The materials below consist of regulations of the State University of New York Board of Trustees. However, it is not the Official Compilation of the Codes, Rules, and Regulations of the State of New York. Readers are advised to refer to the Official Compilation (8 NYCRR Part et seq)in case of questions.

PART 400

GRIEVANCE PROCEDURE FOR CLASSIFIED CIVIL SERVICE EMPLOYEES

Sec.

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§ 400.1 Authority.

This procedure for the submission of grievances by employees in the classified service of the State University for the prompt and orderly consideration in the determination of grievances is adopted pursuant to the executive order of October 14, 1970 [see 9 NYCRR 1.1], and is in addition to any grievance procedure which may be provided for by an agreement with an employee organization.

§ 400.2 Employee rights.

Every employee to whom this procedure applies shall have the right to present his grievance in accordance with this procedure, free from interference, coercion, restraint, discrimination or reprisal. Every employee shall have the right to present his grievance personally, or to be represented by a person of his own choosing at all steps of this procedure, except that where there is in effect a collective agreement covering a negotiation unit which includes such employee, which was entered into between the State and an employee organization, then such employee may not choose as his representative, any employee organization other than the organization with which such agreement was negotiated, nor may any employee organization other than the one with which such agreement was negotiated initiate or process a grievance except to the extent permitted by such agreements.

§ 400.3 University grievance officer.

The director of personnel services and employee benefits shall be responsible for the administration of this grievance procedure, and is hereby designated university grievance officer with full authority to act on behalf of the chancellor of State University in making a determination on matters presented pursuant to this grievance procedure.

§ 400.4 Applicability.

This procedure shall apply to grievances claiming an act or omission resulting in an injustice to an employee in the classified service and arising out of conditions which are in whole or part subject to the control of the president of a college or the chancellor of State University which involve alleged safety or health hazards; unsatisfactory physical facilities, surroundings, materials or equipment; unfair or discriminatory supervisory and disciplinary practice; unjust

treatment by fellow workers; unreasonable assignment of work hours or personal time allowances; unfair or unreasonable work quotas; and all other grievances relating to conditions of employment; provided, however, that this procedure shall not apply to matters which are reviewable under administrative procedure established by law or under the rules of the State Civil Service Commission, or the rules of any other department or agency having the force and effect of law, or grievances concerning the interpretation, application or claimed violation of a specific term or provision of a collective agreement between the State and an employee organization.

§ 400.5 Local administrator.

The college president shall designate the person responsible for the local administration of this procedure, such person to be known as the local administrator. The local administrator shall expedite the processing of grievances, maintain grievance case records, prepare and submit reports to the university grievance officer as required, and publicize grievance information.

§ 400.6 Grievance procedure steps.

(a) Step 1. The employee, or his representative, shall present the grievance orally or in writing on forms to be provided by the college to the employee's immediate supervisor or to the local administrator not later than 45 calendar days after the date on which the act or omission giving rise to the grievance occurred. The local administrator may require the grievant to meet with the grievant's immediate supervisor in an effort to settle the grievance informally. The person receiving the grievance shall take appropriate action to insure that a proper and timely disposition of the grievance is made and shall reply to the employee or his representative, in writing, within five working days following the date of submission.

(b) Step 2. In the event the employee or his representative wishes to appeal the decision made at step 1, the appeal must be presented, in writing, on forms to be provided by the college, within 15 working days of the receipt of the step 1 decision, to the local administrator. A copy of such appeal shall also be sent to the person who passed upon the grievance at step 1. Such appeal shall contain a short, plain statement of the grievance and indicate the redress, relief or remedy sought. The president shall designate a person to hear the appeal at step 2, and such designee shall meet with the employee or his representative, or both, within 20 working days after the receipt of the appeal by the local administrator to review the grievance and shall issue a written decision to the employee or his representative by the end of the fifteenth working day following the day on which the review was held.

(c) Step 3. An appeal from a decision at step 2 shall be presented by the employee or his representative in writing, on forms to be provided by the college, to the university grievance officer within 15 working days of the receipt of the step 2 decision. A copy of the appeal shall be sent to the local administrator. The university grievance officer or his designee, shall meet within 20 working days after receipt of the appeal with the employee and/or his representative, if they so desire, for a review of the grievance. If a meeting is not requested, the university grievance officer shall make his determination on the basis of the facts submitted to him by the parties. A written decision shall be issued to the employee or his representative by the end of the twentieth working day following the day on which the step 3 review was held.

