

**NEW COLLEGE OF FLORIDA
REGULATIONS MANUAL**

CHAPTER 3 - Administrative Affairs

3-4009 Grievances

- (1) General Faculty and Administrative and Professional Employees. This rule applies to all General Faculty and Administrative and Professional employees; provided, however, that its application is subject to the terms and conditions of any existing applicable collective bargaining agreements in the case of General Faculty and Administrative and Professional employees who are members of a collective bargaining unit and are represented by a collective bargaining agent.
 - (a) All problems shall be resolved whenever possible before the filing of a grievance, and open communication is encouraged so that resort to the grievance procedure will not normally be necessary.
 - (b) The burden of proof shall be on the College in a grievance alleging a violation of NCF Regulation 3-4010 Discipline. In all other grievances, the burden of proof shall be on the grievant.
 - (c) It is the intent of this rule to provide a complete response to a grievance but not to encourage multiple processing of the same issue. If, prior to or while seeking resolution of a dispute under this rule, a grievant seeks resolution of the matter in any other forum, whether administrative or judicial, the College shall have no obligation to entertain or proceed further with the matter pursuant to this rule. The College'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.
 - (d) All time limits contained in this rule may be extended by agreement of the parties. Upon failure of the grievant to file an appeal within the time limits provided in this rule, the grievance shall be deemed to have been resolved at the prior step.
 - (e) Definitions
 1. The term "grievance" shall mean a dispute concerning the grievant's rights regarding the terms and conditions of employment.
 2. The term "grievant" shall mean a non-unit Administrative and Professional or General Faculty employee who has been directly affected by an act or omission of the College and who has filed a written grievance under this rule.
 3. The term "days" shall mean calendar days. In the event an action falls due on Saturday, Sunday, or a state holiday, the action will be considered timely if it is accomplished by 5:00 p.m. on the following business day.
 4. The term "counsel" shall mean a lawyer or lay advisor.
 - (f) Step 1

**NEW COLLEGE OF FLORIDA
REGULATIONS MANUAL**

CHAPTER 3 - Administrative Affairs

1. All grievances shall be filed in writing with the person designated by the President as Step 1 Representative for the unit of the College in which the grievant performs duties, with a copy to the Office of the General Counsel, within 25 days following the act or omission giving rise thereto, or the date the grievant knew or reasonably should have known of such act or omission if that date is later. The identification of applicable designated Step 1 Representatives may be obtained from the Clerk of the College.
2. The written grievance shall contain the following information: grievant's name; name and address of counsel, if any; specific provision(s) of College or Board of Governor's rule or regulation claimed to have been violated; a statement of the grievance, including the acts or omissions which are claimed to have given rise to the grievance; the remedy sought; and signature. The College will dismiss a grievance that is not in substantial compliance with this section or that is untimely filed. The dismissal shall be without prejudice to the grievant's right to file a timely amended grievance curing the defect, unless it conclusively appears from the face of the grievance that the defect cannot be cured. If the College dismisses a grievance, it shall immediately notify the grievant of the dismissal, all defects, and how such defects can be cured. The grievant shall have ten (10) calendar days from the date of dismissal to file an amended grievance curing the defect. If the grievance is dismissed for untimely filing, the amended grievance must demonstrate that the untimely filing was the result of excusable neglect. The grievant may, in the written grievance that is filed, request the postponement of any action in processing the grievance formally for a period of up to 25 days, during which period efforts shall be made to resolve the grievance informally.
3. Upon the grievant's written request, additional extensions of up to 25 days should be liberally granted unless to do so would impede resolution of the grievance. During such postponement period(s), upon request, the Step 1 Representative may, at his/her discretion, arrange an informal conference between the appropriate administrator and the grievant.
4. The grievant may at any time terminate a postponement period by giving written notice to the Step 1 Representative that the grievant wishes to proceed with the Step 1 meeting provided for below. If the initial postponement period, or any extension thereof, expires without such written notice, the grievance shall be deemed informally resolved to the grievant's satisfaction and need not be proceeded further.
5. The Step 1 Representative shall conduct a meeting no later than 15 days following receipt of the grievance, if no postponement is requested, or receipt of written notice that the grievant wishes to proceed with the Step 1 meeting.
6. At the Step 1 meeting the grievant shall have the right to present any evidence in support of the grievance.
7. The Step 1 Representative shall issue a written decision, stating the reasons therefor, within 25 days following the conclusion of the Step 1 meeting. The decision shall include a finding

**NEW COLLEGE OF FLORIDA
REGULATIONS MANUAL**

CHAPTER 3 - Administrative Affairs

as to whether the grievance concerns a substantial interest of the grievant and/or whether there are any disputed issues of fact material to the grievance. In the event the decision at Step 1 refers to documents not presented by the grievant at the Step 1 meeting, copies of such documents shall be attached to the decision.

