification. The Respondent became a covered state employee with grievance rights after one year of service, on Jan 4, 2012. The Respondent has assumed additional duties and roles during her tenure, such as adjunct and interim dean while maintaining her current state job classification. The Respondent

was never hired permanently or reclassified to any of these positions that Appellant allegedly claims; she was only given a temporary supplement to assume appointed duties on an interim basis.

It is pivotal to consider that Appellant has failed to provide any Human Resource documentation or other written evidence to validate that the Respondent had a state job classification change or that she assumed a permanent, and no longer interim, position as dean. Further, the Appellant failed to provide any official or signed position description showing that Respondent had a state position change during her employment. The Appellant has failed to point to such evidence, because none exists. In fact, all documents within the Record before the Court verify that the Respondent maintained her current state positions/classification as a covered state employee while assuming temporary additional duties.

A logical conclusion from the witness testimony at the Hearing is that it is a standard practice of the State Technical College System, if someone assumes additional duties or interim roles; they would maintain their current state position until someone is hired permanently or reclassified into that vacant position. The employee serving in that interim role would receive a temporary supplement for additional duties during that period. The Respondent was never keyed as dean, because Ms. Jackson was never in that role, she was simply performing additional duties on a temporary basis while maintaining her state Administrative Coordinator position. The Appellant has failed to identify any documentation to show otherwise.

The Respondent followed the grievance process according to SCBTE Policy 8-6-100, SCBTE Procedure 8-6-100-1. [R. p. 616-622]. Moreover, prior to determining whether the jurisdictional requirements were met, the State Human Resources Director requested all information surrounding the Respondent's termination, to include policies and steps used for the grievance process. [R. p. 432, 656]. The Appellant complied and had no objections.

The Appellant has failed to validate their position that the Respondent allegedly did not have grievance rights or rather the State Human Resources Director erred when it was determined that the Respondent met the jurisdictional requirement to appeal or grieve the actions taken. In fact, the Appellant initiated, corresponded, confirmed, and continued to guide the Respondent throughout the grievance process. It is preposterous now for the Appellant to make such claims to the ALC. After two years of appealing the State Human Resources Director and Committee's decisions, the Appellant has never questioned or filed a motion of reconsideration claiming that the Respondent did not meet the jurisdictional requirement for the grievance process. Moreover, the Appellant terminated Respondent for allegations that were purportedly during her role as Administrative Coordinator, as stated in the termination letter.

Respondent was always keyed and classified as an Administrative Coordinator and she only held the Dean roles on an Interim basis. Supporting such a conclusion is Ms. Jackson's notification of such Interim role on September 21, 2016. [R. p. 682]. The Letter from the College President states in pertinent part:

> Please be informed that you are being **appointed Interim** Dean of Business, Computers, and Related Technologies (BRCT) effective October 1, 2016, **until a permanent Dean of BCRT is hired** to provide leadership for the department.
>
> Your immediate supervisor will remain Mrs. Tia Wright-Richards, Interim Vice President for Academic Affairs. ***You will remain at your current salary and in your current position/classification***, but will assumed additional duties of Interim Dean of BCRT. You will continue to receive a ***temporary* salary adjustment**...

[R. p. 682](emphasis added). Similar language is found in the 2015 letter, stating "you will remain at your current salary and in your current position/classification... and receive a temporary salary adjustment...for the duration of your interim appointment... When interviews are being held to fill the Dean of Transitional Services, please know that you are eligible to apply and be interviewed for the position." [R. p. 530]. Ms. Jackson was not permanently hired for any Dean position. Ms.

Jackson was never in any other position/classification than an Administrative Coordinator and individuals in such positions are entitled to State Employee Grievance rights. Respondent was not reassigned, she was just given additional duties on a temporary basis. [R. pp. 530, 562].

The payroll action form documentation in the Record confirms Respondent received $375 per pay period for additional duties as Interim Dean on a temporary basis with no change to your position/classification. [R. p. 532]. The College's last "DTC Departmental Request for Personnel/Payroll Action Form" listed Ms. Jackson as a "Executive Coordinator" synonymous with "Administrative Coordinator" with the Position Number "103363". [R. p. 664]. This personnel action form validates that Respondent was still classified in her current state position one day prior to the suspension. [R. p. 664]. Ms. Jackson was never classified as a Dean and for the College's arguments to succeed, that she was not a covered employee, the College would have had to hire Ms. Jackson as a Dean, not on a temporary or interim basis.[5]

Dr. McIntrye was the College President during the time frame of the events that the College alleged were the basis of Ms. Jackson's termination (tuition reimbursement and use of the President's stamp). Dr. McIntyre testified before the Committee and stated, "When a person receives a new position as interim they maintain the old position on record until such time that they are appointed full time and permanent to that new area position. In other words, if something were to happen that I would no longer want her to serve as interim then she has the right to go back to her permanent position. That's why the language is there about the current position classification." [R. p. 253].

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[5] In rebuttal to the arguments on page 13 of Appellant's Brief, when stated that Ms. Jackson had not been employed in President's Office since promotion to interim dean, such statement was addressing that Ms. Jackson was not physically located in the President's Office to have allegedly fulfilled Appellant's misconduct claims, not that Respondent's classification/position had changed. [R. p. 442].

Furthermore, Dr. Hall, the Interim President after Dr, McIntyre, sent a letter to Ms. Jackson on February 14, 2017. It shows that Dr. Hall suspended Ms. Jackson's supplement pay[6] for the additional interim duties she was performing one day prior to placing her on an unpaid administrative suspension. [R. p. 663]. The letter from the head of the College expressly states, "You will continue to receive your annualized base pay for the state position to which you were hired." [R. p. 663]. Thus, by Appellant's very own words, documents, and actions, it acknowledged that Respondent was in a state employee position with grievance rights.

There can be no clearer evidence for relevancy to this issue than the termination letter that confirms that the Appellant validated Respondent had rights to grieve the actions taken and the termination letter also states Ms. Jackson's classified position, listed in the second paragraph as "Administrative Coordinator I." [R. p. 450]. Thereafter, the termination letter specifically states, "you have the right to grieve this action should you desire." [R. p. 450].

At all steps throughout her grievance, the College acknowledged that Ms. Jackson was an employee covered by the State Employee Grievance Procedure Act. At no less than eight separate days of grievance hearings - suspension grievances, termination grievances, and then State Employee Grievance Hearing dates - the College continuously acknowledged that Ms. Jackson was a covered employee.

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[6] An excerpt from page 6 of Appellant's Brief states, "Respondent's compensation from DTC totaled over $100,000 after she become an academic administrator. [R. p. 494]. First, page 494 of the Record are emails memorializing a date change for one of the grievance hearings; it is a scheduling document and there is no reference to Respondent's pay. Most importantly, this statement by Appellant about Ms. Jackson's salary is false. Respondent's yearly compensation at the College has never totaled over $100,000. [*See* R. p. 682; *see also* R. p. 297 (Ms. Jackson testified her salary was "around $55,000"; *see also* R. p. 530 (Ms. Jackson received a temporary 15% salary adjustment to assume the additional duties of Interim Dean from $48,327 to $55,576.)].

Dr. Hall, the College's Interim President, confirmed that Respondent had grievance rights in the First Step Grievance Letter. [R. p. 439 - 442]. Ms. Jackson's first step grievance hearing was held on June 5, 2017. [R. p. 442]. Thereafter, Dr. Hall issued his letter upholding Ms. Jackson's termination and within that letter Dr. Hall stated, "In accordance with the State Board for Technical and Comprehensive Education Policy No. 8-6-100, Grievance Appeal Procures and accompanying Procedure No. 8-6-100/1 Grievances, your client may grieve my decision to Dr. Tim Hardee..." [R. p. 422].

