

NOTICE OF TECHNICAL CHANGE

Date: February 12, 2010

REGULATION TITLE:

University Grievance Procedures for Technical, Executive,
Administrative, and Managerial Support Staff: General Information,
Resort to Other Procedures, Time Limits, Procedures, and Arbitration Appeal

REGULATION NO.:

UF-3.051

SUMMARY: The changes to this regulation are technical in nature and do not include any substantive changes that are required to be approved by the Board of Trustees.

AUTHORITY: BOG Regulation 1.001

THE FULL TEXT OF THE PROPOSED REGULATION IS ATTACHED TO THIS NOTICE.

REGULATIONS~~RULES~~ OF THE
UNIVERSITY OF FLORIDA

~~6C1-3.051 Finance and Administration;~~ University Grievance Procedures for Technical, Executive, Administrative, and Managerial Support Staff: General Information, Resort to Other Procedures, Time Limits, Procedures, and Arbitration Appeal.

(1) General Information.

(a) The purpose of this regulation~~rule~~ is to promote a prompt and efficient procedure for the investigation and resolution of grievances filed by Technical, Executive, Administrative, and Managerial Support (TEAMS) staff members of the University. Informal resolution of complaints and concerns is encouraged. An employee should promptly pursue informal resolution before filing a grievance.

(b) The term "grievance" shall mean an allegation filed by the TEAMS employee that any condition, act, or omission of the University directly affecting the employee's terms and conditions of employment is unjust, inequitable, or creates a problem. The grievance may also allege that the University failed to comply with the University grievance procedure and request specific action.

(c) An employee shall not have the right to file a grievance or reweigh management decisions concerning evaluations of performance, salary increase decisions, or similar administrative decisions made under the regulations~~rules~~ of the University, unless the action was taken without proper authority.

(d) In case of non-disciplinary action, the burden of proof shall be on the grievant. In case of disciplinary action, the burden of proof shall be on the University.

(e) Definitions.

1. The term "grievant" shall mean a TEAMS employee who has been directly affected by an act or omission of the University and who has filed a grievance.

2. The term "grievance officer" shall mean ~~a Division of Human Resources~~ [Services](#) representative appointed to conduct the Step 1 meeting.

(2) Grievances Arising from Dismissals or Suspensions for Just Cause. When a written notice of dismissal or suspension for "just cause" as defined in [University of Florida Regulation ~~Rule 6C1-3.046, F.A.C.~~](#) has been issued, the automatic review procedure by the Dean or Director and by the Vice President prescribed in [University of Florida Regulation ~~Rule 6C1-3.046, F.A.C.~~](#), substitutes for the grievance review process. The outcome of that review constitutes the final University decision on the dismissal or suspension. If the Vice President upholds a decision to dismiss or suspend, the employee shall have the right to appeal to an arbitrator as prescribed in subsection (8) below.

(3) Grievances Not Arising from Dismissals or Suspensions for Just Cause.

(a) These grievances shall be reviewed using the Step 1 and Step 2 procedures prescribed in subsections (6) and (7) below. The decisions of the grievance officer in the Step 1 procedure and, if requested, the Vice President in the Step 2 procedure, shall constitute the final resolution of the grievance, except when the grievance concerns the employee's separation, layoff, demotion with reduction in pay, job abandonment, relocation, provided that the employee has not signed a statement indicating the action was voluntary, and the employee has timely filed an appeal to an arbitrator as set forth in paragraph (3)(b) ~~below of this rule.~~

(b) If the grievance concerns the employee's separation, layoff, demotion with reduction in pay, job abandonment, relocation, the employee shall have the right to appeal to an

arbitrator as prescribed in subsection (8) below after written decisions from the Step 1 and Step 2 meetings have been rendered. An employee whose position is classified to a lower class shall have the right to appeal only the reduction in pay, if any, that has occurred as a result of the demotion appointment.

(4) Resort to Other Procedures.

(a) It is the intent of this procedure to provide a complete response to a grievance, but not to encourage multiple processings of the same issue. Therefore, the University shall not entertain under this [regulation](#)~~rule~~ a grievance based upon the same issue(s) adjudicated pursuant to another University [regulation](#)~~rule~~ or in another forum, whether administrative or judicial. If, prior to the conclusion of the procedures described in this [regulation](#)~~rule~~, a grievant seeks resolution of the matter in any other forum, whether administrative or judicial, the University shall have no obligation to entertain or proceed further with the matter pursuant to this [regulation](#)~~rule~~.

(b) The University's response to other individuals or groups having appropriate jurisdiction in any other procedure shall not be an act or omission giving rise to a grievance under this procedure.