(g) Step 2

1. If the grievance is not satisfactorily resolved at Step 1 the grievant may request review by the responsible Vice President/Provost by delivering a written request within 10 days of receipt of the Step 1 decision. The Step 2 review must state the reason(s) for the grievant's dissatisfaction with the Step 1 decision.
2. The responsible Vice President/Provost may schedule a Step 2 meeting with the grievant and/or other appropriate persons or may issue a decision on review of the documents alone, at his/her discretion.
3. The responsible Vice President/Provost will issue a written decision, stating the reasons therefore, within 25 days following the conclusion of the Step 2 meeting or within 25 days of receipt of the Step 2 review request if no meeting is held. At the time of issuance of the Step 2 decision, the responsible Vice-President/Provost shall give the grievant notice of the Step 2 decision pursuant to Chapter 120.569, Florida Statutes.
4. If the Step 2 decision determines the grievant's substantial interests, the grievant may request a hearing under Chapter 120.57, Florida Statutes, by submitting a petition to the Clerk of the College with a copy to the President, within twenty-one (21) days of receipt of notice of the Step 2 decision. The petition shall conform to the requirements of Rule 28-106.201, F.A.C. if the requested hearing involves disputed issues of material fact, or Rule 28-106.301, F.A.C. if it does not. Proceedings conducted pursuant to NCF Regulation 3-4010 Discipline, shall be conducted in accordance with Chapters 120.569 and 120.57, Florida Statutes, and Chapter 28-106, F.A.C.

(2) University Support Personnel Staff Employees

- (a) Applicability. The following grievance procedures apply to all University Support Personnel Staff employees; provided, however, that their application is subject to the terms and conditions of any existing applicable collective bargaining agreements in the case of University Support Personnel Staff employees who are members of a collective bargaining unit and are represented by a collective bargaining agent.
- (b) Definition of grievance. A grievance is defined as the dissatisfaction that occurs when an employee believes that any condition affecting the employee's terms and conditions of employment is unjust, inequitable, or creates a problem, except that an employee shall not have

**NEW COLLEGE OF FLORIDA
REGULATIONS MANUAL**

CHAPTER 3 - Administrative Affairs

the right to file a grievance concerning performance appraisals unless it is alleged that the appraisal is based on factors other than the employee's performance.

(c) Suspensions, involuntary reductions in pay, transfers, layoffs, involuntary demotion and dismissals shall not be grievable under this process, and review of such actions may be handled in accordance with the provisions of Board of Education Rule 6C-5.760, F.A.C., which governs arbitration appeals or other actions in accordance with grievance procedures contained in applicable collective bargaining agreements.

(d) Procedures for filing grievances (permanent employees)

1. Step 1 – Any USPS employee, regardless of the source of funds from which the position is funded, who has a grievance must file either orally or in writing the grievance with his or her immediate supervisor within seven (7) calendar days from the date the employee becomes aware of the act or condition that is the basis of the grievance.
2. Step 2 – If the grievance is not resolved, the grievance shall be filed in writing within seven (7) calendar days to the College dean or director, a copy to the employee's immediate supervisor, and a copy to the Assistant Director of Personnel acting as Chief Administrative Officer responsible for local administration of these grievance provisions.
3. Step 3 – If the grievance is not resolved at Step 2, the Chief Administrative Officer, upon request by the grievant, shall review and furnish the employee a written decision within 30 calendar days from the date the grievance is filed at Step 3. The decision is final and binding on all parties, except for grievances referenced below.
4. Procedural review. If it is alleged that the College failed to comply with Board of Education Rules, an employee shall have the right to file the grievance with the Chancellor within five (5) work days of receipt of the College's decision.

(e) Procedures for filing grievances (non-permanent employees)

1. Step 1 – Any USPS employee without permanent status, regardless of the source of funds from which the position is funded, who has a grievance, may file the grievance either orally or in writing with the immediate supervisor who shall attempt to resolve the grievance.
2. Step 2 – If the grievance is not resolved, the grievance shall be filed in writing with the next-level supervisor, the original to the immediate supervisor. The decision made by the next-level supervisor will be considered final. Employees who do not have permanent status in the USPS shall not have the right to proceed with a grievance to the Chief Administrative Officer.

(f) Grievability of performance appraisals alleging factors other than performance

**NEW COLLEGE OF FLORIDA
REGULATIONS MANUAL**

CHAPTER 3 - Administrative Affairs

1. Any USPS employee who alleges that factors other than job performance were used by the supervisor in determining the Below Performance rating received shall file the grievance at Step 2.
2. The review of the grievance at any step shall be solely to determine whether the performance was done in an arbitrary and capricious manner.
3. If a reviewer determines that the performance appraisal was done in an arbitrary and capricious manner, the reviewer shall have the authority to order that the appraisal be marked “NOT VALID” and direct that another performance appraisal be conducted.

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

History: Adopted 01-28-04, as Rules 6C11 8.008 and 6C11 8.015; Revised 03-11-17 (technical amendment)