

NOTICE OF REGULATION REPEAL

April 14, 2008

DEPARTMENT OF EDUCATION

Division of Universities
University of North Florida

REGULATION TITLE:

University Complaint and Grievance Resolution for Non-Union Employees

REGULATION NO.:

4.0270R

SUMMARY:

The University Complaint and Grievance Resolution for Non-Union Employees is being repealed as a regulation and implemented as a policy. The revisions to the policy include the removal of the language regarding a special assistant for labor relations, since the University no longer employs a special assistant for labor relations. The policy also updates the review process as it relates to a Step 2 review and amends the Arbitration process to include a contract for arbitration which sets forth the arbitrator's compensation and the responsibilities of the parties for payment. The policy follows procedures set forth in the UFF-BOT collective bargaining agreement.

FULL TEXT:

The full text of the regulation being repealed is attached. To view the University policy being implemented go to the following link: http://www.unf.edu/unfinfo/policies-regs/Policies_Under_Review/policies_under_current_review_index.html

AUTHORITY:

Resolution of the Florida Board of Governors dated January 7, 2003; F.S. 1001.74, F.S. 1001.75 and relevant Collective Bargaining Agreements.

UNIVERSITY OFFICIAL INITIATING THE REGULATION REPEAL:

Sandra Cummings, Director, Human Resources

INDIVIDUAL TO BE CONTACTED REGARDING THE REGULATION REPEAL:

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Any comments regarding the repeal of the regulation must be sent in writing to the contact person on or before April 29, 2008, to receive full consideration.



Regulation Number	Subject	Effective Date	Revised Date
4.0270R	University Complaint and Grievance Resolution	02/01/06	
Responsible Division / Department: Administration & Finance / Human Resources			
<input checked="" type="checkbox"/> New Regulation	<input type="checkbox"/> Major Revision of Existing Regulation	<input type="checkbox"/> Minor/Technical Revision of Existing Regulation	<input type="checkbox"/> Reaffirmation of Existing Regulation

I. OBJECTIVE & PURPOSE

The purpose of this regulation is to establish and maintain a process which provides for the equitable resolution of complaints, misunderstandings, and issues for University employees not covered by a collective bargaining agreement.

II. STATEMENT OF REGULATION

The University is committed to resolving employee concerns through informal resolution whenever possible. The University encourages open communication between employees and their supervisors to address concerns. While most differences can be worked out amicably between the employee and his/her supervisor, it is important to have a formal process by which employees can seek to resolve what they consider to be unfair or inequitable application of University regulations, policies and procedures. However, before resulting to the formal process employees must meet with their supervisors to discuss and resolve issues that they believe have adversely affected their employment. Additionally, Human Resources must be consulted prior to an employee filing a complaint or grievance to ascertain whether it can assist in resolving a dispute between an employee and his/her supervisor and further to ensure that no violation of applicable University regulation, policy or process has occurred.

III. DEFINITIONS

A. Complaint – A complaint is an expression of dissatisfaction or concern related to a workplace situation. It does not apply to allegations of

discrimination or sexual harassment as other processes are available to address such issues.

B. Grievance - for the purpose of this regulation, a grievance is the allegation by an employee that:

- 1) A term(s) and/or condition(s) of his/her employment is unjust or inappropriate;
- 2) A University regulation, policy, or procedure has been:
 - a. wrongfully applied to him/her;
 - b. applied to him/her in a manner that violates the regulation, policy, or procedure; and/or
 - c. a disciplinary action is inappropriate.

C. Substantial Interest - A “substantial interest” means an act or omission involving termination, suspension, or other discipline for just cause, non-renewal of employment contract, salary and layoff.

IV. OVERVIEW OF PROCESS

A. Grievances. The grievance process applies to administrative, support, and Other Personnel Services (OPS) employees. It consists of up to a three steps, to which conditions and limited exceptions apply, as discussed below.

- 1) Step 1 - Informal resolution process
- 2) Step 2 – University Review
- 3) Step 3 – Arbitration

B. Time Limits. Are expressed in this regulation as calendar days. If a deadline falls on a Saturday, Sunday, or holiday, an action is considered timely if taken by the close of business on the next University business day. However, the stipulated timeframes are maximums, and every effort should be made to resolve grievances as soon as possible.

C. Limitations:

- 1) Employees shall not have the right to file grievances concerning the following:
 - a. Performance evaluations (unless it is alleged that the evaluation is based on factors other than performance)
 - b. Administrative leave
 - c. Voluntary reductions in pay
 - d. Voluntary demotions
 - e. Oral or written counseling

- f. Removal of pay additives
- g. Correction of overpayment
- h. Reduction of pay to the maximum of the pay range.