(c) Grievances alleging discrimination shall be filed in accordance with the provisions contained in [University of Florida Regulation](#) ~~Rule 6C1-1.0063, F.A.C.~~

(d) A grievant who complains of matters that affect his or her substantial interest may file a petition for a hearing pursuant to and in accordance with Sections 120.569 and 120.57, [Fla. Stat.](#) unless a written grievance or arbitration appeal has been or is being filed under subsection (6) or (8) of this [regulation](#)~~rule~~. The filing of a written grievance under subsection (6) ~~below of this rule~~ or a request for an arbitration appeal of dismissal or suspension under subsection (8)

~~below of this rule~~ constitutes a WAIVER of any right the grievant might otherwise have to request a proceeding under Chapter 120, Fla. Stat., including Sections 120.569 and 120.57, Fla. Stat.

(5) Time Limits.

(a) A grievance shall be filed no later than ten (10) working days from the date following the act or omission giving rise to the grievance, or ten (10) working days from the date the grievant acquires knowledge, or could have reasonably been expected to have acquired knowledge, of the act or omission. Failure by the employee to file a grievance within the time limits prescribed shall be deemed a waiver of the employee's right to the grievance procedure.

(b) All time limits contained in this ~~regulation rule~~ may be extended by mutual written agreement of the parties.

(c) Upon the failure of the grievant to file an appeal within the time limits provided in this ~~regulation rule~~ or any extension thereof, the grievance shall be deemed to have been resolved at the prior step.

(6) Step 1 Procedures.

(a) A Step 1 grievance shall be initiated by filing with the ~~Vice President for Director of Division of~~ Human Resources ~~Services (DHR)~~ a completed form entitled "Step One Grievance for TEAMS Staff." ~~DHR will provide a copy of the completed form to the Vice President for Human Resources.~~

(b) Upon receipt of the written grievance, the ~~Vice President for Human Resource Services Director of DHR~~ or designee shall inform the Dean or Director responsible for the college, major budgetary unit or administrative unit in which the grievant is employed of the complaint. The ~~Vice President for Human Resource Services Director of DHR~~ or designee shall

assign a ~~DHR~~ representative to investigate the grievance as the grievance officer. Within fifteen (15) working days following receipt of the grievance by the [Vice President for Human Resource Services](#)~~Director of DHR~~, 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 necessary in order to determine an appropriate resolution of the grievance. The grievance officer shall, within ten (10) working 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 [Vice President for Human Resource Sources](#)~~Director of DHR~~, the Dean or Director, and the Vice President responsible for the college, major budgetary unit, or administrative unit in which the grievant is employed.

(7) Step 2 Procedures.

(a) If the grievant is dissatisfied with the decision in Step 1 and wishes to pursue the matter, the grievant shall file within ten (10) working days with the [Vice President for Human Resource Services](#)~~Director of DHR~~ a completed form entitled "Step Two Grievance for TEAMS Staff." ~~DHR will provide a copy of the completed form to the Vice President for Human Resources.~~

(b) The [Vice President for Resource Services](#)~~Director of DHR~~ shall forward a copy of the form to the Vice President responsible for the college, major budgetary unit, or administrative unit in which the grievant is employed. The Vice President or ~~the Vice President's~~ designee will conduct a Step 2 review.

(c) The Step 2 review will be based solely on the Step 1 report or also include a

meeting with the grievant if insufficient information is obtained from the grievant at Step 1. A written decision shall be furnished to the grievant within fifteen (15) days following completion of the review by the Vice President or designee.

(8) Arbitration Appeal Procedures.

(a) Request for Processing.

1. If a grievant is dissatisfied with the decision in Step 2, and if the grievant is entitled to appeal to an arbitrator pursuant to the provisions of subsection (3) ~~above of this rule~~, and if the grievant wishes to pursue the matter, the grievant shall, within ten (10) working days after receipt of the Step 2 decision, file with the [Vice President for Human Resource Services](#) ~~Director of DHR~~ a completed Arbitration Request Form. If a TEAMS employee is entitled to appeal to an arbitrator pursuant to the provisions of subsection (2) ~~above of this rule~~, and wishes to appeal dismissal or suspension for just cause, the employee shall within ten (10) working days after receipt of the Vice President's written decision under subparagraph ~~6C1-~~ 3.046(2)(a)5, [UF Reg F.A.C.](#), file with the [Vice President for Human Resource Services](#) ~~Director of DHR~~ a completed Arbitration Request Form. The Arbitration Request Form is ~~incorporated by reference and is~~ entitled Arbitration Request Form, Form arb-req Rev. 2/04, and can be obtained from the [Vice President for Human Resource Services](#) ~~Director of DHR~~, [903 West University Avenue](#) ~~432A Stadium~~, Post Office Box 115003, Gainesville, Florida 32611. A copy of the form must also be filed with the President or designee and the employee's immediate supervisor.