Likewise, Dr. Hardee, SCTC System President, confirmed Respondent had grievance rights and copied Charles Boykins, legal counsel and Kandy Peacock, VP/Chief of HR on such correspondence. [R. p. 453]. Dr. Hardee's Step Two Grievance decision stated in part, "This is the final agency decisions regarding this matter. **Ms. Jackson now has the right to appeal to the State Employee Grievance Committee** by writing to Ms. Kim Aydlette, Director, South Carolina Department of Administration, Division of State Human Resources." [R. p. 453](emphasis added). This is again confirmed by correspondence from Kandy Peacock, VP/Chief HR. [R. p. 456].

The College cannot argue that Ms. Jackson was not entitled to grievance rights when the College's own legal counsel acknowledged that Ms. Jackson was an Administrative Coordinator at the hearing. [R. p. 88]. The College's legal counsel stated, "In fact, the sole purpose that we are here today is the administrative coordinator's position is the only part that's covered."

Thus, there can be no clearer evidence that Ms. Jackson was a covered employee then those described above, in summary: (1) the words of its own legal counsel, (2) all of the personnel documentation preceding Ms. Jackson's termination that continuously classified Ms. Jackson as a covered employee, (3) at all stages in the grievance proceeding the College acknowledged that Ms. Jackson was a covered employee as an Administrative Coordinator, and (4) the College's

Personnel/Payroll Action Forms memorializing it classified Ms. Jackson as a covered employee. It is beyond the pail of equity for the College now to argue that Ms. Jackson is not a covered employee by the State Employee Grievance Procedure Act.

Respondent's state job classification reflected that she was an administrative coordinator at the time of her termination, not an academic dean; therefore, she was a covered employee. Accordingly, the Committee had subject matter jurisdiction, pursuant to S.C. Code § 8-17-340, to adjudicate Respondent's grievance, because she was a covered employee. The Committee's decision to reverse Respondent's termination was within its statutory authority and should be upheld.

III. THE STATE EMPLOYEE GRIEVANCE COMMITTEE'S DECISION WAS SUPPORTED BY SUBSTANTIAL EVIDENCE AND WAS NOT BASED ON *ULTRA VIRES* ACTS.

As noted by Appellant's Brief, "...no reported South Carolina cases appear to address *ultra vires* acts in the context of public grievances...". [Appellant's Brief, p. 20].

South Carolina jurisprudence does not apply the *ultra vires* acts in the context Appellant seeks to apply it to this case. Westlaw research on the subject indicates that the majority of cases in South Carolina involving *ultra vires* acts relate to property and business law. A recent example from the Supreme Court of South Carolina is *Fisher v. Shipyard Vill. Council of Co-Owners, Inc.*, 415 S.C. 256, 781 S.E.2d 903 (2016). The underlying dispute in *Fisher* involved the repair of faulty windows and sliding glass doors in a condominium development. *Fisher,* 415 S.C. at 261, 781 S.E.2d at 906. Fifty co-owners of units in the development appealed the Court of Appeals' decision reversing the trial court's finding that the business judgment rule does not apply to the conduct of the Board of Directors of the Council, and the trial court's decision granting Petitioners partial summary judgment on the issue of breach of the Board's duty to investigate. *Id.*

The Supreme Court in *Fisher* held that: (1) the existence of the master deed, the bylaws, and the Horizontal Property Act did not preclude the application of business judgment rule; (2) alleged *ultra vires* acts did not preclude assertion of business judgment rule related to other intra vires acts; and (3) genuine issue of material fact existed regarding whether the council breached a duty to investigate claims related to windows and doors. *Id.* in the Law and Analysis section of the *Fisher* decision, the Supreme Court held that a corporation may exercise only those powers granted to it by law, its charter or articles of incorporation, and any bylaws made pursuant thereto. *Id. citing Seabrook Island Prop. Owners Ass'n v. Pelzer,* 292 S.C. 343, 347, 356 S.E.2d 411, 414 (Ct.App.1987) (citing *Lovering v. Seabrook Island Prop. Owners Ass'n,* 289 S.C. 77, 344 S.E.2d 862 (Ct.App.1986), *aff'd as modified,* 291 S.C. 201, 352 S.E.2d 707 (1987). A corporation's actions taken within the scope of the powers granted it are considered *intra vires* acts; acts beyond the scope of its powers, however, are *ultra vires* acts. *See id.* The business judgment rule applies to *intra vires* acts of the corporation, but not to *ultra vires* acts. *Id.* In other words, while the business judgment rule protects a corporation's exercise of its best judgment when deciding between viable options in a given business-related situation, the business judgment rule is not a cloak that protects a corporation from a violation of its own bylaws. Comparing the identification of *ultra vires* action in *Fisher* to the case at hand, the *ultra vires* act argument made by Appellant are not applicable here as the context of the law is different and the State Employee Grievance Committee acted within the scope of its power under the State Employee Grievance Procedure Act.

As discussed above and in the South Carolina Department of Administration Motion to Intervene and Memorandum in Support of Position, S.C. Code Ann. § 8-17-340(A) provides that the State Human Resources Director shall forward to the State Employee Grievance Committee for a hearing all appeals which meet jurisdictional requirements. In a letter dated August 8, 2017

concerning Respondent's state grievance appeal, the South Carolina Department of Administration stated that the State Human Resources Director determined jurisdictional requirements had been met under the State Employee Grievance Procedure Act. [R. p. 656-658]. Both the South Carolina Department of Administration and Respondent submit that the State Human Resources Director properly found the Respondent's appeal of her termination met the necessary criteria for her grievance to proceed to the State Employee Grievance Committee.

The arguments in support of that position are twofold, (1) Respondent was an Administrative Coordinator, and (2) Respondent does not satisfy the definition for any of the exemptions from the State Employee Grievance Procedure Act. Respondent extensively addressed both arguments above, but will further expound upon the statutory interpretation of the definition of 'employee' that Appellant asks the Court to make. "Questions of statutory interpretation are questions of law." *S.C. Dep't of Motor Vehicles v. Dover*, 423 S.C. 153, 160–61, 813 S.E.2d 532, 536 (Ct. App. 2018) quoting *Duke Energy Corp. v. S.C. Dep't of Revenue*, 415 S.C. 351, 355, 782 S.E.2d 590, 592 (2016). "The cardinal rule of statutory interpretation is to ascertain and effectuate the intention of the legislature." *Id. quoting Centex Int'l, Inc. v. S.C. Dep't of Revenue*, 406 S.C. 132, 139, 750 S.E.2d 65, 69 (2013) (quoting *Sloan v. Hardee*, 371 S.C. 495, 498, 640 S.E.2d 457, 459 (2007)). "[W]e must follow the plain and unambiguous language in a statute and have 'no right to impose another meaning.' " *Id. quoting Grier v. AMISUB of S.C., Inc.*, 397 S.C. 532, 535-36, 725 S.E.2d 693, 695 (2012) (quoting *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000)). "[T]he deference doctrine... provides that when[n] an agency charged with administering a statute or regulation has interpreted the statute or regulation, courts, including the ALC, will defer to the agency's interpretation absent compelling reasons." Id. quoting *Kiawah Dev. Partners, II v. S.C. Dep't of Health & Envtl. Control*, 411 S.C. 16, 34, 766 S.E.2d 707, 718 (2014). "We

defer to an agency interpretation unless it is 'arbitrary, capricious, or manifestly contrary to the statute.'" *Id.* (internal citations omitted).

Here, the State Human Resources Director and the Appellant, for all of the grievance hearings, agreed that Respondent satisfied the definition of 'employee' within the meaning of the State Employee Grievance Procedure. Such an interpretation is consistent with the statutory authority and reasonable interpretation S.C. Code Ann. 8-17-370. In making a final decision on Respondent's grievance, the DSHR considered all facts, evidence and testimonies of both the Respondent and Appellant and the State Employee Grievance Committee's Final Decision granting Respondent relief should be upheld.