(d) Step 4. An appeal from an unsatisfactory decision at step 3 shall be presented in writing, on forms to be provided by the State, by the employee or his representative within 15 working days of receipt of the step 3 decision, to the grievance appeals board. The grievant shall also furnish a copy to the university grievance officer.

(e) The time for presenting a step 1 grievance shall be extended by the time that an employee is absent from the job through illness or disability, provided such illness or disability extends for at least 10 calendar days.

(f) Failure to answer a grievance within the time limit prescribed in steps 1, 2 or 3 of the grievance procedure shall permit the employee or his representative to progress the grievance to the next step for decision.

(g) Any grievance not appealed by the employee or his representative to the next step of the grievance procedure within the time limit prescribed shall be considered settled on the basis of the last decision and is not subject to further appeal or consideration.

(h) The university grievance officer may, if he deems it appropriate, direct that a verbatim record of the step 3 review be taken. A verbatim record of the step 1 and step 2 reviews shall not be made.

§ 400.7 General provisions.

(a)

(1) The employee shall identify his representative, if any, to the appropriate State official(s) at all steps, giving name, address, and official designation, and if also an employee, his title, official working station and

department.

(2) A representative who is also a State employee shall notify his supervisor immediately upon learning of his designation, stating the name of the aggrieved and the time and place of the grievance review or discussion.

(b) The time and place for the discussion or hearing of grievances within the college shall be designated by the local administration, and, so far as practicable shall be mutually agreeable to the appropriate parties.

(c) An employee's right to process a grievance shall not be lost to him solely because he has left the college wherein it arose or because he has left State service, provided such right had fully accrued prior to his separation from the college of its origin and provided further that he could otherwise have prosecuted such grievance but for separation and provided, further, that he presents his grievance not later than 45 calendar days after the date on which the act or omission giving rise to the grievance occurred.

(d) Terminations of the services of probationers pursuant to the Civil Service Law are not reviewable under these procedures except where the petitioner presents prima facie evidence that the decision of the appointing officer may have been arbitrary or capricious. In such cases, the university grievance officer may

(1) authorize the processing of the grievance through the university procedure; or

(2) assume original jurisdiction in resolving the grievance.

(e) The form referred to hereinabove may be obtained from the local administrator or from the university grievance officer.

§ 400.8 Time off for processing of grievances.

(a) An employee and his representative, if an employee, shall be allowed such time off from his regular duties as may be necessary and reasonable for the processing of a grievance under these procedures without loss of pay or vacation or other time credits.

(b) Time shall be granted for the presentation of the grievance at any step or to the grievance appeals board. It shall not include time for preparation of a grievance, but shall include reasonable time for discussion between the employee and his representative immediately prior to the designated presentation and such reasonable travel time as may be necessary. An employee shall be permitted to discuss with his representative prior to the initiation of a first step proceeding any complaint or matter concerning conditions set forth in section (6)(b) of the executive order, for the purpose of aiding him in deciding whether he wishes to process the grievance under this procedure. If such discussion is to take place during regular work hours of an employee, whether grievant or representative, he shall first obtain from his supervisor permission to absent himself from his work and shall advise the supervisor of the name of the grievant or his representative, as the case may be.

(c) If any step must be scheduled outside regular working hours or continues beyond regular working hours, the additional time shall not be considered in computing earned overtime nor shall compensatory time off be granted. Insofar as practicable, agencies may reschedule the employee's and/or his representative's working hours to coincide with discussion or meetings scheduled outside regular working hours.

§ 400.9 [Procedure not in limitation of executive order or regulations of grievance appeals board.]

Nothing contained in this procedure shall be construed to limit the executive order or the regulations of the grievance appeals board.

§ 400.10 [Questions concerning administration of procedure.]

Questions concerning the administration of this procedure shall be directed to the university grievance officer.

§ 400.11 [Amendments or revisions of procedure.]

This procedure may be amended or revised by the university grievance officer with the approval of the grievance appeals board.