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ARTICLE 11
GRIEVANCE AND ARBITRATION PROCEDURE

11.1 Policy/Informal Resolution. The parties agree that all problems should be resolved, whenever possible, before the filing of a grievance but within the time limits for filing grievances stated elsewhere in this Article, and encourage open communications between administrators and employees so that resorting to the formal grievance procedure will not normally be necessary. The parties further encourage the informal resolution of grievances whenever possible. At each step in the grievance process, participants are encouraged to pursue appropriate modes of conflict resolution including the use of mediation. The purpose of this Article is to promote a prompt and efficient procedure for the investigation and resolution of grievances. The procedures hereinafter set forth shall be the sole and exclusive method for resolving the grievances of employees as defined in this Article.

11.2 Definitions and Forms. As used in this Article:

(a) The term "grievance" shall mean a dispute filed on a form referenced in Section 11.2(d) concerning the interpretation or application of a specific term or provision of this Agreement, subject to those exclusions appearing in other Articles of this Agreement. The grievance must specify the act that allegedly violates this Agreement, including the name(s) of any individual(s) which committed the act, the term of this Agreement that has allegedly been violated, and propose a remedy.

(b) The term "grievant" shall mean an employee or group of employees who has/have filed a grievance in a dispute over a provision of this Agreement which confers rights upon the employee(s). In accordance with state law, the UFF may file a chapter grievance on behalf of a person, a group of people, or the chapter itself. In order to process a chapter grievance submitted on behalf of a group of employees, the grievance must identify the group with sufficient specificity to allow the University to identify the individual members. A chapter grievance shall identify the specific remedy sought for the members.

For the University

For the UFF

Mark L. Bonfanti
Chief Negotiator

Candi Churchill
Chief Negotiator

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1 (c) A chapter grievance or a grievance of a decision made by the President or Provost
2 may be initiated at Step 2. The parties may agree to consolidate grievances of a similar
3 nature to expedite the review process.
4

5 (d) Grievance Forms. Each grievance, request for review, and notice of arbitration must
6 be submitted in writing on the appropriate form attached to this Agreement as Appendix
7 X, and shall be signed by the grievant. All grievance forms shall be dated and assigned
8 an identifying number by the Provost's office when the grievance is received. If there is
9 difficulty in meeting any time limit, the UFF representative may sign such documents for
10 the grievant; however, grievant's signature shall be provided prior to the Step 1 meeting
11 or Step 2 review if filed directly at Step 2. All grievance forms ~~other than the initial filing~~
12 shall be filed by email, to the General Counsel's office email address
13 (ogc@floridapoly.edu), and must contain the identifying grievance number once
14 assigned.
15

16 11.3 Burden of Proof. In all grievances, except those challenging disciplinary actions, the
17 burden of proof shall be on the employee.
18

19 11.4 Representation. UFF shall have the exclusive right to represent any in-unit employee
20 in a grievance unless an employee elects self-representation or to be represented by legal
21 counsel. If an employee elects not to be represented by UFF, the University shall promptly
22 inform UFF in writing of the grievance. No resolution of any individually processed
23 grievance shall be inconsistent with the terms of this Agreement, and for this purpose,
24 UFF shall have the right to have an observer present at all meetings called to discuss such
25 grievance and shall be sent copies of all decisions at the same time as they are sent to the
26 other parties.
27

28 11.5 Grievance Representatives. UFF shall annually furnish to the University a list of all
29 persons authorized to act as grievance representatives and shall update the list as needed.
30 The UFF grievance representative shall have the responsibility to meet all classes, office
31 hours, and other duties and responsibilities incidental to the assigned workload. Such
32 representative shall have the right during times outside of those hours scheduled for these

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1 activities to investigate, consult, and prepare grievance presentations and attend grievance
2 hearings and meetings. Should any hearings or meetings with the Vice Provost of
3 Assessment and Instruction, Provost, or their designees necessitate rescheduling of
4 assigned duties, the representative may, with the approval of the appropriate
5 administrator, arrange for the rescheduling of such duties or their coverage by colleagues.
6 Such approval shall not be unreasonably withheld.

7
8 11.6 Appearances.

9 (a) When an employee participates during working hours in an arbitration proceeding as
10 the grievant, or in an official capacity during a grievance meeting between the grievant
11 or representative and the University, that employee's compensation shall neither be
12 reduced nor increased for time spent in those activities.

13
14 (b) Prior to participation in any such proceedings, conferences, or meetings, the employee
15 shall make arrangements acceptable to the appropriate supervisor for the performance of
16 the employee's duties. Approval of such arrangements shall not be unreasonably withheld.
17 Time spent in such activities outside regular working hours shall not be counted as time
18 worked.