CONCLUSION

For the foregoing reasons, Respondent Carla Jackson asks that the Decision of the State Employee Grievance Committee be upheld.

Respectfully submitted,

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THE STATE OF SOUTH CAROLINA

ADMINISTRATIVE LAW COURT

The Honorable Ralph King Anderson, III, Chief Administrative Law Judge

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Case No. 18-ALJ-30-0341-AP

South Carolina Technical College System,

Appellant,

vs.

Carla Jackson and South Carolina Department of Administration,

Respondent.

BRIEF OF RESPONDENT SOUTH CAROLINA DEPARTMENT OF ADMINISTRATION

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ISSUE ON APPEAL

Whether the State Human Resources Director properly forwarded Respondent's appeal of her termination to the State Employee Grievance Committee when Respondent was an employee covered by the State Employee Grievance Procedure Act.

STATEMENT OF THE CASE

The Department of Administration adopts the Appellant's Statement of the Case with the addition of the following.

On March 4, 2019, the South Carolina Department of Administration, on behalf of the State Human Resources Director and the Division of State Human Resources (f/k/a Office of Human Resources), filed a Motion to Intervene (Intervention Motion) for the limited purpose of defending its policies and practices. The Department of Administration's Intervention Motion was granted by this Court by Order dated March 19, 2019. This brief follows.

STATEMENT OF FACTS

For the limited purposes of its Issue on Appeal, the Department of Administration sets out the following statement of facts.

The Respondent was employed by Denmark Technical College in a full-time equivalent position at the time of her termination. Respondent was not a probationary employee at the time of her termination. Denmark Technical College is a two-year post-secondary educational institution.

ARGUMENT

THE STATE HUMAN RESOURCES DIRECTOR PROPERLY FORWARDED RESPONDENT'S APPEAL OF HER TERMINATION TO THE STATE EMPLOYEE GRIEVANCE COMMITTEE BECAUSE RESPONDENT WAS AN EMPLOYEE COVERED BY THE STATE EMPLOYEE GRIEVANCE PROCEDURE ACT.

This issue is a matter of statutory construction and turns on the application of S.C. Code Ann. Section 8-17-370(10). Section 8-17-370(10) provides an exemption from coverage from the State Employee Grievance Procedure Act (or the Grievance Act) for certain employees of four-year post-secondary educational institutions. Denmark Technical College is not a four-year post-secondary educational institution. Therefore, the exemption from the Grievance Act found in S.C. Code Ann. Section 8-17-370(10) does not apply to the Respondent.

I. The Plain Language of S.C. Code Ann. Section 8-17-370(10) Supports the Decision of the State Human Resources Director

The primary rule of statutory construction is to ascertain and give effect to the intent of the legislature. Town of Mt. Pleasant v. Roberts, 393 S.C. 332, 713 S.E.2d 278 (2011). Words used by the legislature "must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation." Sloan v. Hardee, 371 S.C. 495, 499, 640 S.E.2d 457, 459 (2007). It must be presumed that the legislature intended to accomplish something by its choice of words and that it would not do a futile thing. Gordon v. Phillips Utils., Inc., 362 S.C. 403, 608 S.E.2d 425 (2005). Statutes must be construed in such a manner as to give effect to every word rather than adopting an interpretation that renders a portion meaningless. Florence County Democratic Party v. Florence County Republican Party, 398 S.C. 124, 727 S.E.2d 418 (2012), citing Hinton v. S.C. Dep't of Probation, Parole and Pardon Servs., 357 S.C. 327, 592 S.E.2d 335 (Ct.App.2004). Additionally, a statute must be read so "that no word, clause, sentence, provision or part shall be rendered surplusage, or superfluous," CFRE, LLC v. Greenville County Assessor, 395 S.C. 67, 74, 716 S.E.2d 877, 881 (2011) (quoting State v. Sweat, 379 S.C. 367, 377, 665 S.E.2d 645, 651 (Ct.App.2008)).

The general rule is that any non-probationary state employee occupying any portion of a full-time equivalent (FTE) position is covered by the Grievance Act. S.C. Code Ann. Section 8-17-320(7). There are, however, exceptions to this general rule. Relevant to the issue at hand is the exception set out in Section 8-17-370(10). That section states that the provisions of the Grievance Act do not apply to:

> teaching or research faculty, professional librarians, academic administrators, or other persons holding faculty appointments **at a four-year post-secondary educational institution**, including its branch campuses, if any, as defined in Section 59-107-10 (emphasis added).

The plain and ordinary meaning of the words used in S.C. Code Ann. Section 8-17-370(10) is that the exemption applies to faculty, librarians, academic administrators, etc. at four-year post-secondary educational institutions, not two-year institutions like Denmark Technical College.

While S.C. Code Ann. § 8-17-370(10) also states that these four-year post-secondary educational institutions are those "as defined in Section 57-107-10," this language cannot reasonably be interpreted in such a way as to expand the exemption to persons holding positions at two-year technical colleges. South Carolina Code Ann. § 59-107-10 lists the "several state-supported institutions of higher learning" for purposes of regulating the issuance of state institution bonds among those institutions. Section 59-107-10 simply includes "Technical Education Colleges and Centers" in the definition of state-supported institutions of higher learning. The reference in S.C. Code Ann. § 8-17-370(10) to "four-year post-secondary educational institution[s] ... as defined in Section 59-107-10" is clearly intended to limit the exemption to only those four-year institutions set out in Section 59-107-10. This is the only interpretation that gives effect to all the words the legislature chose to include in the exemption.

To interpret Section 8-17-370(10) as the Appellant suggests is to do nothing less than delete the term "four-year" from the section and render it mere surplusage thereby frustrating legislative intent.[1]

II. Reading Section 8-17-370 as a Whole Makes Legislative Intent Clear and Supports the Decision of the State Human Resources Director

In ascertaining legislative intent, "statutes which are part of the same Act must be read together." Burns v. State Farm Mut. Auto. Ins. Co., 297 S.C. 520, 377 S.E.2d 569 (1989). A statute "must be read as a whole and sections [that] are part of the same general statutory law must be construed together and each one given effect." CFRE, LLC v. Greenville Cty. Assessor, supra. In construing sections of the same statutory law, courts "must read the statute so 'that no word, clause, sentence, provision or part shall be rendered surplusage, or superfluous.' id. (quoting State v. Sweat, 379 S.C. 367, 377, 665 S.E.2d 645, 651 (Ct.App.2008); See also, State v. Elwell, 396 S.C. 330, 721 S.E.2d 451 (Ct.App. 2012)(Court of Appeals refuses to interpret a statute to include a redundancy and cites State v. Sweat, 386 S.C. 339, 351, 688 S.E.2d 569, 575 (2010) for the proposition that "[a] statute should be so construed that no word, clause, sentence, provision or part shall be rendered surplusage, or superfluous")).

As part of the same act in which the "four-year" language was added to Section 8-17-370(10), the legislature also specifically exempted "presidents of the South Carolina Technical College System" from the provisions of the Grievance Act.[2] See S.C. Code Ann. Section 8-17-370(15). The explicit inclusion of technical college presidents in a stand-alone subsection of Section 8-17-370 enacted as part of the same act that amended Section 8-17-370(10) is a clear indication that the legislature did not intend subsection (10) of Section 8-17-370 to apply to two-year technical colleges.

Section 8-17-370(10) cannot be interpreted in such a way as to make section 8-17-370(15) redundant, thereby rendering it useless as mere surplusage.