2. Failure to initiate an arbitration request within the time limits prescribed shall be deemed a waiver of the right to arbitration. In the event of a question regarding timeliness of any notice, the date of receipt if transmitted in person, or the postmark if transmitted by mail, shall be determinative.

3. After the Request for Arbitration has been received, the [Vice President for Human Resource Services](#)~~Director of DHR~~ or designee will determine whether the request has been filed in accordance with the provisions of this section and shall notify the employee or his or her representative, the Dean or Director, and the Vice President responsible for the college, major budgetary unit, or administrative unit in which the grievant is employed of this determination. Additionally, the employee will be mailed a copy of this [regulation](#)~~rule~~.

4. The Vice President responsible for the college, major budgetary unit or administrative unit in which the grievant is employed, or the Vice President's designee, shall serve as the University representative in the arbitration.

5. The [Vice President for Human Resource Services](#)~~Director of DHR~~ or designee shall select an arbitrator on a rotational basis from an odd-numbered panel of at least seven [\(7\)](#) arbitrators maintained by the University and shall notify the University representative and the employee or his or her representative of the arbitrator selected. If the parties do not agree on the arbitrator selected, the selection shall be made by alternately striking names from the panel. The right of first strike shall be determined by a coin toss. The employee will receive notice of the identity of the arbitrator selected and may request disqualification of the arbitrator based on cause within five (5) days of receipt of the notice. Cause is present when it appears the arbitrator was chosen through corruption, fraud, or other undue means.

6. When an action is both appealable under this [regulation](#)~~rule~~ and grievable under a collective bargaining agreement, the employee shall have the option of using either procedure. The filing of the arbitration request form constitutes a waiver of any rights to review of the matter under an applicable collective bargaining agreement, Sections 120.57 and 120.569, [Fla. Stat.](#), or other University review procedures. If the employee seeks a review of a matter in an

alternative forum after requesting arbitration under this ~~regulation~~ ~~rule~~ or fails to appear at the scheduled arbitration hearing, the University shall have no obligation to proceed further.

(b) Fees and Expenses.

1. All reasonable fees and expenses for the arbitrator will be paid by the University.
2. The party desiring a transcript of the arbitration proceedings shall provide written notice to the other party of its intention to have a transcript of the arbitration made at least one (1) week prior to the date of the arbitration and shall be responsible for scheduling a reporter to record the proceedings. The parties shall share equally the appearance fee of the reporter and the cost of obtaining an original transcript and one (1) copy for the party originally requesting a transcript of the proceeding. The requesting party shall, at its expense, photocopy the copy of the transcript received from the reporter and deliver the photocopy to the other party within five (5) calendar days after receiving the copy of the transcript from the reporter.

(c) If the employee elects to be represented, the employee must deliver or send to the Vice President for Human Resource Services ~~Director of DHR~~ within five (5) working days after filing a Request for Arbitration, a written statement indicating the name, address, telephone number and qualifications of the representative and confirming that the employee as well as the representative will be present during the arbitration hearing, and that the employee agrees to this representation. The employee may self represent or be represented. Notwithstanding the foregoing, if the employee seeks to be represented by an employee organization, then the employee must follow the grievance procedures of the applicable collective bargaining agreement.

(d) If the aggrieved employee participates during working hours in the arbitration, the employee's compensation will not be affected by the time spent at the arbitration hearing. The

employee must notify the immediate supervisor seven (7) days in advance of the anticipated absence. An employee will not be permitted to prepare the case during working hours.

(e) Hearing.

1. The arbitrator shall hold the hearing in the City of Gainesville, unless otherwise agreed by the parties. The hearing shall commence within thirty (30) working days of the arbitrator's acceptance of selection, or as soon thereafter as is practicable. Arbitration proceedings shall be conducted in accordance with this [regulation](#)~~rule~~, supplemented by the Labor Arbitration Rules, published by the American Arbitration Association, as Amended and Effective on [August 1, 2007](#)~~December 1, 2002~~.

2. Within thirty (30) working days, the arbitrator shall issue to the University and the employee a written order which may affirm, reverse, or alter the decision of the University.

3. The employee and the University agree that the decision of the arbitrator shall be final and binding on both parties. No judicial review of the arbitration order is available except as provided by Chapter 682, [Fla. Stat.](#)

(f) Authority of the Arbitrator.

1. The arbitrator shall neither add to, subtract from, modify, or alter the provisions of University [regulations](#)~~rules~~, policies, or procedures, or an applicable collective bargaining agreement. Arbitration shall be confined solely to the application and/or interpretation of those provisions and limited to the matters in the Request for Arbitration Form submitted for arbitration. No statements of opinion or conclusions not essential to the determination of the matters submitted shall be permitted. The arbitrator shall not review managerial decisions other than to ensure that such actions are in accordance with the applicable procedures under review. In the case of suspension, dismissal, and reduction in pay taken as a disciplinary action, the

arbitrator shall determine whether there is just cause for such action.

