

USF System USF USFSP USFSM

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Title: Faculty Grievances
Responsible Office: Administrative Services/Human Resources

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(1) Faculty grievances.

(a) Faculty members may file grievances in accordance with this Regulation if they believe that:

1. A term or condition of employment is unjust;
2. A Regulation, Policy or Procedure has been wrongfully applied to them;
3. A Regulation, Policy or Procedure has been applied to them in a manner that violates the Regulation, Policy or Procedure;
4. A disciplinary action, including reprimand, is inappropriate; or
5. They have been wrongly denied permission to pursue outside activities or political office.

(b) Performance evaluations cannot be grieved under this Regulation unless the faculty member believes the evaluation is based on factors other than performance. Grievances on the basis of performance, layoffs, and non-disciplinary matters may be grieved only to the chief academic officer of the faculty member's campus or USF Health, as appropriate.

(c) Administrative leave with pay or pending investigation, voluntary reductions in pay, or oral or written counseling are not disciplinary actions and may not be grieved.

(d) Claims of illegal discrimination are to be filed with the Office of Diversity and Equal Opportunity of the USF System and any grievance or part of a grievance that makes such claims will not be processed as grievances under this Regulation.

(2) The USF System is committed to open communication between faculty and supervisors to address concerns through Informal Resolution before a grievance is necessary.

(3) At any and all stages of the grievance process, grievants may choose to represent themselves, or may designate any person to assist or represent them.

(4) To maintain their rights, faculty members attempting to resolve a grievance informally must file a written Step 1 grievance by the deadline (as specified in Section (8) of this Regulation). By filing a Step 1 grievance, a faculty member consents to a thirty (30) day Informal Resolution period to be conducted in accordance with requirements of the USF System.

(5) The initial thirty (30) day Informal Resolution period may be extended for a specific period of time by mutual written agreement between the Grievant and the USF System. This agreement will specifically state any deadline(s) to submit documents or information required for processing the grievance. In the appropriate circumstances, the parties may agree to an indefinite extension of the Informal Resolution period.

(6) The USF System must engage in Informal Resolution unless the Grievant specifically requests a Step 1 meeting, which the grievant must do in writing.

(7) In accordance with this Regulation, a grievance filed by any faculty member that involves any disciplinary action may proceed after Step 1 to arbitration.

(8) Grievance Process: Step 1

(a) An employee must file a Step 1 grievance by the close of regular business hours no more than thirty (30) calendar days after the act or omission which the faculty member knows or should have known constitutes the basis for an alleged violation or upon receiving the written notice of disciplinary action. The faculty member must file the Step 1 grievance form with the chief academic officer of the faculty member's campus or USF Health, as appropriate.

(b) The Step 1 grievance must be in writing, signed by the Grievant, and contain the following information:

1. Name of the Grievant, and the name and address of the Grievant's representative, if any;
2. Statement specifying which Regulations, Policies or Procedures the employee believes were violated;
3. A brief factual narrative of the act(s) or omission(s) which the Grievant alleges led to the violation and the date(s) on which the violation occurred;
4. The names (including contact information) of any witnesses; and
5. A statement identifying what the employee is seeking to resolve the matter.

A Grievant may also provide any documents that he/she believes support their grievance, and they are encouraged to do so.

(c) It is the Grievant's obligation to file the Step 1 grievance in accordance with this Regulation. If he or she fails to file the Step 1 grievance by the deadline, to sign the Step 1 grievance document, or to include all of the information required in a Step 1 grievance document, the Grievant has no right to further processing of the Step 1 grievance. The USF System will be under no further obligation to process the grievance and will notify the Grievant of the reasons for not processing the grievance.

(d) If the grievance is not resolved in accordance with the Informal Resolution provisions of this Regulation, then the chief academic officer of the faculty member's campus or USF Health, as appropriate, will designate the USF System's Step 1 Representative.

(e) The Step 1 Representative will meet the Grievant within fourteen (14) calendar days of:

1. Receipt of the Step 1 form, if the required period of Informal Resolution stipulated in Section (4) of this Regulation has been waived; or

2. The end of Informal Resolution. At the Step 1 meeting, the Grievant may, if he or she chooses, present additional information or documents for consideration by the Step 1 Representative. A Step 1 Representative may review and/or use any additional business records of the USF System they believe are relevant to their review of the Step 1 grievance.