- 2) The following actions may not be grieved beyond the informal resolution process, as described below:
 - a. performance evaluations alleged to be based on factors other than performance
 - b. layoffs from established positions
 - c. non-disciplinary matters
 - d. reprimands
 - e. actions that do not involve a substantial interest
- 3). Except for employees without regular status and temporary administrative employees, a grievance filed by any employee for disciplinary actions that involve a suspension without pay, involuntary reduction in pay, involuntary demotion, or dismissal, or for other matters involving a substantial interest, may be processed after the waiver or completion of the informal resolution process to Step 1 review.
- 4). Employees without regular status may only file a grievance for non-disciplinary matters if they believe they have been directly affected by an act or omission of the University in applying any policy or regulation.
- 5) The following employees do not have a right to grieve termination:
 - a. Non-regular employees
 - b. Administrative employees when their appointment ends after they have received a written notice of non-reappointment or have received a written notice upon appointment that employment will cease on the date indicated with no further notice of cessation of employment required
 - c. Employees who voluntarily resign from employment with the University
- 6) Claims of illegal discrimination are to be filed in accordance with the University's policies/procedures on discrimination and will be processed through the University's Office of Equal Opportunity Programs. Any grievance or part of a grievance that makes allegations of discrimination or violation of the University's equal opportunity policies will not be processed under this procedure.
- 7) If the University fails to respond to a grievant in writing within the specified timeframe, either during the informal resolution process or Step 1 review process, the grievant is authorized to proceed without a

written response to the next step, unless the timeframe is extended or the grievant is barred from proceeding by the conditions of and/or exceptions to this procedure.

- 8) If a grievant fails to participate in the informal resolution process (unless a waiver of the process is approved) or fails to proceed to Step 2 within the specified timeframe, the grievance will be considered to be satisfactorily resolved and the outcome accepted by the employee.

V. COMPLAINT PROCESS

A. Resolution of a Complaint

- 1) Efforts to resolve a complaint shall be done in an informal manner between an employee and his/her immediate supervisor.
- 2) If the matter cannot be resolved between the employee and the immediate supervisor, the employee should take the complaint to the next higher level supervisor.
- 3) If the matter cannot be resolved with the next level supervisor, the employee should take the complaint to the department head.
- 4) The Director of Human Resources may be consulted at any point by the employee and/or any level supervisor to assist in the resolution of the complaint.

VI. GRIEVANCE PROCEDURE

A. Requirements for Filing a Grievance

- 1) A grievance must be filed in writing on the University Grievance Form and must be signed and dated by the grievant and submitted to the Office of Human Resources within 30 days after the date he/she becomes aware of the incident, act, or omission that is the basis for the grievance.
- 2) The grievance must contain a written statement must be a factual description that includes the following:
 - a. the incident, act, or omission that the grievant alleges is the basis for the grievance, including date(s) of occurrence;
 - b. which University regulation, policy, or procedure has been violated, if any;
 - c. names and contact information of witnesses or those who have direct knowledge of the alleged incident, act, or omission;
 - d. what the grievant is asking to resolve the matter or remedy the situation; and,

- e. if applicable, justification for the grievant's request to waive the mandatory informal resolution process.
- 3) Other documents that the grievant believes support the grievance may be attached.
- 4) If a grievant fails to file the grievance by the deadline, sign/date the University Grievance Form, and/or include all of the required information, the University will be under no obligation to process the grievance, and the grievant will be notified by Human Resources that the grievance will not be processed.

B. Step 1 - Informal Resolution Process

- 1) By filing a grievance at Step 1, the grievant agrees to participate in a mandatory 30-day informal resolution process, to be conducted in accordance with University guidelines, beginning with the date the grievance is filed in the Office of Human Resources. For non-unit Faculty the grievance shall be filed in the Office of Academic Affairs.
- 2) The Office of Human Resources or Academic Affairs representative will, within 3 days of receipt of the grievance:
 - a. Notify the administrative head of the grievant's department that the grievance has been accepted.
 - b. Provide him/her with a copy of the grievant's completed grievance form and all attached documents.
 - c. Monitor the timeframes for the informal resolution process, or any extension thereof.
 - d. Provide guidance and assistance, as requested, during the informal resolution process.
- 3) The administrative head of the grievant's department will work collaboratively with the Human Resources or Academic Affairs representative to determine the participant(s) in the informal resolution process, typically those with knowledge of the situation and who have the authority to resolve the grievance.
- 4) The Office of Human Resources or Academic Affairs representative will:
 - a. facilitate the informal resolution process;
 - b. prepare a report of the outcome of the informal resolution process and attach it to the grievant's form;
 - c. sign/date the grievance report and the Grievance Form in the designated section and obtain the grievant's signature in the appropriate section;

