

NOTICE OF PROPOSED REGULATION AMENDMENT

Date: September 18, 2020

REGULATION TITLE:

Grievance Procedure for Non-Unit Faculty Employees

REGULATION NO.:

UCF-3.036

SUMMARY OF REGULATION AMENDMENT: This regulation, which provides for a grievance procedure for non-unit faculty employees, is amended to clarify that the grievance procedure is not to be used for Title IX Sexual Harassment appeals under the Title IX Grievance Policy. The reason for this change is that the Title IX Grievance Policy includes a detailed appeal procedure. The definition of “grievance” has been updated to clarify which grievance procedure should be followed based on the type of grievance, to exclude Title IX Grievance Policy appeals from the definition, and to remove restrictions that previously meant that employees could not use this procedure for grievances related to discipline.

AUTHORITY: BOG Regulation 1.001

NAME OF PERSONS WHO INITIATED PROPOSED REGULATION AMENDMENT:

Maureen Binder, Associate Vice President and Chief HR Officer

COMMENTS CONCERNING THE PROPOSED REGULATION AMENDMENT SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW. The comments must identify the regulation you are commenting on.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION AMENDMENT IS:

Regulations Administrator
4365 Andromeda Loop N.
Millican Hall, Suite 360
Orlando, FL 32816-0015
Phone: (407) 823-2482
e-mail: regulations@ucf.edu

FULL TEXT OF THE PROPOSED REGULATION AMENDMENT:

UCF-3.036 Grievance Procedure for Non-Unit Faculty Employees.

(1) The purpose of this procedure is to promote prompt and efficient investigation and resolution of grievances filed by non-unit faculty employees of the University.

- (a) All problems and concerns should be resolved, whenever possible, before the filing of a grievance, and open communication is encouraged so that a formal grievance will not be necessary. Informal resolution of grievances is

encouraged, and may be continued throughout the grievance process.

- (b) The burden of proof shall be on the University in a grievance alleging violation of any University Regulation requiring that the University have just cause to discipline the grieving employee (see University Regulation UCF-3.0124). In all other grievances, the burden of proof shall be on the grievant.
- (c) An employee who receives written notice of nonrenewal may only grieve the decision because of an alleged violation of a specific University regulation or because of an alleged violation of law.

(2) Resort to Other Procedures. It is the intent of this procedure to provide a complete response to a grievance but not to encourage multiple processing of the same matter. Therefore, if, prior to seeking resolution of a dispute by filing a grievance under this regulation, or while the grievance proceeding is in progress, a grievant seeks resolution of the matter in any other forum, administrative or judicial, the University has no obligation to proceed further with the matter pursuant to this grievance procedure. It is not intended that the grievance procedure be a device for appellate review. The University shall not entertain a grievance based upon the same issue adjudicated in another forum. Nor is it the intent of this procedure to serve as a route of appeal in relation to a Title IX Sexual Harassment matter under the University's Title IX Grievance Policy, UCF Policy 2-012; therefore, this procedure is not available as a mechanism to challenge a determination in a Title IX Sexual Harassment live hearing proceeding.

(3) Time limits. All time limits contained in this regulation may be extended either upon approval by the Office of Contract Compliance and Administrator Support or by mutual written agreement of the University and the grievant. Upon failure of the University or its representatives to provide a decision within the time limits provided in this regulation or any extension thereof, the grievant may appeal to the next appropriate step. Upon the failure of the grievant or representative to file an appeal within the time limits provided in this regulation or any extension thereof, the grievance shall be deemed to have been resolved at the prior step.

(4) Definitions.

- (a) The term “grievance” shall mean a dispute concerning the interpretation or application of a university or State Board of Governors’ regulation or policy,

except that an employee shall not have the right to file a grievance under the provisions of this regulation concerning ~~discrimination~~ alleged violations of Regulation 3.001 (Non-Discrimination; Affirmative Action Programs) and/or Policy 2-004 (Prohibition of Discrimination, Harassment and Related Interpersonal Violence), the Uniformed Services Employment and Reemployment Rights Act (USERRA), or the Family and Medical Leave Act (FMLA). The provisions of University Regulation 3.0134 apply to ~~allegations of discrimination~~ alleged violations of Regulation 3.001 (Non-Discrimination; Affirmative Action Programs) and/or Policy 2-004 (Prohibition of Discrimination, Harassment and Related Interpersonal Violence), and the employee will be expected to ~~pursue a discrimination grievance under that procedure~~ follow the procedures therein or, as applicable, the procedures of the University Title IX Grievance Policy, UCF Policy 2-012. With respect to alleged violations of USERRA or FMLA, the employee must present the allegations in writing to Human Resources where such allegations will be subsequently investigated by Human Resources or by other university offices as may be deemed appropriate by Human Resources. The term “grievance” shall not include any appeal under the University’s Title IX Grievance Policy, UCF 2-012, including any appeal of the determination and/or sanction following a Title IX Sexual Harassment live hearing. ~~The term “grievance” shall not include the appeal of or a dispute concerning a dismissal of a Title IX Sexual Harassment complaint or the decision-maker's sanction and/or determination following a Title IX Sexual Harassment live hearing under the University’s Title IX Grievance Policy, UCF Policy 2-012.~~

