

This procedure applies to Administration, Staff, and Temporary employees. It consists of a two-step process, to which conditions/exceptions apply, as outlined below.

**Step 1** – USF System Review (including informal resolution process)

**Step 2** – Arbitration

The USF System encourages open communication between employees and management to address concerns. Therefore, it is committed to resolving employee concerns through informal resolution whenever possible.

The time limits in this procedure are expressed in calendar days. If a deadline falls on a Saturday, Sunday or holiday, an action is considered timely if taken by the close of regular business hours on the next USF System business day. However, the stipulated timeframes are maximums, and every effort should be made to resolve grievances as soon as possible.

### **Definition of Grievance**

A grievance, for the purpose of this procedure, is the allegation by an employee that:

- A term(s) and/or condition(s) of his/her employment is unjust or inappropriate;
- A USF System regulation, policy, or procedure has been:
  - Wrongfully applied to him/her; or
  - Applied to him/her in a manner that violates the regulation, policy, or procedure; and/or
- A disciplinary action is inappropriate.

### **Actions that Are Not Grievable**

Employees shall not have the right to file grievances concerning the following:

- Performance evaluations (unless alleged the evaluation based on factors other than performance)
- Administrative leave
- Voluntary reductions in pay
- Voluntary demotions
- Oral or written counseling
- Removal of pay additives
- Correction of overpayment
- Reduction of pay to the maximum of the pay range

### **Conditions of or Exceptions to the Process**

The following actions may not be grieved beyond the informal resolution process, as described below:

- Performance evaluations alleged to be based on factors other than performance
- Layoffs from established positions
- Non-disciplinary matters
- Reprimands
- Actions that do not involve a substantial interest

Non-permanent employees (Temporary employees, Staff employees without permanent status in any class, and temporary Administration employees) may not grieve any action beyond the informal resolution process, as described below. Non-permanent employees may only file a grievance for non-disciplinary matters if they believe they have been directly affected by an act or omission of the USF System in applying any regulations.

The following employees do not have a right to grieve termination:

- Non-permanent employees
- Administration employees when their appointment ends after they have received a written notice of non-reappointment or have received a written notice upon appointment that employment will cease on the date indicated with no further notice of cessation of employment required
- Employees who voluntarily resign from employment with the USF System

Claims of illegal discrimination are to be filed in accordance with the USF System's policies/procedures on discrimination, and any grievance or part of a grievance that makes such allegations will not be processed under this procedure.

A grievance filed by an employee (except for a non-permanent employee) for matters involving a substantial interest may be processed to Step 1 review only after a waiver is granted or after completion of the informal resolution process.

If the USF System fails to respond to a grievant in writing within the specified timeframe, either during the informal resolution process or Step 1 review process, the grievant is authorized to proceed without a written response, unless the timeframe is extended or the grievant is barred from proceeding by the conditions of and/or exceptions to this procedure.

If a grievant fails to participate in the informal resolution process (unless a waiver of the process is approved) or fails to proceed to Step 2 within the specified timeframe, the USF System will assume the grievance has been satisfactorily resolved and the outcome accepted by the employee, and will close its file.

## **PROCEDURES**

### **Step 1 – USF System Review**

#### **Filing of Grievance**

A grievance must be filed in writing using the designated USF System Grievance Form, which must be signed and dated by the grievant in the designated area and submitted to Human Resources (HR) by the close of regular business hours within 30 days after the date he/she becomes aware of the incident, act, or omission that is the basis for the grievance. The following must be attached to the grievance form:

1. A factual description which includes:
  - The incident, act, or omission the grievant alleges is the basis for the grievance, including date(s) of occurrence
  - The USF System regulation, policy, or procedure that has been violated, if any
  - Names and contact information of witnesses or those who have direct knowledge of the alleged incident, act, or omission
  - What resolution the grievant is seeking to resolve the matter or remedy the situation
  - If applicable, justification for the grievant's request to waive the mandatory informal resolution process
2. Other documents the grievant believes support the grievance

If a grievant fails to file the grievance by the deadline, sign and date the grievance form, or include all of the required information, the USF System will be under no obligation to process the grievance, and the grievant will be notified by HR that the grievance will not be processed.

**Informal Resolution**

By filing a grievance at Step 1, the grievant agrees to participate in a mandatory 30-day informal resolution process, to be conducted in accordance with USF System guidelines, beginning with the date the grievance is filed in HR. HR will:

- Within three days of receipt of the grievance:
  - Notify the administrative head of the grievant's department that the grievance has been accepted, and
  - Provide him/her with a copy of the grievant's completed grievance form and all attached documents.
- Monitor the timeframes for the informal resolution process, or any extension thereof.
- Provide guidance and assistance, as requested, during the informal resolution process.

The administrative head of the grievant's department will:

- Determine the participant(s) in the informal resolution process, typically those with knowledge of the situation and who have authority to resolve the grievance.
- Designate a management representative.