III. State Human Resources Regulations (HR Regulations) are consistent with the plain meaning of S.C. Code Ann. Section 8-17-370(10).

The Appellant asserts that S.C. Code Ann. Regs. 19-718.01(D) supports its position that the exemption contained in Section 8-17-370(10) applies to faculty, librarians, academic administrators, etc. at two-year technical colleges. The Appellant's assertion is incorrect.

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[1] The Appellant refers to a Federal District Court's determination that Section 8-17-370(10) applies to respondent to support its position. However, a United States District Court decision interpreting state law is not binding on the ALC. See Laffitte v. Bridgestone Corp. 381 S.C. 460, 473 n.9., 674 S.E.2d 154, 161 n.9. (2009)(noting "a federal court decision interpreting state law is not binding on this Court."); Santee River Cypress Lumber Co. v. Query, 168 S.C. 112, 167 S.E. 22 (1932) (noting it is not bound by the construction placed upon a state statute by any federal court.); State v. George, 119 S.C. 120, 111 S.E. 889 (1921)(finding state courts are not bound to follow the federal decisions, except in cases involving a federal question).

[2] Act No. 171 of 2002

First, it is axiomatic that a regulation may not alter the terms of a statute. Sanford v. South Carolina State Ethics Commission, 385 S.C. 483, 685 S.E.2d 600 (2009). To the extent that any HR Regulation is inconsistent with the terms of a statute, it would be ineffective.

Second, the Appellant misconstrues the application of the regulation it cites. In its brief, the Appellant cites a truncated version of 19-718.01(D) to support its position. Regulation 19-718.01(D) is labeled as a statement of policy and provides in its entirety:

> Teaching and research faculty, professional librarians, academic administrators, and all other persons holding faculty appointments at post-secondary educational institutions, including any branch campuses, shall not be covered by these Regulations but shall be governed by § 8-17-380 of the South Carolina Code of Laws. (Underlines added)

The Appellant quoted all but the underlined portions of 19-718.01(D). The second underlined portion, however, makes it clear that the exemption described in the regulation is entirely consistent with the exemption contained in Section 8-17-370(10) and supports the decision of the State Human Resources Director in this matter. Regulation 19-718.01(D) only clarifies that the HR Regulations do not cover faculty, librarians, academic administrators, etc. when those positions are covered by the alternative grievance process requirements of S.C. Code Ann. Section 8-17-380. That Section of the Code provides in pertinent part:

> With respect to the teaching and research faculty, professional librarians, academic administrators, and all other persons holding faculty appointments at any post-secondary educational institutions described in item (10) of Section 8-17-370, each such institution, subject to the approval of the Director of the Department of Administration or its designee and the Commission on Higher Education, shall establish in writing:
>
> ...
>
> (b) A grievance procedure which shall at an appropriate stage provide a hearing for such employees before an individual or committee designated for such purposes, at which the employee shall have the right to representation by counsel and the opportunity to present evidence in his behalf.

(Emphasis added).

Section 8-17-380 only governs faculty, librarians, academic administrators, etc. employed by institutions described in item (10) of Section 8-17-370, or four-year post-secondary educational institutions to be exact. Section 8-17-380 then requires that those four-year post-secondary educational institutions described in Section 8-17-370(10) have, among other things, their own employee grievance procedure. Faculty, librarians, academic administrators, etc. at two-year institutions, like Denmark Tech, are not described in Section 8-17-370(10) and their employing institutions are not required to have an alternative grievance procedure under Section 8-17-380.

Therefore, those positions are not exempted from the Grievance Act by virtue of Regulation 19-718.01(D).

To further underscore the confluence of the HR Regulations and the State Human Resources Director's interpretation of Section 8-17-370(10), this Court should look to the definition of "Covered Employee" in S.C. Code Ann. Regs. 19-700. Pursuant to that regulation, a covered employee means

> "a full-time or part-time employee occupying a part or all of an FTE position who has completed the probationary period and has a "meets" or higher overall rating on the employee's performance evaluation and who has grievance rights. Instructional personnel are covered upon the completion of one academic year except for faculty at State technical colleges upon the completion of not more than two full academic years' duration ..."

This regulatory definition of covered employee is consistent with the statutory definition of covered employee found at S.C. Code Ann. 8-17-320(7). Both the regulatory definition of covered employee and the statutory definition are repugnant to an interpretation of Section 8-17-370(10) which exempts faculty at two-year technical colleges from coverage by the Grievance Act.

IV. The State Human Resources Director's Long-Standing Interpretation Deserves Deference

Pursuant to S.C. Code Ann. Section 8-17-340, when a state employee files an appeal under the Grievance Act, the "State Human Resources Director shall forward to the committee for a hearing all appeals which meet jurisdictional requirements." State Human Resource Directors have long interpreted S.C. Code Ann. § 8-17-370(10) to exempt from the Grievance Act only faculty, librarians, academic administrators, etc. at four-year post-secondary educational institutions. Given the specific language of Sections 8-17-370(10) and 8-17-370(15) the State Human Resource Directors' interpretation is consistent with statutory authority and reasonable. Accordingly, the State Human Resource Directors' interpretation is entitled to deference by this Court. Kiawah Dev. Partners, II v. S.C. Dep't of Health & Envtl. Control, 411 S.C. 16, 766 S.E.2d 707 (2014) (courts should defer to an agency's interpretation of a statute the agency is charged with implementing unless that interpretation is arbitrary, capricious, or manifestly contrary to the statute).

V. The Appellant's Own Policies (and lack thereof) are Antithetical to its Position.

According to the Appellant's Grievance and Appeals policies and procedures, all non-probationary employees occupying FTE positions are covered by the Grievance Act, except technical college presidents and retired members of the South Carolina Retirement System (SCRS) and the Police Officers Retirement System (PORS) rehired to fill FTE positions [R. at pp. 614-

626].[3] The Appellant's grievance policies and procedures specifically refer to Section 8-17-370 as exempting "Technical College Presidents [from] the state employee grievance process" [R. at p. 616]. Appellant's policies and procedures also specifically note that rehired SCRS and PORS retirees do not have grievance rights. [R. at p. 616]. There is, however, absolutely no mention in Appellant's policies and procedures that faculty, librarians, academic administrators, etc. are exempted from the grievance policies and procedures by application of Section 8-17-370. The Appellant's own policies and procedures are mutually incompatible with its position in this appeal. They are instead consistent with the plain language of S.C. Code Ann. Section 8-17-370(10) and bolster the State Human Resources Director's long-held interpretation of that Section.

Additionally, and as mentioned earlier, S.C. Code Ann. Section 8-17-380 requires any post-secondary educational institution described in item (10) of Section 8-17-370 to establish an alternative grievance process for its teaching and research faculty, professional librarians, academic administrators, and all other persons holding faculty appointments who are exempted from the State Employee Grievance Procedure Act. The alternative grievance process required by Section 8-17-380 must be in writing and it is "... subject to the approval of the Director of the Department of Administration or its designee and the Commission on Higher Education... ." There is absolutely no evidence in the record, however, that the Appellant has established an alternative grievance process for its teaching and research faculty, professional librarians, academic administrators, and all other persons holding faculty appointments. The Appellant has not asked this Court to take judicial notice of the existence of such an alternative grievance policy. There is no evidence in the record to suggest that the Appellant has ever even broached the subject with the Department of Administration or its designee or the Commission on Higher Education. The Appellant's failure to establish an alternative grievance process is pointed out not to suggest that it was required establish one, but rather to demonstrate the incongruity of its position in this appeal. On the one hand, Appellant claims that its faculty, librarians, academic administrators, etc. are exempted from the Grievance Act; on the other hand, Appellant apparently does not believe it is required to establish an alternative grievance process for those employees. If Appellant's position is accepted, every faculty member, librarian and academic administrator at every campus of the State's 16 technical colleges would be left without a grievance process. That would be an absurd result.

