



REGULATION: FGCU-PR5.020

*Effective
Date of
Regulation:*

Grievance Procedures

08/18/1999

Non-Unit Faculty and A&P

- (1) General. This grievance procedure is applicable to all Faculty and Administrative and Professional (A & P) employees who are not covered by the BOR/UFF Collective Bargaining Agreement. Grievances of bargaining unit faculty and A & P staff are governed by the BOR/UFF Collective Bargaining Agreement.
- a. The purpose of this procedure is to promote a prompt and efficient process for the investigation and resolution of grievances filed by faculty and A & P staff.
 - b. The University encourages the informal resolution of all problems whenever possible before the filing of a grievance, and encourages open communication so that resorting to the formal grievance procedure normally will not be necessary. The failure to resolve a matter informally prior to the filing of a grievance shall not be an act or omission giving rise to a grievance and shall not operate to extend the time limits for processing the grievance.
 - c. The burden of proof shall be on the University in a grievance concerning reprimands, suspension, termination for cause, and other disciplinary actions. In all other grievances, the burden of proof shall be on the grievant.
 - d. The intent of this procedure is to provide a complete response to a grievance but not to encourage multiple processing of the same issue. Therefore, except as noted below, if prior to, or while seeking resolution of, a dispute under this procedure, a grievant seeks resolution of the matter in any other forum, administrative or judicial, the University shall have no obligation to entertain or to proceed further with the matter pursuant to this procedure. The grievant shall immediately notify the University in writing if he or she has sought resolution of the matter in any other forum. As an exception to this provision, a grievant may file an EEOC charge while the grievance is in process when such filing becomes necessary to meet federal filing deadlines pursuant to 42 U.S.C. § 2000e et seq. Further, since it is not intended that the grievance procedure be a device for appellate review, the response of the president or representative to a recommended order of a presiding officer acting pursuant to Chapter 120, FS., or to any other individual or group having appropriate jurisdiction in any other procedure shall not be an act or omission giving rise to a grievance under this procedure.

- e. A grievance shall be filed no later than twenty-five (25) days from the date following the act or omission giving rise to the grievance, or twenty-five (25) days from the date the grievant acquires knowledge, or could have reasonably been expected to have acquired knowledge, of the act or omission.
- f. All time limits contained in this rule may be extended by mutual agreement of the parties. Upon failure of the University or its representative to provide a decision within the time limits, the grievant may appeal to the next appropriate step. Upon the failure of the grievant or counsel to file an appeal within the time limits, the grievance shall be deemed to have been resolved at the prior step.
- g. A grievant whose substantial interests have been affected University action may file a petition for a hearing pursuant to and in accordance with Section 120.569, FS., unless a written grievance has been or is being filed under this procedure. Filing of a written grievance under this procedure constitutes a waiver of any right the grievant might otherwise have to request a hearing pursuant to Section 120.569, F.S.
- h. The written grievance shall be filed on a STEP ONE GRIEVANCE FORM - NON-UNIT FACULTY AND A & P STAFF, Form HR-G200 (10/26). Form HR-G200 (10/26) which is incorporated by reference, has been approved by the University President and is available upon request at the Office of Human Resources, 10501 FGCU Blvd. South, Fort Myers, FL 33965-6565. The grievance shall contain the following information: grievant's name: name and address of counsel, if any; specific provision(s) of BOG 5 and FGCU Regulations or other statute claimed to have been violated; a statement of the grievance, including the acts or omissions which are claimed to have given rise to the grievance; the date of such acts or omissions; remedy sought; signature of the grievant.

(2) Definitions.

- a. Days The term "days" shall mean calendar days. In the event that the time f(1)' taking an action falls on Saturday, Sunday or a state holiday, the action will be considered timely if it is accomplished by 5:00 p.m. on the following calendar day.
- b. Grievance - The term "grievance" shall mean a dispute concerning promotion, non-renewal and termination of employment contracts, discipline, salary, work assignment, annual evaluation, layoff and recall, and other rights accruing to grievants pursuant to BOG 5 and FGCU-PR5. The term "work assignment" does not include the reassignment or transfer to another campus of the University.
- c. Grievant - The term "grievant" shall mean a non-bargaining unit member or members of the University's faculty and Administrative and Professional staff

whose rights have been directly affected an act or omission of the University or representative, and who has timely filed a grievance.

- d. Grievance Officer The term "grievance officer" shall mean a University employee appointed to conduct the Step 1 meeting by the Vice President responsible for the division in which the grievant is employed.
- e. Technical Advisor. The term "technical advisor" shall mean a representative of the Office of Human Resources appointed to assist the grievant and the grievance officer in administrative duties and interpretation of policies and procedures.

(3) Step 1 Procedures.

- a. Upon receipt of the written grievance, the Vice President responsible for the division in which the grievant is employed shall appoint a University employee to serve as grievance officer. The Vice President may ask the Director of Human Resources to appoint a grievance technical advisor. The grievance officer and the technical advisor, if the grievance officer deems it necessary, shall within twenty-five (25) days following receipt of the grievance, meet with the grievant in informal conference(s) to establish the facts giving rise to the grievance.
- b. The grievance officer shall consult with the parties directly involved in the grievance and interview others in addition to the grievant and seek any other material as necessary in order to determine an appropriate resolution of the grievance. The investigation shall be as informal as possible, yet compatible with the interest of resolving the grievance in a timely manner.
- c. The grievance officer shall, within twenty-five (25) days following the conclusion of the investigation and informal conference(s) with the grievant, issue a written decision to the grievant giving reasons for the conclusions reached and attaching all documents presented at the Step 1 meeting. The grievance officer will provide a copy of the written decision with attachments to the respective divisional Vice President.

(4) Step 2 Procedures.

- a. If the grievant is dissatisfied with the decision in Step 1, and wishes to pursue the matter, the grievant shall send a letter to the President within twenty-five (25) days following receipt of the decision in Step 1 requesting a Step 2 review.
- b. The President may conduct the Step 2 review personally or may refer the grievance to the appropriate Vice President for a Step 2 review.
- c. The Step 2 review may be based solely on the Step 1 report or may include a meeting with the grievant as deemed necessary by the Step 2 reviewer.

- d. A written decision shall be furnished to the grievant within twenty-five (25) days following completion of the Step 2 review. The decision of the President or Vice President conducting the Step 2 review shall be final.
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Specific Authority:

240.227(1) FS

Law Implemented:

240.227(5)FS

History of Rule:

New April 17, 1997, Amended August 18, 1999

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