19
20 11.7 Formal Grievance Procedure.

21
22 (a) Filing.

23 (1) All grievances shall be electronically filed via email (Appendix "X") with the General
24 Counsel's office (ogc@floridapoly.edu), ~~or his/her representative at Step 1. Or in the case~~
25 ~~of a grievance initiated at Step 2, it shall be filed with the Provost or designee.~~ In all cases,
26 a grievance must be filed within twenty (20) days following the act or omission being
27 grieved, or the date on which the employee knew or reasonably should have known of
28 such act or omission if that date is later. Twenty (20) days shall be determined by a receipt
29 executed by the office receiving the grievance, or by the date of mailing as determined by
30 the postmark.

31
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1 (b) Time Limits. All time limits contained in this Article may be extended by agreement
2 of the parties, except that the time limits for the initial filing of a grievance may be
3 extended only by the University. Upon failure of the University to provide a decision
4 within the time limits provided in this Article or as extended by agreement, the grievant
5 or the UFF, where appropriate, may appeal to the next step. Upon the failure of the
6 grievant or the UFF, where appropriate, to file an appeal within the time limits provided
7 in this Article or as extended by agreement, the grievance shall be deemed to have been
8 resolved by the decision at the prior step or withdrawn.

9
10 (c) Postponement.

11
12 (1) The grievant may, in the timely-filed written grievance at Step 1, request the
13 postponement of any action in processing the grievance formally for a period of
14 up to thirty (30) days, during which period efforts to resolve the grievance
15 informally shall be made. The initial ~~such~~ request shall be granted. Upon the
16 grievant's written request, additional extensions may be granted unless to do so
17 would impede resolution of the grievance. Upon request, the Provost or his/her
18 designee shall, during the postponement period(s), arrange an informal meeting
19 between the appropriate administrator and the grievant. The grievant shall have
20 the right to representation by the UFF during attempts at informal resolution of the
21 grievance. The grievant may, at any time, terminate the postponement period by
22 giving written notice to the Provost or his/her designee that the grievant wishes to
23 proceed with the Step 1 meeting. If the postponement period, or any mutually
24 agreed to extension thereof, expires without such written notice, the grievance
25 shall be deemed informally resolved to the grievant's satisfaction and need not be
26 processed further.

27
28 (d) Step 1.

29
30 (1) Meeting. The Vice Provost of Assessment and Instruction or his/her representative
31 and the grievant and the grievant's representative shall meet within ten (10) days
32 following (a) receipt of the grievance if no postponement is requested, or (b)

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1 receipt of written notice that the grievant wishes to proceed with a Step 1 meeting.
2 At the Step 1 meeting, the grievant shall have the right to present any evidence in
3 support of the grievance, and the grievant and/or the UFF representative or the
4 grievant’s legal counsel (if selected pursuant to Section X.4), and the Vice Provost
5 of Assessment and Instruction or his/her representative, shall discuss the
6 grievance.
7

8 (2) Decision. The Vice Provost of Assessment and Instruction or his/her
9 representative shall issue a written decision, stating the reasons therefore, to
10 grievant’s Step 1 representative within seven (7) days following the conclusion of
11 the meeting. Seven days shall be determined by a receipt executed by the office
12 receiving the grievance, or by the date of mailing as determined by the postmark
13 or email. In the absence of an agreement to extend the period for issuing the Step
14 1 decision, the grievant may proceed to Step 2 if the grievant’s Step 1
15 representative has not received the written decision by the end of the 10th day
16 following the conclusion of the Step 1 meeting. A copy of the decision shall be
17 sent to the grievant and to the UFF grievance representative if the grievant elected
18 self-representation or representation by legal counsel.
19

20 (3) Documents. All documents referred to in the decision and any additional
21 documents presented by the grievant shall be attached to the decision, together
22 with a list of these documents.
23

24 (e) Step 2.

25
26 (1) Review. If the grievance is not satisfactorily resolved at Step 1, the grievant may
27 file a written request for review (Appendix "X") with the Provost or designee
28 within ten (10) days following receipt of the Step 1 decision by grievant’s Step 1
29 representative. Ten days shall be determined by a receipt executed by the office
30 receiving the grievance, or by the date of mailing as determined by the postmark
31 or email.
32

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1 (2) Meeting. The Provost or designee and the grievant and the grievant's
2 representative shall meet no later than seven (7) days following receipt of written
3 notice of request for a Step 2 review. At the Step 2 meeting, the grievant shall have
4 the right to present any evidence in support of the grievance, and the grievant
5 and/or the UFF representative or the grievant's legal counsel (if selected pursuant
6 to section X.4), and the Provost or designee shall discuss the grievance.
7