[3] The Appellant's policies and procedures also exempt non-FTE positions like temporary grant and time limited position from its grievance process

CONCLUSION

Based on the foregoing, the South Carolina Department of Administration ask that this Court affirm the State Human Resources Director's determination that the Respondent was an employee covered by the State Employee Grievance Procedure Act at the time of her termination.

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THE STATE OF SOUTH CAROLINA

ADMINISTRATIVE LAW COURT

South Carolina Technical College System,

Appellant,

v.

Carla Jackson and South Carolina Department of Administration,

Respondents.

REPLY BRIEF OF APPELLANT

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SC ADMIN. LAW COURT

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STATEMENT OF ISSUES IN REPLY

I. THE STATE EMPLOYEE GRIEVANCE COMMITTEE'S DECISION WAS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE BECAUSE IT WAS BASED ON *ULTRA VIRES* ACTS, AND RESPONDENT CITES NO CONTROLLING AUTHORITY TO SHOW OTHERWISE.

A. There is no evidence to support a finding that DTC had notice of Respondent's transcript at the time it made payments to her for tuition reimbursement.

B. DTC's payments to Respondent were *ultra vires* and therefore invalid.

C. Respondent's obtaining funds from DTC for courses she did not complete at AIU was *ultra vires* because it constituted unauthorized compensation and the use of her position to obtain an economic interest for herself.

II. APPELLANT'S REFRAMING THE CORE ISSUES AS *ULTRA VIRES* ACTS DOES NOT SUBSTANTIVELY MODIFY THE GROUNDS FOR APPEAL.

III. RESPONDENT RAISES ARGUMENTS ABOUT APPELLANT'S HANDLING OF HER SUSPENSION AND TERMINATION WHICH ARE NOW MOOT OR WERE OTHERWISE CURED BY THE COMMITTEE HEARING.

IV. THE COMMITTEE FAILED TO MAKE A CONCLUSIVE FINDING OF FACT ON RESPONDENT'S USE OF A SIGNATURE STAMP.

V. BOTH RESPONDENT AND THE DEPARTMENT OF ADMINISTRATION FAIL TO DEMONSTRATE THAT RESPONDENT WAS A COVERED EMPLOYEE UNDER THE STATE EMPLOYEE GRIEVANCE PROCEDURE ACT.

ARGUMENT IN REPLY

I. THE STATE EMPLOYEE GRIEVANCE COMMITTEE'S DECISION WAS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE BECAUSE IT WAS BASED ON *ULTRA VIRES* ACTS, AND RESPONDENT CITES NO CONTROLLING AUTHORITY TO SHOW OTHERWISE.

A. There is no evidence to support a finding that DTC had notice of Respondent's transcript at the time it made payments to her for tuition reimbursement.

Respondent Carla Jackson ("Respondent") employs sleight-of-hand in defense of the State Employee Grievance Committee's ("Committee") conclusion that Denmark Technical College ("DTC") was "on notice about [her] transfer courses" because it "was in receipt of her transcript" from American InterContinental University ("AIU"), which thereby "informed [DTC] of the two transfer credits Respondent had from Springfield College."[1] [Resp. Brief pp. 8, 17.] However, this finding is flawed because there is no such testimony in the Record. Mullinax v. Winn-Dixie Stores, Inc., 318 S.C. 431, 441-443, 458 S.E.2d 76, 82-83 (Ct. App. 1995) (noting that findings of fact "may not be based upon surmise, conjecture, or speculation").

Instead, the Committee erroneously accepted as fact a statement by Respondent's counsel in reference to the AIU transcript in which she volunteered that she would "gladly let the [Committee] know that [Respondent] had a transcript that they had in their possession." [R. p. 393.] No one other than Respondent's counsel ever made any admissible statement imputing knowledge of the AIU transcript to DTC at the time of the tuition "reimbursements." South Carolina Dep't of Transp. v. Thompson, 357 S.C. 101, 105, 590 S.E.2d 511, 513 (Ct. App. 2003) (recognizing that "[a]rguments made by counsel are not evidence"). Moreover, Respondent's position is directly contravened by the testimony of DTC business manager Jamie Wise, who

[1] As set forth in Section I(B) herein, application of the *ultra vires* doctrine would nevertheless invalidate the tuition "reimbursement" payments even if such notice of the AIU transcript were imputed to DTC.

testified that from the records she reviewed at the Committee hearing there was no "indication that [DTC] was notified that the payment[s] w[ere] for Springfield College." [R. p. 395.]

Even if the Committee were to have found Ms. Wise's aforementioned testimony not credible, it was clear that she did not assume her business manager position at DTC until July 2016 – which was over a year after Respondent received her master's degree from AIU and the "reimbursement" payments in question had been made to Respondent. [R. pp. 5, 405, 732-736.] The Record therefore is bereft of any evidence as to when DTC first came into possession of Respondent's AIU transcript or whether anyone involved in approving Respondent's tuition reimbursement requests had access to it at the time such payments were made.

The Committee abused its discretion by erroneously concluding that DTC had notice of the contents of Respondent's transcript when it issued the "reimbursement" payments, because this ruling was based on a statement of counsel rather than evidence in the record. Fontaine v. Peitz, 291 S.C. 536, 538, 354 S.E.2d 565, 566 (1987) (acknowledging that an abuse of discretion occurs when a ruling purportedly based upon factual conclusions "is without evidentiary support"); Epps v. City of Lake City, et al., WCC No. 0608969, 2010 WL 3280112, *6 (S.C. Workers' Comp. Comm'n July 21, 2010) (ruling that it was error for a commissioner to have relied on a statement of counsel made during a hearing, because such statements are not "evidence upon which a finding of fact can be made").

B. DTC's payments to Respondent were *ultra vires* and therefore invalid.

Respondent's reasoning for why she believes she was entitled to be paid by DTC for courses she did not take at AIU relies on the misapprehension that the *ultra vires* doctrine is somehow limited to "property and business law" and that her actions were justified simply because DTC "approved [her] completed courses." [Resp. Brief pp.17, 26.] Respondent's view that she was

entitled to these funds merely because DTC paid them is misplaced, as the South Carolina Attorney General's Office has observed that the *ultra vires* doctrine can serve as a basis to invalidate any government action that exceeds a public entity's authority. See Op. S.C. Att'y Gen., 2003 WL 22970990, *5 (Dec. 5, 2003) (declaring that an agency's issuance of a permit that would result in divestiture of state property would be without legal authority and *ultra vires*).

The South Carolina Supreme Court likewise has relied upon the *ultra vires* doctrine to invalidate acts by public entities in a number of contexts. See South Carolina Pub. Interest Found. v. South Carolina Dep't of Transp., 421 S.C. 110, 123-124, 804 S.E.2d 854, 861-862 (2017) (determining that an agency's inspections of privately-owned bridges were improper and *ultra vires* because they were not performed as required by law and served no "public purpose"); City of Rock Hill v. Public Service Comm'n of South Carolina, 308 S.C. 175, 417 S.E.2d 562 (1992) (ruling that a city's provision of electrical service to a private entity outside its city limits was "illegal and *ultra vires*" because there was no statutory authorization to do so); City of Newberry v. Public Service Comm'n of South Carolina, 287 S.C. 404, 407, 339 S.E.2d 124, 126 (1986) (observing that a state agency lacked "the power to waive statutory prohibitions" and could not otherwise take an *ultra vires* action "which would purport to allow" a city to perform an unlawful act).