The management representative will:

- Facilitate the informal resolution process.
- Prepare a report of the outcome of the informal resolution process and attach it to the grievant's grievance form.
- Sign and date the grievance form and obtain the grievant's signature on the form.
- Submit the signed and dated grievance form and the report to HR by the end of the informal resolution process, or extension thereof.

The following are conditions of and/or exceptions to the informal resolution process:

- The grievant may request a waiver of the process from HR when filing the grievance at Step 1. The grievant must sign the designated section of the USF System Grievance Form and attach an explanation of the reasons or extenuating circumstances to justify the request.
- For matters involving a substantial interest, the informal resolution process will be waived by HR, without the grievant's request or consent, when determined to be in the best interests of the USF System.
- The 30-day informal resolution process may be extended by mutual written agreement between the grievant and HR, in consultation with the management representative designated by the administrative head of the grievant's department. The written agreement will include any stipulations pertaining to the extension.
- Under certain circumstances, an indefinite extension of the informal resolution process may be mutually agreed upon.

If the grievance is eligible for Step 1 review, as specified above, the grievance will proceed directly to the Step 1 review if one or more of the following occurs:

- The informal resolution process is waived.
- The grievant is not satisfied with the outcome of the informal resolution process at the end of the period or extension thereof, as specified under Step 1 – Part B of the USF System Grievance Form.
- Management does not make a good faith effort to participate in the informal resolution process.
- The designated management representative does not submit the signed and dated USF System Grievance Form and the report of the outcome of the process to HR by the deadline.

**Step 1 Meeting and Review**

A Step 1 Representative designated by HR will meet with the grievant within 14 days after either:

- HR's waiver of the informal resolution process, or
- The end of the informal resolution process or extension thereof.

At the Step 1 review meeting, the grievant may present additional information or documents for consideration by the Step 1 Representative. The Step 1 Representative may review and/or use any additional records of the USF System pertinent to the grievance.

The Step 1 Representative must issue a written decision to the grievant within 30 days after the Step 1 review meeting, unless an extension of the deadline is mutually agreed upon. The Step 1 Representative must sign and date the grievance form in the designated section and attach the written decision and a copy of the documents used in reaching the decision. This decision should:

- Explain the reasons for the decision;
- Reference any documents used in the Step 1 review; and
- Describe what actions will be taken by the USF System and/or employee.

If the grievant is not satisfied with the Step 1 decision and the grievance is eligible for further review, as specified above, he/she may proceed to Step 2 (Arbitration) within 14 days after receiving the written Step 1 decision.

**Step 2 – Arbitration**

It is the grievant's responsibility to file the Step 2 request for arbitration in accordance with this procedure, as described below. If a grievant fails to file a request on the USF System Grievance Form by the deadline, sign and date the form, and/or include all the information required, the USF System will be under no further obligation to process the request and will notify the grievant of the reasons why the arbitration will not be conducted. A grievant's withdrawal at any point after filing a request for arbitration will constitute a dismissal of the action with prejudice.

A grievant may request arbitration by submitting the request in writing to the Office of the General Counsel, with a copy to HR, by the close of regular business hours no later than 14 days after receipt of the written Step 1 decision. The grievant must sign and date the USF System Grievance Form in the designated section and attach the following:

- A copy of the Step 1 grievance and all associated documents
- A copy of the Step 1 decision
- If applicable, a list of the regulations, policies, and/or procedures the grievant believes may have been misapplied in the Step 1 decision
- A description of the basis for challenging the Step 1 decision

The grievant may also provide any additional documents that he/she believes support the request for arbitration.

Within 20 days after a grievant officially files a request for arbitration, the USF System will notify the grievant of the name of the next scheduled arbitrator. Either party may object to the appointment of this arbitrator and, within 10 days, may request the name of the next available arbitrator. Upon the appointment of this arbitrator, the previously non-objecting party may file an objection within 10 days. Unless both parties mutually object to the third arbitrator appointed, this arbitrator will conduct the arbitration. The USF System will coordinate the arbitration date, time and place with the arbitrator, and such communication will not be considered inappropriate, unethical, or ex parte. All notices and/or objections must be received by the other party within the required time period, unless extenuating circumstances interfere with the party's ability to comply.

In any non-disciplinary matter or in any non-disciplinary aspect of a case involving multiple issues, the grievant has the burden of proof. In any disciplinary matter or in any disciplinary aspect of a case involving multiple issues, the USF System has the burden of proof.

The arbitrator's authority is to determine whether the USF System had just cause to impose discipline or, for any matter not involving discipline, whether the action was appropriately taken by the USF System. 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 10 days before the arbitration. The arbitrator must issue his/her decision within 60 days after completion of the arbitration. The arbitrator's decision is binding. Neither party may appeal the arbitrator's decision except in accordance with Florida law.

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 for the arbitration. In all other cases, the losing side will be charged any such fees and/or costs for the arbitration.

Time limits in this procedure will be calculated in accordance with the Florida Rules of Civil Procedure unless otherwise specified in this procedure.

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.