8 (3) Decision. The Provost or designee shall issue a written decision, stating the
9 reasons for the decision to grievant's Step 2 representative within five (5) days
10 following the conclusion of the review meeting. Five days shall be determined by
11 a receipt executed by the office receiving the grievance, or by the date of mailing
12 as determined by the postmark or email. In the absence of an agreement to extend
13 the period for issuing the Step 2 decision, UFF may proceed to Step 3 if the
14 grievant's Step 2 representative has not received the written decision by the end
15 of the 10th day following the conclusion of the Step 2 meeting. Step 2 decisions
16 in grievances not involving alleged procedural violations are final and binding. A
17 copy of the decision shall be sent to the grievant and to UFF if the grievant elected
18 self-representation or representation by legal counsel.
19

20 (f) Step 3 Arbitration.

21
22 (1) Filing. If a grievance alleging a procedural violation has not been satisfactorily
23 resolved at Step 2, UFF may, upon the request of the grievant, proceed to
24 arbitration by filing a written notice of the intent to do so (Appendix "X"). Notice
25 of intent to proceed to arbitration must be filed at the Provost's office within ten
26 (10) days after receipt of the Step 2 decision by grievant's Step 2 representative,
27 and must be signed by the grievant and a UFF representative. Ten (10) days shall
28 be determined by a receipt executed by the Provost's office, or by the date of
29 mailing as determined by the postmark or email. The grievance may be withdrawn
30 at any time by the grievant or by the UFF President at any point during Step 3. The
31 parties shall stipulate to the issue(s) prior to the arbitration. In the event a

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1 stipulation is not reached, the parties shall proceed to a hearing on arbitrability
2 pursuant to Section 11.7(f)(4).
3

4 (2) Selection of Arbitrator.
5

6 a. Representatives of the Board and UFF shall meet within ninety (90) days after the
7 execution of this Agreement for the purpose of selecting an Arbitration Panel of
8 seven (7) members. Each party shall submit six (6) arbitrators to create a selection
9 list, from which the parties may mutually agree to, or alternatively strike names
10 until they, select the Arbitration Panel. The right of the first choice to strike shall
11 be determined by a coinflip. The Arbitration Panel shall be operative until a
12 successor Agreement is ratified.
13

14 b. The parties shall either mutually agree upon the arbitrator charged with hearing
15 any grievance, or select the arbitrator from the Arbitration Panel as set forth below.
16 A mutually agreed upon arbitrator does not need to be a member of the Arbitration
17 Panel. In the event the parties cannot mutually agree upon an arbitrator, and no
18 later than fourteen (14) days after receipt of a notice of intent to arbitrate, the
19 parties shall confer for the purpose of selecting an arbitrator from the panel. The
20 parties shall alternatively strike names from the list until one name remains. The
21 right of the first choice to strike shall be determined by a coinflip.
22

23 (3) Authority of the Arbitrator.
24

25 a. The arbitrator shall neither add to, subtract from, modify, nor alter the terms or
26 provisions of this Agreement. Arbitrations shall be confined solely to the
27 application of this Agreement and the issue(s) submitted for arbitration. The
28 arbitrator shall refrain from issuing any statements of opinion or conclusions not
29 essential to the determination of the issues submitted.
30

31 b. The arbitrator shall not substitute the arbitrator's or another's judgment for that of
32 the University in any matter.

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- c. If the arbitrator determines that the Agreement has been violated, the arbitrator shall direct the University to correct any procedural violations and reapply the applicable procedures.
 - d. In cases involving disciplinary action, the Arbitrator does not have authority to modify the disciplinary action taken by the University. However, if the Arbitrator determines that the employee engaged in the alleged misconduct, but determines that disciplinary action taken is arbitrary or capricious, the Arbitrator shall instruct the University to reconsider the disciplinary action taken against the employee. If the arbitrator determines that the misconduct did not occur, the arbitrator shall sustain the grievance and award an appropriate remedy.
- (4) Arbitrability. Issues of arbitrability shall be separated from the substantive issue(s) and, whenever possible, determined by means of a hearing conducted by conference call. The arbitrator shall have ten (10) days from the hearing to render a decision on arbitrability. If the issue is judged to be arbitrable, an arbitrator shall then be selected to hear the substantive issue(s) in accordance with the provisions of Section 11.7(f)(2).
- (5) Conduct of Hearing. The arbitrator shall hold the hearing at the University, unless otherwise agreed by the parties. The hearing shall commence within sixty (60) days of the arbitrator's acceptance of selection, or as soon thereafter as is practicable, and the arbitrator shall issue the decision within forty-five (45) days of the close of the hearing or the submission of briefs, whichever is later, unless additional time is agreed to by the parties. The decision shall be in writing and shall set forth findings of fact, reasoning, and conclusions on the issues submitted. Except as modified by the provisions of this Agreement, arbitration proceedings shall be conducted in accordance with the current Labor Arbitration Rules of the American Arbitration Association.

