


Applicability Employee Classes: All except faculty (09 & 12 month), student and temporary employees	Effective: 6/2/97	Approved by:  Lynn E. Weaver, President
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A. POLICY

It is the intent of the university to be fair and reasonable with all employees at all times. However, in the relationship of employee to employee or employee to employer, problems may develop. Fair handling of a problem or complaint cannot be given if an employee does not let the appropriate university officials know about the problem.

The university encourages the resolution of problems on an informal basis whenever possible. However, when a problem cannot be resolved informally, the university provides this procedure for a formal review.

B. DISCUSSION

This procedure is available to attempt a resolution to an employee complaint. A complaint is a work-related problem or condition which an employee believes to be unfair, inequitable, discriminatory or a hindrance to his/her effective operation in the performance of his/her assigned duties. This procedure shall serve as the exclusive formal university procedure for the resolution of such complaints.

An employee may request technical assistance from the Office of Human Resources at any step in the complaint resolution process. This may include, but is not limited to: stating the employee's problem in writing; clarification/explanation of the meaning of documents received from a supervisor or a Complaint Resolution Committee; and clarification/explanation of the **Complaint Resolution Procedure** itself.

Employees who pursue complaints under this procedure will not be subjected to retaliation or reprisals by anyone associated with the university. If an employee who has pursued a complaint under this procedure is of the opinion that he/she has been retaliated against for exercising his/her rights under this procedure, the employee should report the actions to the Director of Human Resources. An employee who has engaged in a retaliatory act is subject to disciplinary action up to and including discharge. Additionally, an employee found to have made false accusations in exercising his/her rights under this procedure, or in filing a false charge of retaliation, is subject to disciplinary action up to and including discharge.

Except as noted below, complaints may not be filed under this procedure if the complaint involves any of the following actions:

1. Terminations.
2. Reductions in force.
3. Job elimination due to financial necessity of the university.
4. Job elimination due to the expiration of temporary or externally funded grants or contracts.
5. Salaries and wages.
6. Promotions or transfers.
7. Performance evaluations.

In the event the complainant alleges that one of the above actions was taken based upon his/her race, sex, color, religion, creed, national origin or ancestry, age, marital status, disability, Vietnam-era veteran status, or sexual orientation, he/she may file a complaint under this procedure.

C. GENERAL INFORMATION

1. Any decision made as the result of the **Complaint Resolution Procedure** will apply only to the specific complaint being considered and will not serve as a precedent for establishing or changing a university policy or procedure.
2. A complainant's failure to exercise his/her rights to proceed to a subsequent step within the defined time limits shall result in the termination of the proceedings. In such cases, the response most recently issued will be considered the resolution of the complaint.

3. An employee may withdraw a complaint at any time, but in doing so forfeits the right to reinstate the complaint in the future.
4. It is expected that an employee exhaust his/her rights under this procedure before filing a complaint with an outside agency.
5. Any and all records of a complaint, including, but not limited to, paper and electronic records, will be retained by the Director of Human Resources in a file that is separate from the personnel files of all involved parties.

D. DEFINITIONS

1. Employees assigned to the following employee classes are covered by this policy: 01, 02, 03, 04, 05, 09, 10, 11, 16, 23, 24, 25, 26, 29, 30, 31, 32, 35, 36, 37, 38, 41, 42, 43, 44, 45, 46, 50, 51, 52, 53, 56, 57, 58, and 59. See the **Employee Class Policy** for an explanation of the employee classes.
2. Hourly/non-exempt employees serving a probationary period are not covered by this policy.
3. Complaints by faculty are not covered by this policy. The complaint resolution process for faculty matters is outlined in the *Faculty Handbook*, issued annually by the Office of the Vice President of Academic Affairs.
4. University holidays, Saturdays and Sundays, and the day a document is filed shall not be counted in computing time limits set forth in this procedure.
5. Any time limit defined in this procedure may be amended only if mutually agreeable to all of the parties involved in the process at that step. In such instances, the involved parties should reduce the agreed upon amendments to writing and the document should be signed by the employee and the responsible party for the step in the process (supervisor, department head, Chair of the Complaint Resolution Committee or Chair of the Executive Council). In cases of a dispute, the Director of Human Resources will determine the appropriate time limit.
6. Complaints must be initiated within thirty (30) calendar days from the date of the action or actions that form the basis for the complaint, or from the date the complainant became aware of the action or actions.
7. The Complaint Resolution Committee (CRC) is composed of three (3) individuals. The Director of Human Resources is designated as permanent chair of the committee. The chair and the complainant will each select one (1) temporary member of the committee, both of whom must be active, regular employees of Florida Institute of Technology and may not be related to any individual involved in the proceedings. The Director of Human Resources may designate an alternate to serve as the chair of any committee convened to hear a complaint. In the event the Director of Human Resources is the complainant or a named party in a complaint, the Vice President for Financial Affairs shall appoint an active, Regular employee to serve as the temporary chair of the CRC.