(f) The Step 1 Representative must issue a written decision no later than thirty (30) calendar days after the Step 1 meeting. This decision must discuss the reasons for the decision and what documents supported the Step 1 Representative's review, a statement about what actions are or are not to be taken by the USF System and/or faculty member, and a copy of all documents used in reaching the decision.

(9) Grievance Process: Step 2

(a) If the Grievant is not satisfied with the Step 1 resolution, the Grievant may submit a request for arbitration in accordance with this Regulation.

(b) A request for arbitration must be filed by the close of regular business hours no more than fourteen (14) calendar days after the Grievant receives the written Step 1 decision. The request must be submitted in writing to the Office of the General Counsel, with a copy to the chief academic officer of the faculty member's campus or USF Health, as appropriate. The request for arbitration must be signed by the Grievant, and contain the following: (i) a copy of the Step 1 grievance document; (ii) a copy of the Step 1 response; (iii) if applicable, a list of the Regulations and/or Policies the grievant believes may have been misapplied in the Step 1 decision; and (iv) a brief statement or outline of the basis for challenging the Step 1 decision. A faculty member may also provide any documents they believe support their request for an arbitration.

(c) It is the Grievant's obligation to file the request for arbitration in accordance with this Regulation. If an employee fails to file the request by the deadline, to sign the request document, or to include all of the information required for the request, the Grievant has no right to further processing of the request. The USF System will be under no further obligation to process the request and will notify the Grievant of the reasons for not processing the grievance.

(d) A Grievant's withdrawal at any point after filing a request for arbitration will constitute a dismissal of the action with prejudice.

(10)(a)1. Within twenty (20) calendar days of the filing of the request for arbitration, the USF System will notify the Grievant of the name of the next scheduled arbitrator.

2. Either party may object to the appointment of this arbitrator and request the name of the next available arbitrator within ten (10) calendar days.

3. Upon the appointment of this arbitrator, the previously non-objecting party may file an objection within ten (10) calendar days.

4. Unless both parties mutually object to the third arbitrator appointed, this arbitrator will conduct the arbitration.

(b) The USF System and the grievant will coordinate with the arbitrator to arrange the arbitration date, time and place, and such communications will not be deemed to be an inappropriate, unethical or *ex parte* communication.

(c) For purposes of this section only, all notices and/or objections must be received by the other party within the ten (10) day time period unless extenuating circumstances interfere with the ability to comply.

(11)(a) In any non-disciplinary matter or in any non-disciplinary aspect of a case involving multiple issues, the Grievant has the burden of proof at all times.

(b) In any disciplinary matter or in any disciplinary aspect of a case involving multiple issues, the USF System has the burden of proof at all times.

(c) The arbitrator's authority is to determine whether the USF System had just cause to impose discipline or, for matters not involving discipline, whether the action was appropriately taken by the USF System.

(12) The arbitrator may use the Florida Rules of Civil Procedure to govern the arbitration. If the arbitrator intends to use any other rules, he/she must notify the parties no later than ten (10) calendar days before the hearing.

(13) The arbitrator must issue his/her decision within sixty (60) calendar days of the completion of the arbitration. The arbitrator's decision is binding.

(14) Neither party may appeal the arbitrator's decision except in accordance with Florida law.

(15) In the event a Grievant is represented by any employee representative entity, the USF System and that entity will equally bear any fees and/or costs charged for the arbitration. In all other cases, the losing side will be charged any such fees and/or costs for the arbitration.

(16) Time limits in this Regulation will be calculated in accordance with the Florida Rules of Civil Procedure, unless otherwise specified in this Regulation. In the case of grievances claiming arbitrarily-denied permission to pursue outside activities or political office, an expedited process will be used, wherein time deadlines will be shortened by a factor of one-half.

(17) No reprisal of any kind will be made by the USF System or Grievant against any grievant, witness, or designated representative, or any other participant in the grievance procedure by reason of such participation in the grievance process.

Authority: Art. IX, Sec. 7, Fla. Constitution, Fla. Board of Governors Regulation 1.001.

History: New (BOT approval) 10-5-03. Formerly 6C4-10.113, F.A.C., Amended 11-17-09, 6-8-11.