2. Where an administrator has made a judgment involving the exercise of discretion, such as decisions regarding non-reappointment, assignment, or severity of disciplinary action, the arbitrator shall not substitute the arbitrator's judgment for that of the administrator. Nor shall the arbitrator review such decision except for the purpose of determining whether the decision has violated these [regulations](#)~~rules~~.

3. The burden of proof shall be on the employee in layoff, demotion, reduction in pay, and relocation actions when not taken as a disciplinary action and in job abandonment. The burden of proof shall be on the employer in suspension, dismissal, demotion, and reductions in pay when taken as disciplinary actions.

4. The arbitrator's order and award may reinstate an employee, with or without back pay. The back pay award shall not exceed the amount of pay the employee would otherwise have earned at the employee's regular rate of pay and shall not be retroactive to a date earlier than the date of the occurrence of the event giving rise to the action at issue. In no situation will the award exceed the actual loss to the employee or provide attorney fees to either party.

5. The arbitrator may not award other monetary damages or penalties.

6. The arbitrator may reduce a dismissal to a suspension for such time as the arbitrator may fix, or reduce the period of suspension, which order shall be binding on the University and employee concerned.

(g) Arbitrability. Issues of arbitrability shall be bifurcated from the substantive issue(s) and, whenever possible, determined by means of a hearing conducted by conference call. The arbitrator shall have ten (10) days from the hearing to render a decision on arbitrability. If the issue is judged to be arbitrable, an arbitrator shall then be selected to hear the substantive

issues, in accordance with the provisions of paragraph (7)(e) above.

STEP ONE GRIEVANCE FOR TEAMS STAFF

DATE: _____

NAME: _____

DIVISION: _____

CAMPUS ADDRESS: _____

DEPARTMENT: _____

CAMPUS PHONE: _____

HOME ADDRESS: _____

HOME PHONE: _____

University ~~Rule(s) or~~ Regulation(s) Allegedly Violated:

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

Statement of remedy sought:

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.

I understand that Step 1 of the TEAMS grievance procedure is an informal and non-legalistic step.

Its purpose is to establish the facts giving rise to my grievance. I understand that it is my responsibility to present information in my behalf personally without representation. I am also aware that the principals in the Step 1 meeting, if held, in addition to myself will be the University Administrator assigned by the Dean or Director responsible for my unit to address my grievance and a Representative of ~~the Division of~~ Human Resources Services.

I understand and agree that by filing this grievance, I voluntarily and knowingly waive any rights I might otherwise have to file a request for a proceeding under Sections 120.569 and 120.57, Fla. Stat. I understand that I have twenty-one (21) days from the date of the University's final decision to file a proceeding under Sections 120.569 and 120.57, Fla. Stat. regarding my substantial interest(s).

This grievance was filed with the Vice President for ~~Director of the Division of~~ Human Resources Services on the _____ day of _____, 20____. The following method of delivery was utilized:

() Certified or Registered Mail, with restricted delivery to the Vice President,~~Director, Division of~~ Human Resources Services, and return receipt requested.

() Personal delivery to the office of the Vice President~~Director, Division of~~ Human Resources Services

Signature of Grievant

Date Received: _____

Vice President~~Director, Division of~~ Human Resources Services

xc: Department Chair/Unit Supervisor or Director

STEP TWO GRIEVANCE FOR TEAMS STAFF

DATE: _____

NAME: _____

DIVISION: _____

CAMPUS ADDRESS: _____

DEPARTMENT: _____

CAMPUS PHONE: _____

HOME ADDRESS: _____

HOME PHONE: _____

University ~~Rule(s) or~~ Regulation(s) Allegedly Violated:

Statement of appeal to Step 2:

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.

This grievance was filed with the Vice President~~Director of the Division of~~ for Human Resources Services on the ____ day of _____, 20____. The following method of delivery was utilized:

() Certified or Registered Mail, with restricted delivery to the Vice President~~Director, Division of~~ Human Resources Services, and return receipt requested.

() Personal delivery to the office of the Vice President~~Director, Division of~~ Human Resources Services

Signature of Grievant

Date Received: _____

Vice President~~Director, Division of~~ Human Resources Services

xc: Department Chair/Unit Supervisor or Director

~~Specific~~ Authority: BOG Regulation 1.001-1001.74(4) FS.

~~Law Implemented 1001.74(19), 1001.75(3) FS.~~

History--New 2-23-82, Formerly 6Cl-3.34, Amended 3-6-85, Formerly 6Cl-3.51, Amended 2-9-87, 5-18-92, 10-31-99, 3-2-03, 5-30-04, 7-19-05, [Formerly 6Cl-3.051, Amended](#).