E. PROCEDURE

1. Step 1 - Complaint Resolution Process

- a. The employee must provide written notice of the problem to his/her immediate supervisor. This will provide the immediate supervisor with an opportunity to correct the situation or provide an explanation for the situation. The supervisor may engage in discussions with the employee, and any other individuals involved, for the purpose of settling differences in the simplest and most direct manner. If the immediate supervisor has not responded within five (5) days, or if the employee is not satisfied with the response provided by the immediate supervisor, the employee may submit the complaint to his/her next level supervisor.
- b. If the employee is not satisfied with the immediate supervisor's response, he/she has five (5) days from receipt of the response to submit the written complaint to the next level of supervision. If the next level of supervision is not the department head*, it will be this supervisor's responsibility to include the department head at this step in the process.

* For the purposes of this policy, the term "department head" also refers to the appropriate vice president, dean, division director or program chair.

If the next level of supervision has not responded within five (5) days, or if the employee is not satisfied with the response provided by the next level of supervision, the employee may proceed to the next step of the complaint resolution procedure.

2. Step 2 - Complaint Resolution Process

If the employee is unable to resolve the problem through the processes discussed above, the complaint may be submitted to the chair of the CRC. A formal complaint at this step must be presented in writing within three (3) days of receiving the final response at Step 1, above.

The written complaint must contain, at a minimum, the following information: the nature and extent of the problem; an indication of what policies and/or procedures the complainant alleges were violated; identification of the person/ persons the complainant alleges was/were responsible for the problem; attempts made by the employee to resolve the problem; and the remedy sought by the employee.

The chair of the CRC will acknowledge receipt of the complaint within three (3) days or as soon thereafter as is reasonably practicable. Upon receipt of a written complaint, the chair may investigate the problem raised and may attempt a resolution. If the employee is not satisfied with the resolution provided by the chair of the CRC, he/she may request that a committee be convened. This request must be submitted, in writing, to the chair of the CRC within three (3) days of the chair's notice of resolution to the employee.

Alternatively, the chair of the CRC may elect to convene a committee at this stage. The chair's resolution or decision to convene a committee will be conveyed to the employee, in writing, within ten (10) days of the receipt of the written complaint or as soon thereafter as is reasonably practicable.

3. Step 3 - Complaint Resolution Process - Complaint Resolution Committee

Both the chair of the committee and the complainant must identify and secure the agreement of temporary members [as discussed in Section D (7), above] within seven (7) days of the request to convene a committee.

Once the committee members are identified and agree to serve, the committee should meet for the first time within a reasonable period, but no later than twenty-one (21) days after their agreement to serve. Since witnesses may be heard at this step, it is not possible to assign a time frame for completion of the CRC process, but the Committee will work with all deliberate speed.

The complainant will have the right to be present when the committee is interviewing witnesses but will not be present during any of the committee's discussions.

The final decision of the committee regarding the specific complaint will be communicated to the complainant in writing and within three (3) days of the final decision.

Conduct of the Complaint Resolution Committee Hearings

The following procedures shall govern the hearings of a Complaint Resolution Committee:

- a. The chair of the committee shall have control of the hearings. He/she shall take whatever action is necessary to ensure an equitable, orderly and expeditious process. In the event that a member of the committee objects to any decision of the chair, a majority vote of the committee shall govern. The chair or any member of the committee may direct questions to any party at any time during the hearings.
- b. The chair shall open the hearings with a statement of the general rules of procedure to be followed in the conduct of the hearings. As part of this process, the chair will obtain signed confidentiality agreements (sample attached) from all members of the committee, the complainant and the opposing party or parties. An individual's failure to comply with the terms of the confidentiality agreement subjects the individual to disciplinary action up to and including discharge.
- c. The complainant will be offered an opportunity to provide an opening statement, followed by the opportunity for an opening statement from the opposing party or parties.