The *ultra vires* nature of DTC's payments to Respondent was laid bare by a number of policy deviations and troublesome inconsistencies between what Respondent submitted in furtherance of obtaining "reimbursements" and what other records in evidence showed. Section (VI)(F)(5) of System Office Procedure 8-10-100.1 ("System Advancement Policy") required an employee seeking tuition assistance to "present official documentation of the *grade achieved* for the course *from the college or university attended*" in order "to be reimbursed." [R. p. 634

(emphasis added).] This is so because the System Advancement Policy required that a grade of "B" or above be received to qualify for tuition reimbursement for graduate-level courses. [R. pp. 628-635.] Additionally, Section VI(B) of the System Advancement Policy limited tuition assistance to "no more than six (6) credit hours per academic term per employee." [R. p. 632.] Respondent's contention that it was somehow appropriate for her to seek after-the-fact approval for the Springfield College courses was further belied by Section (VI)(F)(4) of the System Advancement Policy, which provided that "[e]mployees requesting tuition assistance will be notified of approval/disapproval as soon as possible *before the class start date*." [R. p. 634 (emphasis added).]

As part of Respondent's "reimbursement" for the two courses (MGT600 and MGT680) her AIU transcript reflected transfer credits for from Springfield College, she submitted a Direct Expenditure Voucher ("DEV") dated **April 5, 2015** for MGT600 and another DEV dated **May 1, 2015** for MGT680. [R. pp. 719-724.] Each of the two DEVs was in the amount of $3,492.00, for a total of $6,984.00. [Id.] Documents Respondent submitted in connection with the DEVs reflected that both were *AIU* courses that started on **October 6, 2014** and ended on **December 14, 2014** – yet neither MGT600 nor MGT680 appeared on her AIU transcript corresponding to those (or any other) dates. [R. pp. 719-728.] Respondent also appeared to have taken another course that began and ended on those October-December 2014 dates, BUS610 ("Economics for the Global Manager"), which meant these documents collectively suggested that she took **three** courses during the October to December 2014 term for a total of **18 credit hours** – twelve hours more than was permitted by policy. [R. pp. 632, 727.]

Curiously, a document submitted by Respondent reflected that she earned an "A" grade in MGT600 at AIU but earned no "Quality Points" – yet another document she submitted for

MGT680 reflected what appeared to be a letter grade of "A" under a column entitled "Actions," the number "6.000" under the "Letter Grade" column, and "6.00" under the "Quality Points" column. [R. pp. 721, 723.] However, the AIU transcript made clear that neither a "Grade" nor any "Quality Points" were awarded for these two courses because they were transfer credits (as indicated thereon by the letters "TC"). [R. pp. 725-726.]

It follows that DTC lacked the authority to lawfully "reimburse" Respondent for the $6,984.00 in AIU tuition expenses that she never actually incurred at that institution.[2] Courses taken at an institution other than AIU were not authorized for tuition reimbursement for Respondent because she never submitted an application for any other school. [R. pp. 389, 394-395.] The absence of Springfield College appearing on her tuition assistance application as an institution she would be attending *in the future* meant that "reimbursements" to her for courses already having been taken there "should not have been paid." [Id.] The Committee acknowledged that Respondent "transferred credits from Springfield College for courses MGT600 and MGT680." [R. p. 9.] Furthermore, there was testimony presented to the Committee that Respondent's submissions associated with the "reimbursements" for these two courses appeared to have been falsified.[3] [R. p. 395.]

In sum, it was clear from the records that DTC's payment of these funds to Respondent was for courses that were not taken from an institution for which tuition reimbursement had been

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[2] Appellant's counsel noted in his closing argument at the Committee hearing that it was "an abuse" for Respondent to have received "the amount of money that she got in tuition reimbursement" in addition to what "she was paid in her work." [R. p. 414 (cited previously as "p. 494" in Appellant's prior Brief due to a scrivener's error).]

[3] Respondent asserts that "[e]ach of the classes [she] sought reimbursement for were based on fact," after which she makes the conclusory statement that the "numbers line up." [Resp. Brief p. 13.] Notably, Respondent does not explain what "fact" she's referring to or how she contends the numbers "line up."

previously requested and approved, were based on documents lacking reliable indicia that the requisite letter grade had been earned, and relied upon submissions by Respondent that were riddled with obvious signs that they had been doctored. The payments manifestly departed from applicable policies, thereby rendering them *ultra vires* and invalid. The Committee's failure to recognize as much was clearly erroneous.

C. Respondent's obtaining funds from DTC for courses she did not complete at AIU was *ultra vires* because it constituted unauthorized compensation and the use of her position to obtain an economic interest for herself.

The *ultra vires* doctrine applies with equal force to the actions of public employees, as it has long been recognized that "[t]he law in South Carolina is supportive of liability for public officers who perform *ultra vires* acts." Op. S.C. Att'y Gen., 2016 WL 3946153, *2 (July 5, 2016). In particular, the Attorney General's Office has concluded that a public employee's receipt of unauthorized "extra" compensation constitutes the improper use of public funds for private purposes and is *ultra vires*. Op. S.C. Att'y Gen., 2003 WL 21040136, *1 (Feb. 21, 2003) (declaring that receipt of money by public employees over and above that to which they are entitled would be *ultra vires* and potentially a breach of the Ethics Act).

The Attorney General's recognition that it is improper for public employees to receive compensation that is not actually due to them has been acknowledged by the South Carolina Ethics Commission ("Ethics Commission"), which has made clear that public officials cannot use their position for financial gain. The Ethics Commission illustrated this principle in an opinion in which it observed that a public official must not charge a public entity "for staying in his own house while attending [a] convention." Op. S.C. St. Ethics Comm'n, SEC AO95-002 (Sept. 21, 1994) (considering a county councilman's request for the county to pay him the single occupancy rate charged by a convention site hotel, which he maintained was less than the rental rate for his house

where he would be staying during the convention). The Ethics Commission reached this conclusion by relying upon S.C. Code Ann. § 8-13-700(A)'s prohibition against using one's official office to obtain an "economic interest," which is defined as an "interest distinct from that of the general public" in a "transaction or arrangement involving property or services in which a public official . . . may gain an economic benefit of fifty dollars or more." S.C. Code Ann. § 8-13-100(11).

The Ethics Commission reasoned that "since the councilman would not attend the conference in question but for his membership on county council, the receipt of this income appear[ed] inextricably linked to [his] public office." Op. S.C. St. Ethics Comm'n, SEC AO95-002, at *2. Critically, even though "no additional public expense would result from paying the councilman to stay in his own house" since the county would have compensated him for his expenses if he had stayed in a hotel, paying him **for an expense that was never incurred** would be inconsistent with the requirements of the Ethics Act (S.C. Code Ann. § 8-13-700, *et seq.*). Id.

Thus, the central issue is not whether Respondent would have been entitled to reimbursement for the two courses *had she in fact taken them* at AIU. Rather, the issue is the propriety of her having sought reimbursement for courses she clearly had not taken at AIU and her receipt of funds for those courses from DTC amounting to compensation that was not due.[4] There is no dispute that Respondent would not have been eligible to seek or obtain tuition reimbursement from DTC but for her employment there, so her receipt of funds from DTC under the guise of such

[4] The degree to which Respondent's considerable compensation from DTC could be disclosed to the Committee was debated during a motion *in limine*. The Committee Attorney ordered the redaction of all records which reflected "one hundred thousand dollars" as Respondent's supplemental compensation from DTC. [R. p. 65.] Although the Committee Attorney observed that "the fact Ms. Jackson received such a substantial sum [wa]s probative and relevant," he nevertheless ruled that "focusing the Committee on th[is] amount of money rather than . . . her authority" to receive it "substantially outweigh[ed] the probative value of that fact." [Id.] Respondent is thus mistaken in suggesting that this information is not in the Record. [Resp. Brief p. 24.]

reimbursement was "inextricably linked" to her position within the meaning of the foregoing Ethics opinion.

