

<b>FLORIDA</b>	<b>OFFICIAL</b>
<b>POLYTECHNIC</b>	<b>UNIVERSITY</b>
<b>UNIVERSITY</b>	<b>POLICY</b>

<b>Subject/Title:</b> Employee Grievance Procedure
<b>FPU Policy Number:</b> FPU-6.0011P
<input checked="" type="checkbox"/> New Policy <input type="checkbox"/> Major Revision of Policy <input type="checkbox"/> Minor Technical Revision of Policy
<b>Date First Adopted:</b> November 17, 2014
<b>Date Revised:</b>
<b>Responsible Division/Department:</b> Human Resources
<b>Initiating Authority:</b> DeAnn Doll, Human Resources Manager

**A. APPLICABILITY/ACCOUNTABILITY:**

The purpose of this policy is to set forth procedures for the consideration and resolution of grievances filed by University employees who are not governed by a collective bargaining agreement. Employees represented by a union, if any, should refer to their respective collective bargaining agreement for information regarding grievances. The Human Resources Department is responsible for facilitating the process and assisting in resolving employee grievances.

**B. POLICY STATEMENT:**

Florida Polytechnic University encourages a pro-active, collegial work environment in which employees have the opportunity to discuss and resolve work related concerns informally with the appropriate supervisor. Employment related concerns should be resolved, whenever possible, without the filing of a grievance. Normally, an employee’s concerns and recommendations should be communicated first to their supervisor. Whenever possible, it is recommended that an employee submit his/her concerns and recommendations for resolution to management through the established chain of command within the employee’s work unit, if the employee is unable to speak to his/her supervisor. Should it be necessary for the employee to speak to someone else, all members of management within the employee’s division or Human Resources may be available to the employee. However, employees should note that formal grievances must be timely submitted through the appropriate channels in accordance with the appropriate grievance procedures.

Any decision made as a result of the grievance process shall apply only to the individual who submitted the grievance, shall be based on the specific and unique facts of the matter, and shall not set a precedent for future matters. In the case of non-disciplinary actions, the burden of proof shall be on the grievant. In the case of disciplinary actions, the burden of proof shall be on the University.

**C. DEFINITIONS:**

1. **“Grievance”** means the written allegation filed on the Employee Request for General Grievance Form, or Employee Request for Suspension or Termination Grievance Form by an employee that states that: a) a term or condition of his/her employment is unjust or inappropriate, and/or b) a University rule, regulation, policy or procedure has been

wrongfully applied to him/her or was applied to him/her in a manner that violates the rule, regulation, policy or procedure; and/or c) a disciplinary action is inappropriate. The grievance must specifically state an adverse employment action.

The following University actions are not eligible actions for filing a grievance under this policy:

- (a) Administrative pay without leave;
  - (b) Voluntary reduction in pay;
  - (c) Voluntary demotion;
  - (d) Notice of layoff;
  - (e) Performance evaluations, unless grievant is alleging that the evaluation is based on factors other than performance or conduct;
  - (f) Complaints of discrimination, harassment, or retaliation based on a legally protected class, as such complaints are subject to FPU-1.005 Discrimination and Harassment Complaint Policy and Procedures;
  - (g) Reassignment of space; and
  - (h) Assignment of work.
2. **“Grievant”** means the University employee who filed the grievance. Only employees who hold “budgeted” positions (excludes probationary employees and OPS employees) may file grievances related to both disciplinary and non-disciplinary matters and exercise the rights under both Step One and Step Two of the grievance processes below. Probationary and OPS employees may only file grievances concerning non-disciplinary matters affecting the employee’s terms and conditions of employment and may only exercise the rights under Step One of the grievance processes below.
  3. **“Business Days”** means Monday through Friday from 8 am to 5 pm, and excludes University holidays.
  4. **“Calendar Days”** means Monday through Sunday, and includes University holidays.
  5. **“Written Decision”** is the written document issued by the designated representative and consists of the applicable Employee Request for Grievance Form signed by the Step One or Step Two representative in the designated section, along with the representative’s decision and a copy of the documents used by the representative in reaching the decision. This written decision should contain the reasons for the decision, should reference any documents used in the representative’s review, and should describe what actions will be taken by the University and/or the grievant.

#### **D. PROCEDURE FOR GENERAL GRIEVANCES:**

This procedure applies to any grievance as defined above with the exception of a grievance filed concerning a suspension or termination of employment. If an action must be taken by a certain time, or a deadline is stated in this policy, and the deadline falls on a Saturday, Sunday or University holiday, an action is considered timely if taken by the close of regular business hours

on the next business day. The University and the grievant may, by mutual written agreement, specify new extended timelines and deadlines that alter the deadlines set out in this policy.

