GRIEVANCE PROCEDURE F005

12/15/2006

PURPOSE

To provide a procedure for processing employment-related complaints of nonexempt employees.

DEFINITIONS

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<th>Term</th>
<th>Description</th>
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<td>Grievance</td>
<td>A claim based upon a condition or act affecting the employment of a nonexempt employee when the employee believes such act or condition is inequitable or unfair.</td>
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<td>Grievant</td>
<td>An employee having a grievance as defined above. Temporary and newly hired probationary employees are limited to Steps I and II of this procedure.</td>
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<td>Working Days</td>
<td>Monday through Friday excluding University holidays and other authorized absences.</td>
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POLICY

The Human Resources Office is responsible for the management of all non-Affirmative Action grievances. Grievances based on race, color, religion, sex, sexual orientation, age, national origin, disability, or veteran status are to be processed by the Equality Administration office. Grievances alleging sexual harassment are to be processed by the Equality Administration office in accordance with the policy on sexual harassment (see Sexual Harassment, Policy F010). This Grievance Procedure cannot be used to challenge written University policies and procedures. However, if University policies, practices and procedures appear to have an adverse impact on employees (especially minorities and women), such policies, practices and procedures should be brought to the attention of the Human Resources Department.

Non-University employees shall not be involved with the grievance procedure except as witnesses if called by the Grievance Panel (see Step III). The grievant may choose to be assisted at any step of the grievance procedure by a regular University employee who is not an attorney or a law professor; such person is considered an "employee representative" under this procedure. The grievant, any witnesses (if called by the panel), and the employee representative will not be subject to any financial or other reprisals or benefits as a result of participating in the grievance procedure. At each step in the procedure, grievants and supervisors are urged to consult with the appropriate Human Resources Office for assistance in resolving the grievance. If the grievant wishes to pursue a formal grievance with the assistance of the Human Resources Office, the grievant is to provide a written statement of the allegation and the desired remedy. The Human Resources Office will assist as requested in Steps I and II of the procedure, and provide technical assistance to ensure compliance with University policy and applicable laws in connection with the grievance. The Human Resources Office staff will attempt to resolve the grievance as expeditiously and fairly as possible. Once a grievance is submitted in writing, grievants are asked to refrain from pursuing the grievance through any other channel until such time as the grievance procedure is concluded with respect to the grievance at hand.
A grievance can only represent the interests of a single grievant. A single grievant may not grieve other employees' interests under this procedure. The Vice President for Human Resources or designee may also combine like grievances under Step III of the procedure. Whenever possible, grievances should be resolved at Step I of the procedure through personal, informal discussion between the grievant and the grievant's supervisor. The grievant may withdraw the grievance at any point during the procedure, in which case the grievance will be considered resolved.

When a grievance is based on an act or condition imposed by the decision of a supervisor, that decision will remain in effect during the processing of the grievance under this procedure. A grievant, supervisor, or a panel chairperson may ask for an extension of the time limits at any step in the grievance procedure by making a written request to the appropriate Human Resources Office. If the supervisor or the panel does not respond to the grievant within the prescribed time limits as extended by the Human Resources Office, the grievant may proceed to the next step of the procedure. If the grievant does not adhere to the prescribed time limits, the grievance will be considered settled in accordance with the last answer provided by the University. The Human Resources Office may extend the time period for valid reasons at either step of the process. In instances where an employee files a grievance or affirmative action complaint with an outside agency or an attorney (see Equal Opportunity/Affirmative Action, Policy A020), and the agency or attorney directly contacts any department within the University other than the Human Resources/Equality Administration offices that department is not to discuss the matter or release any information or documents to the outside agency or party.

For discriminatory charges, the department is to immediately notify the Equality Administration office. For a non-discriminatory grievance, the department is to immediately notify the appropriate Human Resources Office. Information concerning grievances and discriminatory charges are considered confidential and the correspondence is not to be shown or discussed with others in the department or University, except the immediate supervisor and department head. The appropriate Human Resources Office or Equality Administration office will make all contacts with outside agencies with respect to grievances or discriminatory charges filed with them. The Office of General Counsel on the Coral Gables Campus will be responsible for all communication with outside attorneys.

**PROCEDURE**

In processing grievances, the following steps will be used:

**Step I**

A. A grievant is to discuss the grievance with the immediate supervisor in an effort to resolve the matter informally within five working days after the act or condition on which the grievance is based comes to the attention of the grievant, or at any time if the act or condition being grieved is of a continuing nature. The supervisor should consider special circumstances which may prevent a grievant from adhering to the time limit(s). The supervisor will give a response to the grievant within five working days from the date of initial discussion.