- (b) The term “days” shall mean calendar days. In the event an action falls due on Saturday, Sunday, university holiday, or a day on which the university is administratively closed, the action will be considered timely if it is accomplished by 5:00 p.m. on the following business day.
- (c) The term “grievant” shall mean a non-unit faculty employee who has been directly affected by an act or omission and who has filed a grievance. The term “grievant” shall not mean a former employee, except that a terminated employee may present a grievance within the time limit set forth below

following ~~his or her~~their notice of termination.

(d) The term “Vice President” shall mean the University of Central Florida Vice President of the division in which the grievant is employed or the President in the case of the President’s Division.

(e) The term “counsel” shall mean an attorney or lay advisor.

(5) Step One Procedures.

(a) If informal resolution is not successful, the grievant may initiate a grievance by filing the form below with the Office of Contract Compliance and Administrator Support.

(b) A Step One written grievance shall be filed no later than 28 days from the date following the act or omission giving rise to the grievance, or 28 days from the date the grievant acquires knowledge, or could have reasonably been expected to have acquired knowledge, of the act or omission.

(c) The grievance will be investigated by a Step One Reviewer appointed by the Vice President. If the act or omission on which the grievance is based is alleged to have been made personally by the grievant’s Vice President, the grievance must be initiated at Step Two.

(d) The Step One Reviewer shall meet with the grievant and the grievant’s counsel, and others, as appropriate, in order to fully investigate the grievance. The Office of Contract Compliance and Administrator Support will be available to assist. The Step One Reviewer shall provide a written decision within 42 days after meeting with the grievant.

NON-UNIT FACULTY GRIEVANCE FORM

Deliver to the Office of Contract Compliance and Administrator Support MH 338

This grievance was received on _____ (date) by _____

and was delivered by (check one)

certified or registered, restricted delivery, return receipt requested mail;

personal delivery

GRIEVANT NAME: _____ DATE: _____

DIVISION: _____

DEPARTMENT: _____

HOME ADDRESS: _____

HOME PHONE: _____

CAMPUS AND EMAIL ADDRESS: _____

CAMPUS PHONE: _____

University Policy or Regulation Violated:

Statement of grievance including date of act(s) or omission(s) complained of:

Remedy Sought:

I will be represented in this grievance by: (check one)

Myself * Legal Counsel Other, specify _____.

I understand that this grievance will not be processed if the act(s) or omission(s) complained of herein are, or become, the subject of any other administrative or judicial proceeding.

Signature of Grievant

* Please provide name, phone, and email address for Legal Counsel:

(6) Step Two Procedures.

- (a) A grievant who considers the Step One decision unsatisfactory may seek review of the response by filing the written grievance and decision, along with a written statement of the reason(s) that the grievant believes the response is incorrect, with the Office of Contract Compliance and Administrator Support. This filing must occur within fourteen days after receiving the Step One decision.
- (b) The grievance will be investigated by a Step Two Reviewer appointed by the President or designee.
- (c) The Step Two Reviewer shall meet with the grievant and the grievant's counsel, and others, as appropriate, in order to fully investigate the grievance. The Step Two Reviewer should issue a written decision within 42 days after meeting with the grievant. The Step Two Reviewer's decision shall be final.

(7) Any grievance meeting shall be informal and shall not be in the nature of an evidentiary hearing. While either party may present information, the rules of evidence shall not apply, and discovery, cross-examination, and similar legal procedures are not permissible. The decision of the grievance reviewers must be based on information presented in the grievance process.

(8) Once a grievance is filed, no revisions or additions to the grievance are permitted in later steps.

Authority: BOG Regulation 1.001. History—New 4-30-81, Amended 12-27-83, Formerly 6C7-3.132, Amended 3-16-03, 10-18-05; Formerly 6C7-3.0132, Amended 8-10-09, 5-2-16, 2-20-17, _____-20.