### 1. **General Grievance-Step One:**

- (a) **Filing a Grievance.** Employees are encouraged to attempt to resolve grievances informally prior to the filing of a grievance. Should informal resolution be unsuccessful, a grievance must be filed with the Human Resources Department on an Employee Request for Grievance Form-Step One within fourteen (14) calendar days of: the act or omission giving rise to the grievance, or the date which the grievant knew or should have known of the act or omission. If the employee fails to timely file the Employee Request for Grievance Form-Step One, the employee forfeits the right to grieve the action or omission.
  
- (b) **Contents of Grievance.** The written grievance must contain all of the following information:
  - i. The grievant's name, phone number, job title, and department or business unit,
  - ii. The grievant's email address for purposes of receiving determinations and decisions related to the grievance,
  - iii. The statement of the grievance, including the adverse employment action and specific provision(s) of the rule, regulation, policy or procedure claimed to have been violated, and/or the act or omission which has given rise to the grievance and the date of occurrence,
  - iv. The remedy sought by the grievant, and
  - v. The grievant's signature.
  
- (c) **Determination of Sufficiency.** The Human Resource Director/designee will determine whether the grievance is sufficient and has all of the qualities of a grievance as "grievance" is defined above. The written determination regarding sufficiency will be provided to the grievant within seven (7) calendar days of the Human Resource Director/designee's receipt of the Employee Request for Grievance Form-Step One.

If the determination is that the grievance is insufficient and therefore not grievable, the grievant shall have five (5) calendar days from the date of the written determination to resubmit the grievance to the President/designee with additional information or argument for reconsideration of the determination. If the grievant fails to resubmit the grievance to the President/designee within five (5) calendar days of the date of the written determination, the written determination is final and binding. The President/designee will review the resubmitted grievance and issue a final written determination and provide it to the grievant and the Human Resources Director within five (5) calendar days of the grievant's resubmittal of the grievance to the President/designee.

If the grievance is found to be sufficient, and therefore grievable, the Human Resources Director shall decide who the Step One Representative will be and refer the matter to the Step One Representative.

- (d) **Step One Conference.** The Step One Representative is the next level administrator/designee to whom the grievant reports. The Step One Representative shall review the actions of the University as relates to the grievance, objectively review the written grievance and any University records pertinent to the grievance, and speak directly with any person the Step One Representative deems to be relevant or necessary in the grievance process. The Step One Representative shall arrange a conference, to be held within fourteen (14) calendar days from receiving notification that the matter is grievable, for the purpose of resolving the grievance. In advance of the conference, the grievant has the right, upon written request to the Step One Representative, to receive a copy of the identifiable documents relevant to the grievance.
- (e) **Step One Written Decision.** The Step One Representative shall have fourteen (14) calendar days from the date of the conference to issue a written decision, unless an extension of the deadline is mutually agreed upon by the University and the grievant. The Step One Representative shall send the written decision to the grievant, the respective Vice President and the Human Resources Director.

## 2. **General Grievance-Step Two:**

- (a) **Appeal of Step One Decision and Request for Step Two Meeting.** If the grievant is not satisfied with the Step One decision and wishes to pursue the matter, the grievant may submit an Employee Request for General Grievance Form-Step Two (which must provide the grievant's basis for appealing the Step One written decision) to the Human Resources Director that the grievance proceed to Step Two. This written request for a Step Two Meeting must be made within seven (7) calendar days of the date of the Step One decision or the Step One decision is the final and binding decision.
- (b) **Step Two Representative.** The Step Two Representative shall be a direct report of the President or the Vice President of the Division in which the grievant is assigned or their designee.
- (c) **Step Two Meeting.** The Step Two Representative shall review the actions of the University as relates to the grievance, objectively review the written grievance and the Employee Request for General Grievance Form-Step Two, and speak directly with any person the Step Two Representative deems to be relevant or necessary in the grievance process. The Step Two Representative shall schedule a meeting, to be held within seven (7) calendar days of the Human Resource Director's receipt of the Employee Request for General Grievance form-Step Two, with the grievant and any other persons believed to be necessary to the resolution of the grievance.

- (d) **Step Two Final Written Decision.** The Step Two Representative will issue a written decision and send it to the grievant, the appropriate VP and the Human Resources Director within seven (7) calendar days of the Step Two meeting. The Step Two Representative's decision is final and binding.

## **E. PROCEDURE FOR GRIEVANCES RELATED TO SUSPENSIONS AND TERMINATIONS:**

This procedure applies to all grievances concerning a suspension without pay or termination of employment with cause, whether the action is a proposed action or an immediate action. If an action must be taken by a certain time, or a deadline is stated in this policy, and the deadline falls on a Saturday, Sunday or University holiday, an action is considered timely if taken by the close of regular business hours on the next business day. The University and the grievant may, by mutual written agreement, specify new extended timelines and deadlines that alter the deadlines set out in this policy.