- d. submit the signed/dated grievance form and report to Human Resources by the end of the informal resolution process, or extension thereof.
- 5) Conditions of and/or exceptions to the informal resolution process are as follows:
- a. The grievant may request a waiver of the process from Human Resources when filing the grievance at Step 1. The grievant must provide on the grievance form an explanation of the reasons or extenuating circumstances to justify the request.
 - b. For matters involving a substantial interest, the informal resolution process will be waived by Human Resources, without the grievant's request or consent, when determined to be in the best interest of the University.
 - c. The 30-day informal resolution process may be extended by mutual written agreement between the grievant and Human Resources. The written agreement will include any stipulations pertaining to the extension.
 - d. Under certain circumstances, an indefinite extension of the informal resolution process may be mutually agreed upon.
- 6) If the grievance is eligible for Step 2 review, as specified above, the grievance will proceed directly to the Step 2 review if one or more of the following occurs:
- a. The informal resolution process is waived.
 - b. The grievant is not satisfied with the outcome of the informal resolution process at the end of the period or extension thereof.

C. Step 2 – University Review

- 1) The Special Assistant for Labor Relations (Step 2 Representative) will meet with the grievant within 14 days after either:
 - a. Human Resources or Academic Affairs waives the informal resolution process, or
 - b. The end of the informal resolution process or extension thereof.
- 2) At the Step 2 University Review meeting, the grievant may present additional information or documents for consideration by the Step 2 Representative. The Step 2 Representative may review and/or use any additional records of the University that may be pertinent to the grievance.
- 3) The Step 2 Representative must issue a written decision to the grievant within 30 days after the Step 2 University Review meeting, unless an extension of the deadline is mutually agreed upon. The Step 2

Representative must sign/date the grievant's grievance form and attach the written decision and a copy of all documents used in reaching the decision. This decision should, at a minimum:

- a. Explain the reasons for the decision.
 - b. Reference any documents used in the Step 2 review.
 - c. Describe what actions are or are not to be taken by the University and/or employee.
- 4) If the grievant is not satisfied with the Step 2 decision and the grievance is eligible for further review, as specified above, he/she may proceed to Step 3 (Administrative Review) within 14 days after receiving the written Step 2 decision.

D. Step 3 – Arbitration

- 1) The grievant's election to proceed to arbitration constitutes a waiver of any of the procedures, rights, and/or remedies that may be available in any other process.
- 2) It is the grievant's responsibility to file for arbitration in accordance with this procedure, as described below. If a grievant fails to file a request for arbitration on the University Request for Arbitration Form to proceed to Step 3 by the deadline, sign/date the form, and/or include all the information required, the University will be under no further obligation to process the request and will notify the grievant of the reasons why the arbitration will not be conducted.
- 3) A grievant may request an arbitration hearing by submitting the request in writing to the Office of the General Counsel, with a copy to Human Resources, within 14 days after receipt of the written Step 2 decision. The grievant must sign/date the University Grievance Form in the designated section and attach the following:
 - a. A copy of the Step 2 decision
 - b. A copy of all documents associated with the Step 2 grievance
 - c. If applicable, a list of the regulations, policies, and/or procedures the grievant believes may have been misapplied in the Step 2 decision
 - d. A description of the basis for challenging the Step 2 decision
- 4) The grievant may also provide any additional documents that he/she believes support the request.
- 5) The parties shall meet within fourteen (14) days after receipt of the executed Request for Arbitration Form for the purpose of selecting an arbitrator from the University's arbitration panel.

- 6) Selection shall be by mutual agreement or by alternately striking names from the Arbitration Panel list until one name remains. The right of the first choice to strike from the list shall be determined by the flip of a coin.
- 7) The parties may mutually select as the arbitrator an individual who is not a member of the Arbitration Panel rather than utilizing the procedures in paragraph six (6).
- 8) The Office of the General Counsel will coordinate the arbitration date, time, and place with the arbitrator.
- 9) In any non-disciplinary matter, or in any non-disciplinary aspect of a case involving multiple issues, the grievant has the burden of proof. In any disciplinary matter, or in any disciplinary aspect of a case involving multiple issues, the University has the burden of proof.
- 10) The arbitrator's authority is to determine whether the University had just cause to impose the disputed discipline. For disputes not involving discipline, whether the action was appropriately taken by the University.
- 11) The arbitration will be conducted under the Florida Rules of Civil Procedure to govern the arbitration.
- 12) The arbitrator's decision is binding. Neither party may appeal the arbitrator's decision except in accordance with Florida law.
- 13) In the event a grievant is represented by any employee representative entity, the University and that entity will equally bear any fees and/or costs for the arbitration.
- 14) In all other cases, the losing side will bear any such fees and/or costs.

References: 1001.74, FS.; 1001.75, FS. and relevant Collective Bargaining Agreements

*History: NEW 2-1-06; Repealed 6C9-4. Adopted by the University of North Florida Board of Trustees as part of the University's Personnel Program on January 26, 2006. **Repealed** _____ (adopted as a **Policy**).*