Respondent admitted that she received the full cost of the degree program from DTC for her AIU master's degree even though she completed the program in an accelerated time frame due to her having previously earned transfer credits from another institution. [R. pp. 325-326.][5] Respondent's receipt of funds for tuition that she never paid to AIU constituted use of her position for her own economic benefit, which violated Appellant's Ethics Policy (System Office Procedure 8-0-105.1) and the Ethics Act. Op. S.C. Att'y Gen., 1980 WL 81911, *1 (Mar. 7, 1980) (construing the predecessor ethics statute to S.C. Code Ann. § 8-13-700 and concluding that a public employee's use of his official position to obtain financial gain for himself amounted to a statutory ethics violation). Such a finding has served as a basis for termination of public employees in other jurisdictions, and there is no valid reason why Respondent should be treated any differently. See, e.g., Miami-Dade Co. v. Dominguez, 69 So.3d 1001 (Fla. 3d DCA 2011) (upholding a public employee's termination associated with his having "fraudulently obtain[ed] tuition charges he never paid").

Thus, the Committee flatly ignored the uncontroverted evidence that Respondent claimed reimbursement for courses she never took at AIU. The Committee's wholesale disregard of this evidence coupled with the fact that such conduct by Respondent violated Appellant's policies – the instruments by which Appellant enforces its statutory authority over technical colleges such as DTC – rendered the Committee's conclusions fundamentally flawed. Callen v. Callen, 365 S.C. 618, 623-624, 620 S.E.2d 59, 62 (2005) (reversing and remanding a court's decision because its

[5] Appellant's previous Brief inadvertently cited the portion of the Record containing its Ethics Policy (R. pp. 594-597) instead of Respondent's testimony (R. pp. 325-326) in connection with this point.

"findings of fact [we]re so tainted by errors of law"); Mullinax, 318 S.C. at 441-443, 458 S.E.2d at 82-83 (reversing a Workers' Compensation Commission decision as a result of legal error under the APA based on ignoring evidence in the record). Therefore, the Committee's decision must be reversed.

II. APPELLANT'S REFRAMING THE CORE ISSUES AS *ULTRA VIRES* ACTS DOES NOT SUBSTANTIVELY MODIFY THE GROUNDS FOR APPEAL.

Respondent argues that "the issues focused upon as a basis for appeal are materially different" than those Appellant identified previously. [Resp. Brief p. 10.] Although Appellant has reframed the issues under the umbrella of *ultra vires* acts, a careful reading of the essence of the matters briefed by Appellant (other than those relating to jurisdiction) confirms that they are not substantively different from those set forth in the August 31, 2018 Notice of Appeal to the ALC. Such reframing is entirely consistent under the ALC rules, as the "grounds for appeal may be amended, supplemented or modified in the statement of issues in the brief." SCALC Rule 33(B).

To the extent Respondent arguably injected new matters or otherwise focused on certain issues to a greater degree in her brief than Appellant initially did, Appellant correspondingly addresses them herein. First Union Nat'l Bank of S.C. v. Hitman, Inc., 306 S.C. 327, 330 n.4, 411 S.E.2d 681, 683 n.4 (Ct. App. 1991) (noting that arguments in response to those raised in a respondent's brief "should [be] made in a Reply Brief").

III. RESPONDENT RAISES ARGUMENTS ABOUT APPELLANT'S HANDLING OF HER SUSPENSION AND TERMINATION WHICH ARE NOW MOOT OR WERE OTHERWISE CURED BY THE COMMITTEE HEARING.

Respondent seeks to resurrect clearly moot arguments relating to her February 15, 2017 suspension by making repeated references to it in her brief. As the South Carolina Division of State Human Resources notified Respondent by letter dated May 17, 2017, her termination "effectively moot[ed] [her] suspension pending investigation *as well as the appeal of her*

suspension" to the State Human Resources Director that was pending at the time. [R. p. 472 (emphasis added).] If Respondent could not grieve her suspension in May 2017, she cannot now shoehorn arguments about it into this proceeding nearly two years later.

Respondent likewise devotes considerable attention to what she perceives to be inadequacies in the process that led to her termination. First, this issue was not set forth as part of a factual finding or legal conclusion reached by the Committee in its March 22, 2018 Decision or its August 1, 2018 Reconsideration Order. Moreover, it is well settled that a "post-removal procedure which satisfie[s] due process sufficiently compensate[s]" for any alleged deficiencies in the employer's internal procedures associated with terminating an employee. Rose v. Beasley, 327 S.C. 197, 205, 489 S.E.2d 625, 629 (1997). Insofar as Respondent "was represented by counsel and had the opportunity to introduce evidence, cross-examine adverse witnesses, and argue h[er] case" to the Committee, she was afforded due process. Id. To the extent that Respondent is attempting to relitigate the foregoing procedural matters, her arguments are without merit.

IV. THE COMMITTEE FAILED TO MAKE A CONCLUSIVE FINDING OF FACT ON RESPONDENT'S USE OF A SIGNATURE STAMP.

Respondent avers that she "never used the [DTC presidential signature] stamp for personal gain" or otherwise "used [it] on her own documentation." [Resp. Brief p. 14.] Determining whether Respondent used such a stamp on a document that benefited her financially – even if she maintained she was permitted to do so – was relevant to gauge the degree to which she committed unethical or *ultra vires* acts in connection with monies paid to her by DTC. As the Ethics Commission has observed, public "officials should . . . remove themselves from a decision . . . or process that **even appears to be a conflict of interest**." Op. S.C. St. Ethics Comm'n, SEC AO95-002 (Sept. 21, 1994) (emphasis in original).

The Committee failed to render a finding of fact one way or another on this issue. It instead dodged the question by equivocally concluding that "if the stamp was used by [Respondent]," it "appear[ed] there was no misuse of [it]." [R. p. 25.] To the extent that Respondent's use of the stamp may have been a conflict of interest (or the appearance thereof), the Committee necessarily should have first rendered a finding on the threshold question of whether Respondent ever used the stamp on any of her own documents and then moved to consider the propriety of her having done so under the circumstances. Its failure to do so was error. Ingram v. South Carolina Dep't of Emp't & Workforce, 2014 WL 5303203, *1, No. 14-ALJ-22-0314 (Sept. 19, 2014) (remanding case to an administrative tribunal because it "failed to include a finding of fact regarding [an] inconsisten[t]" issue bearing upon a person's eligibility for unemployment benefits).

V. BOTH RESPONDENT AND THE DEPARTMENT OF ADMINISTRATION FAIL TO DEMONSTRATE THAT RESPONDENT WAS A COVERED EMPLOYEE UNDER THE STATE EMPLOYEE GRIEVANCE PROCEDURE ACT.

The Department of Administration ("DOA" or "Intervenor"[6]) chiefly cites the appearance of two words – "four-year" – in S.C. Code Ann. § 8-17-370(10) ("Statute" or "Exclusion") as the foundation for its view that Respondent's academic administrator position at DTC was not intended by the Legislature to be excluded from coverage under the State Employee Grievance Procedure Act ("Act"), S.C. Code Ann. § 8-17-310, *et seq*. Intervenor also disavows or otherwise parses its own regulations in an attempt to establish that Respondent was covered by the Act.[7] Intervenor overlooks several authorities, disregards relevant principles of statutory and regulatory

[6] To avoid confusion with Respondent Carla Jackson, DOA is also referred to herein as "Intervenor" rather than "Respondent."