### **1. Suspension or Termination Grievance- Step One:**

- (a) **Filing a Grievance.** All grievances related to suspension or termination of employment shall be filed with the Human Resources Director/designee on an Employee Request for Grievance Suspension or Termination Form-Step One within seven (7) calendar days following the date of the Notice of Suspension or Notice of Termination. If the employee does not timely file a grievance, the employee forfeits the right to grieve the action.
- (b) **Contents of Grievance.** The written grievance must contain all of the following information:
  - i. The grievant's name, phone number, job title, and department or business unit,
  - ii. The grievant's email address for purposes of receiving decisions related to the grievance,
  - iii. The statement of the grievance, including the adverse employment action and, the specific provision(s) of the rule, regulation, policy or procedure claimed to have been violated, and/or the act or omission which has given rise to the grievance and the date of the notice of suspension or notice of termination.
  - iv. The remedy sought by the grievant, and
  - v. The grievant's signature.
- (c) **Step One Meeting.** The Step One Representative shall be a person who is a direct report to the President/designee or the Vice President of the Division/designee in which the grievant is assigned. (In the case where the grievant reports directly to the President, the grievance matter shall immediately move to Step Two of the Suspension or Termination grievance process.) The Step One Representative shall review the actions of the University as relates to the grievance, objectively review the written grievance and any University records pertinent to the grievance, and

Speak directly with any person the Step One Representative deems to be relevant or necessary in the grievance process. The Step One Representative shall schedule a meeting to be held within seven (7) calendar days of the written request with the grievant and any other persons believed to be necessary to the resolution of the grievance. In advance of the meeting the grievant has the right, upon written request to the Step One Representative, to receive a copy of the identifiable documents relevant to the grievance.

The grievant may be accompanied at the Step One meeting by a representative of his/her choice. The representative may assist, advise or confer with the grievant but may not speak for the grievant. This meeting is not to be considered a legal proceeding, nor shall it be considered an evidentiary hearing. The Rules of Civil Procedure do not apply and discovery, cross-examinations and other legal procedures are not permissible at the meeting.

- (d) **Step One Written Decision.** The Step One Representative will issue a written decision and send it to the grievant, the appropriate VP and the Human Resources Director within seven (7) calendar days of the meeting, unless an extension of the deadline is mutually agreed upon by the University and the grievant. If the Step One Representative's decision is to uphold the suspension or termination, the University may implement the action if it has not already done so.

## 2. **Suspension or Termination Grievance-Step Two:**

- (a) **Appeal of Step One Decision and Request for Step Two Meeting.** If the grievant is not satisfied with the Step One decision, the grievant may, within seven (7) calendar days of the date of the Step One written decision, appeal such decision by filing an Employee Request for Grievance for Suspension or Termination Form-Step Two (which must contain the grievant's basis for appealing the Step One decision) with the Human Resources Director. If the grievant fails to timely file a written request for a Step Two meeting within seven (7) calendar days of the date of the Step One written decision, the Step One decision is the final and binding decision.
- (b) **Step Two Meeting.** The President /designee shall serve as the Step Two Representative. The Step Two Representative shall review the actions of the University as relates to the grievance, objectively review the written grievance and the Employee Request for Grievance for Suspension or Termination Form-Step Two, and speak directly with any person the Step Two Representative deems to be relevant or necessary in the grievance process. The Step Two Representative shall schedule a Step Two meeting to be held within ten (10) calendar days of the date of the Human Resource Director's receipt of the Employee Request for Grievance for Suspension or Termination Form-Step Two with the grievant and any other persons believed to be necessary to the resolution of the grievance.
  - i. The grievant shall have the right at the Step Two meeting to:
    - 1) Review all allegations against the grievant;

- 2) Present a response to the allegations and provide a rationale on all the issues;
- 3) Submit a rebuttal to all the allegations;
- 4) Be accompanied by an attorney (employee’s attorney may not speak for the employee); and,
- 5) Ask relevant questions of the witnesses, at the sole discretion of the President/designee.

(c) **Step Two Final Written Decision.** The Step Two Representative will issue a final written decision and send it to the grievant, the appropriate Vice President, and the Human Resource Director within fifteen (15) calendar days of the Step Two Meeting unless an extension of the deadline is mutually agreed upon by the University and the grievant. The Step Two Representative’s written decision is final and binding.

POLICY APPROVAL	
Policy No.: FPU-6.0011P	
_____	_____
Initiating Authority	Date
_____	_____
Policies & Procedures Review Committee Chair	Date
_____	_____
President/Designee	Date
Approved by FPU BOT, if required	_____
	Date
<p><b>EXECUTED SIGNATURE PAGES ARE AVAILABLE IN THE OFFICE OF THE GENERAL COUNSEL</b></p>	