- d. The complainant may present evidence and testimony in support of his/her position. Cross-examination of the complainant and/or witnesses shall be allowed. Any objections to evidence sought to be introduced shall be ruled upon by the chair.
- e. The opposing party or parties may present evidence and/or testimony in response. Cross-examination of the opposing party or parties and/or witnesses shall be allowed. Any objections to evidence sought to be introduced shall be ruled upon by the chair.
- f. The complainant will be offered an opportunity to provide any rebuttal evidence.
- g. Both the complainant and the opposing party or parties, in that order, will be offered an opportunity to provide a closing statement.
- h. When hearing a complaint concerning termination of employment, the CRC may require the opposing party or parties, without the burden of proof, to present opening statements and evidence before the complainant.
- i. All parties to the complaint must submit a list of witnesses to the chair of the CRC prior to the hearing.
- j. Signed confidentiality statements from all parties, including the complainant, must be provided to the Chair of the CRC prior to the hearing. Refusal to sign the agreement will disqualify an individual from testifying or attending the hearing.
- k. Testimony of witnesses shall be under oath or affirmation. Witnesses are subject to the confidentiality provisions discussed in Section E(3)(b), above. Witnesses who are also university employees are subject to disciplinary action up to and including discharge for failure to maintain confidentiality.
- l. The complainant or any opposing party may object to clearly irrelevant material, but no technical objections will be allowed.
- m. Strict courtroom procedures will not be followed and the Rules of Evidence shall be liberally interpreted.
- n. Neither the complainant, the opposing party or parties, or any witness will be permitted to have legal counsel present during the hearings. The chair may have legal counsel present at the hearings, or at subsequent deliberations and discussions of the committee, to advise the chair and/or committee.
- o. An audio recording of CRC hearings will normally be made, subject to all applicable provisions of state and federal law. Deliberations and discussions of the committee will not be recorded.

4. Step 4 - Complaint Resolution Process - Appeal to the Executive Council

The complainant must have completed Steps 1, 2 and 3 of this procedure before proceeding to this step. The complainant's failure to complete a step will result in the loss of the right to have an appeal heard by the Executive Council.

Upon notification of the decision of the CRC, the complainant must provide written notification to the chair of the CRC of his/her desire to appeal the decision of the CRC to the Executive Council. This request for an appeal must be received within three (3) days of the committee's written decision.

The Executive Council (EC) is comprised of the president and the vice presidents. The president is designated as the Permanent Chair of the Executive Council. If a member of the EC has made any previous decision which resulted in or formed the basis for the complaint, he/she will be excused from participation at this step and will not be replaced. If the president is excused from participation at this step, he/she will appoint an acting chairperson from the remaining EC members for purposes of resolving the complaint under appeal.

The complainant's request for an appeal as well as the entire complaint file will be made available to the chair of the EC by the chair of the CRC. The CRC will be available to provide any information requested by the EC.

The primary purpose of the Appeal to the Executive Council is to ensure that the Complaint Resolution Procedure has been completely, fairly and properly followed. If the EC finds some failing in the processing of the complaint, the EC may, at its option, return the complaint to the CRC for a re-hearing, or may choose to have the complaint heard by the EC.

The complainant's appeal to the EC will consist solely of a review of the CRC proceedings held at the preceding step. Evidence or testimony that was available but not presented at the previous step will not normally be accepted by the EC.

If deemed appropriate by the EC, the complainant may be contacted and offered the opportunity to appear before the EC and explain his/her disagreement with the decision of the CRC. At the request of the EC, other individuals with knowledge of the situation that led to the complaint may be requested to appear before the EC. The complainant will not have the right to call witnesses and will not be present during any of the EC's discussions.

When the EC is satisfied that sufficient information has been provided, the relevant issues will be discussed and the written decision of the EC will be provided to the complainant and the chair of the CRC within three (3) days of the EC's decision.

The decision of the Executive Council is final.

SAMPLE CONFIDENTIALITY STATEMENTS

Statement for Complaint Resolution Committee Members:

I, _____, agree to serve on the Complaint Resolution Committee (CRC) hearing the complaint brought by _____. In agreeing to serve, I agree that all proceedings of the CRC are considered confidential and agree to the taping of all CRC hearings.

Further, except as indicated below, I agree not to discuss any of the issues and/or testimony related to the complaint, including identification of CRC members or witnesses, with any individual, employee or non-employee of the university, without the written permission of the chair of the CRC, unless pursuant to an administrative or judicial investigation or proceeding. I may answer questions regarding this matter in response to a properly executed and served subpoena, but agree to notify the chair of the CRC if I receive a subpoena in this matter.

As an employee of the Florida Institute of Technology, I understand that my failure to comply with the terms of this confidentiality statement subjects me to disciplinary action up to and including discharge.

Signature

Date

Statement for Complaint Resolution Committee Witnesses:

I, _____, as a witness before the Complaint Resolution Committee (CRC) hearing the complaint brought by _____, agree that all proceedings of the CRC are considered confidential and agree to the taping of all CRC hearings, including my testimony.

Further, except as indicated below, I agree not to discuss any of the issues and/or testimony related to the complaint, including identification of CRC members or witnesses, with any individual, employee or non-employee of the university, without the written permission of the chair of the CRC, unless pursuant to an administrative or judicial investigation or proceeding. I may answer questions regarding this matter in response to a properly executed and served subpoena, but agree to notify the chair of the CRC if I receive a subpoena in this matter.

If an employee of the Florida Institute of Technology, I understand that my failure to comply with the terms of this confidentiality statement subjects me to disciplinary action up to and including discharge.

Signature

Date