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1 (6) Effect of Decision. The arbitrator’s decision shall be final and binding upon the
2 Board, the University, the UFF, and the grievant, provided that either party may
3 appeal to an appropriate court of law a decision that was rendered by the arbitrator
4 acting outside of or beyond the arbitrator's jurisdiction, pursuant to this Agreement
5 and the Florida Arbitration Code as defined by law.
6

7 (7) Fees and Expenses. The parties shall equally divide all arbitration fees and
8 expenses, unless the arbitrator rules that the grievance was frivolous, in which case
9 the filing party shall bear the cost of all fees and expenses associated with the
10 arbitration, including, if awarded, attorney’s fees. Fees and expenses charged by
11 an arbitrator for cancelation after the arbitrator’s deadline shall be borne by the
12 party requesting the cancelation. However, if a grievance is resolved, and the
13 cancelation of the arbitration results in any arbitration fees or expenses, such costs
14 shall be divided equally between the parties. Each party shall bear the cost of
15 preparing and presenting its own case including payment of expenses and
16 compensation for its own representatives, attorneys, and witnesses. The party
17 desiring a transcript of the arbitration proceedings shall provide notice to the other
18 party of its intention to have a transcript of the arbitration made prior to the
19 arbitration. The party desiring such transcript shall be responsible for scheduling
20 a stenotype reporter to record the proceedings. The party originally requesting a
21 transcript of the proceedings shall pay for any appearance fee of the court reporter.
22

23 11.8 Filings and Notification. All documents, except the initial filing, required or
24 permitted to be issued or filed pursuant to this Article may be transmitted by email, fax,
25 United States mail, or any other recognized delivery service. If any action falls due on a
26 Saturday, Sunday, or University recognized holiday, the action will be considered timely
27 if it is accomplished by 5:00 P.M. on the following business day.
28

29 11.9 Precedent. No complaint informally resolved, or grievance resolved at either Step 1
30 or 2, shall constitute a precedent for any purpose unless agreed to in writing by the Board
31 of Trustees or representatives and the UFF acting through its President or representative.
32

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- 1 11.10 Reprisal. No reprisal of any kind will be made by the Board, the University, or the
- 2 UFF against any grievant, any witness, any UFF representative, or any other participant
- 3 in the grievance procedure for such participation.
- 4
- 5 11.11 Records. All written materials pertinent to a grievance shall be filed separately from
- 6 the evaluation file of the grievant or witnesses, except decisions resulting from arbitration
- 7 or settlement.
- 8
- 9 11.12 Inactive Grievances. A grievance which has been filed at Step 2 or Step 3 and on
- 10 which no action has been taken by the grievant or the UFF for forty-five (45) days shall
- 11 be deemed withdrawn and resolved in accordance with the decision issued at the prior
- 12 Step.
- 13
- 14

For the University

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Date

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Statement of grievance (must include date of acts or omissions complained of and name(s) of any individual(s) that allegedly committed the acts or omissions):

Remedy Sought: _____

III. AUTHORIZATION

I will be represented in this grievance by: (check one - representative must sign on appropriate line):

UFF _____
 Legal Counsel _____
 Myself _____

I (do)_____(do not)_____ want a postponement for up to 30 days to seek informal resolution of this grievance.

I UNDERSTAND AND AGREE THAT BY FILING THIS GRIEVANCE, I WAIVE WHATEVER RIGHTS I MAY HAVE UNDER CHAPTER 120 OF THE FLORIDA STATUTES WITH REGARD TO THE MATTERS I HAVE RAISED HEREIN AND UNDER ALL OTHER UNIVERSITY PROCEDURES WHICH MAY BE AVAILABLE TO ADDRESS THESE MATTERS.

This grievance was filed with the Office of the Vice Provost of Assessment and Instruction (as defined in Section 11.7(a)(1)) on _____ by (check one) mail

For the University

For the UFF

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Chief Negotiator

Candi Churchill
Chief Negotiator

Date

Date

1 (certified or registered, restricted delivery, return receipt requested)____; personal
2 delivery ____; other (specify) _____.
3 EMAIL
4
5
6 _____
7 Signature of Grievant
8 (Grievant must sign if grievance is to be processed.)

For the University

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Chief Negotiator

Date

For the UFF

Candi Churchill
Chief Negotiator

Date