B. If the grievance is not resolved, the grievant must discuss the grievance with the department chair within five working days after receiving the immediate supervisor's answer. The department chair will give a response to the employee within five working days after the date of the discussion.

**Step II**

A grievant who does not agree with the decision at Step I may proceed within five working days of that decision to discuss the grievance with the next level of authority above the immediate supervisor as follows:
A. If the next level of authority above the immediate supervisor is not a vice president:

1. Discuss the issue with the next level of authority above the immediate supervisor.

2. A written response to the grievant will be given to the grievant within ten working days of the discussion.

3. If the decision does not result in a settlement agreeable to the grievant, he/she may, within five working days of receiving the written decision, make a written appeal specifying the exact nature of the grievance and the remedy desired to the appropriate Human Resources Office.

4. The appropriate Human Resources Director will investigate the issue within five working days after receiving the appeal, interview appropriate witnesses, review all relevant files and documents, and convene a meeting with the employee, the employee representative (if any), the immediate supervisor, the department chair, and dean/designee as appropriate, to review the case and resolve the grievance if possible. The Human Resources Director will have five working days to submit a response to the grievant.

B. If the next level of authority above the supervisor is a vice president:

1. If the decision at Step I does not result in a settlement agreeable to the grievant, he/she may, within five working days of receiving the decision, make a written appeal specifying the exact nature of the grievance and the remedy desired to the Vice President for Human Resources.

2. The appropriate Human Resources Director will investigate the issue within five working days after receiving the appeal, interview appropriate witnesses, review all relevant files and documents, and convene a meeting with the employee, the employee representative (if any), and the immediate supervisor to review the case and resolve the grievance if possible. The Human Resources Director will have five working days to submit a response to the grievant.

C. In cases where the immediate supervisor is a vice president:

1. The grievant may, within five working days of receiving the written decision, make a written appeal specifying the exact nature of the grievance and the remedy desired to the Vice President for Human Resources.

2. The Vice President for Human Resources will investigate the issue within five working days after receiving the appeal, and resolve the grievance if possible.

**Step III**

A grievant who does not agree with the decision at Step II and wishes to proceed with the grievance, must submit a written request for a panel hearing within five working days from the decision at Step II to the appropriate Human Resources Office, which will convene a grievance panel within ten working days. A copy of the grievance and the desired remedy will be sent to the appropriate vice president.
GRIEVANCE PANEL GUIDELINES

The grievance panel shall be composed of three employees and one alternate. The panel will be selected from a list of names compiled by the appropriate Human Resources Office. Within five working days after receiving the request, the appropriate Human Resources Director or designee, the grievant and a department administrative representative will select a panel from a list of names provided by the appropriate Human Resources Office. Any member may be challenged for cause by either the grievant or departmental representative. Any member of the panel who has been challenged may be disqualified for cause as determined solely by the Human Resources Director or designee.

Members of the panel shall elect from among themselves a chairperson whose function is to preside over meetings. The panel may adopt operating procedures, review evidence, and determine the eligibility of witnesses as it deems appropriate by a majority vote of the members. Proceedings of the panel should be recorded in a manner deemed appropriate by the members of the panel. The chairperson shall also write or direct the writing of the panel's opinion and recommendation(s) with respect to each grievance. The panel's opinion and recommendation(s) should contain sufficient particularity and justification. The Director of Human Resources or designee is present at all meetings of the panel, but does not hold voting privileges. A representative from the dean or appropriate vice president's office may also be present with no voting privileges. The panel shall meet with the grievant, the supervisor, and other employees of the University as necessary to resolve the grievance, and to render an opinion and recommendation(s) within ten working days of its being convened by Human Resources. By a majority vote of the members, the ten working days period may be extended an additional ten working days.

The panel's opinion and recommendation(s) shall be submitted by the chairperson through the Human Resources Office to the appropriate vice president with copies to the grievant and immediate supervisor. If the vice president's decision agrees with the panel's opinion and recommendation(s), whether the opinion and recommendation(s) are favorable or unfavorable to the grievant, the grievance is considered settled and the grievant cannot proceed to Step IV.

Step IV

If the grievant’s vice president disagrees with the opinion or recommendation(s) of the panel, the grievant may appeal in writing to the President within ten days of receiving the vice president's decision. The President or designee shall render final decisions on grievances at this step as soon as possible with notification to all concerned parties. The opinion and recommendation(s) of the panel and the decision of the vice president, President or designee, as applicable, shall be maintained in the employee's personnel file in the appropriate Human Resources Office. All records and documents received in evidence are maintained separately from the employee's personnel file and retained in the Human Resources Office.