[7] Respondent's Brief essentially adopts Intervenor's positions as her own, so Appellant's arguments in reply are directed primarily at DOA. [Resp. Brief pp. 27-29.]

construction, and relies upon speculation about matters not in the Record in articulating its position.[8]

At the outset, it is significant that there is no reported South Carolina state court case that has considered the issue of whether an employee similarly situated to Respondent falls under the Exclusion to the Act. However, there is a federal court ruling involving Respondent that is directly on point. Jackson v. Denmark Tech. Coll., No. 1:17-03431-MGL, 2018 WL 3729743 (D.S.C. Aug. 6, 2018).[9] Although the federal court's reasoning and conclusion are not binding upon the ALC, in the absence of any controlling state law they clearly should be considered. Phillips v. Periodical Publishers' Serv. Bureau, Inc., 300 S.C. 444, 446, 388 S.E.2d 787, 789 (1989) (adopting a federal court's interpretation of a statute relating to a similarly-situated state court litigant).

Once the District Court interpreted the Exclusion as applying to Respondent, it was incumbent upon Appellant to bring this interpretation to bear in the present appeal. The fact that Respondent and Intervenor interpret the Exclusion differently than the District Court is not outcome determinative. It is without question that Appellant is entitled to take a position in this proceeding in reliance on the court's ruling, and the ALC likewise should give it due consideration.

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[8] DOA claimed in its motion to intervene that it was doing so for the "limited purpose of defending its policies," but its brief also asserted speculative arguments about matters not in the Record. DOA should not be heard on this or any other issue that veers beyond the ostensible purpose of its involvement in this case. See, e.g., United States v. Southern Fla. Water Mgmt. Dist., 28 F.3d 1563, 1567 (11th Cir. 1994) (admonishing intervenors for raising issues that "exceeded the scope of their limited right to intervene," thereby "evidenc[ing] no appreciation for the limited extent of their participation").

[9] The federal court's order was not issued until August 2, 2018, which was the day after the Committee issued its decision denying Appellant's Motion for Reconsideration. [R. pp. 17-26.] Appellant notes that both Intervenor and Respondent put varying degrees of emphasis on what they perceived as the timing of Appellant's first assertion that Respondent was excluded as a covered employee under the Act. Although this issue was explored at the Committee hearing during Dr. Leonard McIntyre's testimony, it is ultimately immaterial when this issue was raised for the first time since it involves the Committee's subject matter jurisdiction. [R. p. 269.]

Intervenor also fails to consider that if the Legislature had intended to limit application of the Exclusion in the manner advanced by Intervenor, it could have done so by reference to S.C. Code Ann. § 59-101-10, which identifies higher education institutions without reference to the state's technical colleges. See S.C. Code Ann. § 59-101-10 (designating "state colleges and universities" as the University of South Carolina, Clemson, Coastal Carolina, South Carolina State, The Citadel, Winthrop, Francis Marion, College of Charleston, Lander, and the Medical University of South Carolina). The fact that the Legislature chose not to do so indicates that the Exclusion's reference to § 59-107-10 – a statute that, in contrast to § 59-101-10, includes technical colleges – was by design. Bourne v. Graham, 260 S.C. 554, 561, 197 S.E.2d 674, 677 (1973) (concluding that "had the General Assembly intended to confer exclusive jurisdiction upon municipal courts . . . pursuant to [a particular statute], it could have done so by the use of language of similar import to that contained in [another section] of the Code" which limited jurisdiction in more restrictive terms).

Intervenor's attempt to reconcile its construction of the Statute with the plain language of the corresponding regulation is untenable. Specifically, S.C. Code Ann. Regs. 19-718.01(D) ("Regulation") provides that certain positions "at post-secondary educational institutions" shall not be covered, but it does not include the "four-year" term to which DOA now ascribes significance. Intervenor's interpretation of the Statute and Regulation creates a conflict between the authorities rather than harmonizing them, and the ALC therefore is under no obligation to defer to DOA's construction. Brown v. South Carolina Dep't of Health & Envtl. Control, 348 S.C. 507, 515, 560 S.E.2d 410, 415 (2002) ("While the Court typically defers to the [agency]'s construction of its own regulation, where, as here, the plain language of the regulation is contrary to the [agency]'s interpretation, the Court will reject its interpretation.").

In addition, the title of the legislation that amended the Statute declared that its purpose was to "exempt presidents of the South Carolina Technical College System, and **further provide for the exemption of other educational faculty and employees**." 2002 Act No. 171, § 1 (emphasis added). Rules of statutory construction make clear that "[i]t is proper to consider the title or caption of an act in aid of construction to show the intent of the legislature." Lindsay v. Southern Farm Bureau Cas. Ins. Co., 252 S.C. 272, 277, 188 S.E.2d 374, 376 (1972). Thus, Intervenor's overly narrow interpretation of the Statute deviates from the stated legislative aim of the amendment to expand the scope of employees exempted from the Act.

Furthermore, Intervenor incorrectly suggests the addition of college presidents to those excluded by the Statute supports its position. However, the presidents are not similarly situated to employees of their respective colleges, because they serve at the pleasure of the corresponding area commissions which exercise statutory functions over these institutions. S.C. Code Ann. § 59-53-52(8) (providing that each area commission shall "[e]mploy the respective technical college president, who shall be employed at the will of the area commission"). Consequently, the amendment to the Statute merely underscores that the presidents' permanent at-will status categorically excludes them from being covered employees under the Act.

Where a regulation requires modification to conform to existing statutory or case law, the agency charged with its administration is expected to take action to effect such a change. For instance, DOA's predecessor agency, the State Budget and Control Board ("Board"), formerly interpreted S.C. Code Ann. § 8-11-620 in a way that allowed deduction of a portion of an annual leave payout from one category of employees but not others. Littlefield v. South Carolina Forestry Comm'n, 337 S.C. 348, 523 S.E.2d 781 (1999) (rejecting state agencies' construction of § 8-11-620 in a manner that resulted in terminated employees' annual leave taken in the calendar year of

separation being deducted from their lump sum payout, but making no such deduction for retiring or deceased employees' annual leave). After the Court declared the Board's interpretation of § 8-11-620 unconstitutional and before any amendment to that statute had occurred,[10] the Board developed a regulation to clarify that such annual leave deductions would no longer be made for any state employees. S.C. Code Ann. Regs. 19-709.05 (providing that "[u]pon separation from State employment, a lump sum payment will be made for unused annual leave . . . without deducting any earned leave taken during the calendar year in which the employee separates"); 26 State Register, Issue 1, p. 91 (Jan. 2002) (containing Regulation 19-709.05).

Similarly, if DOA viewed the appearance of the words "four-year" in § 8-17-370(10) as meaningful, it would have been expected to amend Regulation 19-718.01(D) to mirror the "four-year" language in the Statute. The fact that DOA has not done so in the last seventeen years undermines the import to which it now assigns this phrase. Hence, Intervenor should not be permitted to ignore its own regulation in an effort to contort the Statute so that it benefits Respondent. Triska v. South Carolina Dep't of Health & Envtl. Control, 292 S.C. 190, 194-196, 355 S.E.2d 531, 533-534 (1987) (observing that a state agency "must . . . follow its own regulations" and that an agency cannot be permitted to disregard its governing regulatory authority, because allowing it do so would "bree[d] confusion"). Intervenor's argument should be rejected accordingly.

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[10] Section 8-11-620 was not amended again until July 1, 2002. See 2002 Act No. 356.

CONCLUSION

For the foregoing reasons, Appellant asks that the Committee's decision be reversed or otherwise vacated.

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CERTIFICATE OF COUNSEL

The undersigned counsel certifies that the Record on Appeal contains all material proposed to be included by all parties and not any other material.

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CERTIFICATE OF COMPLIANCE

The undersigned counsel for the Appellant South Carolina Technical College System certifies that the Record on Appeal complies with the Supreme Court's Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings, issued April 15, 2014.

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