

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37

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. Any such grievance may not challenge a discretionary decision (i.e. promotion, reappointment, discipline, etc.), except to challenge alleged procedural violations 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.

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

38 (d) Grievance Forms. Each grievance, request for review, and notice of arbitration must
39 be submitted in writing on the appropriate form attached to this Agreement as Appendix
40 X, and shall be signed by the grievant. All grievance forms shall be dated and assigned
41 an identifying number by the Provost's office when the grievance is received. If there is
42 difficulty in meeting any time limit, the UFF representative may sign such documents for
43 the grievant; however, grievant's signature shall be provided prior to the Step 1 meeting
44 or Step 2 review if filed directly at Step 2. All grievance forms other than the initial filing
45 shall be filed by email, to the General Counsel's office, and must contain the identifying
46 grievance number once assigned.

47

48 11.3 Burden of Proof. In all grievances, except those challenging disciplinary actions, the
49 burden of proof shall be on the employee.

50

51 11.4 Representation. UFF shall have the exclusive right to represent any in-unit employee
52 in a grievance unless an employee elects self-representation or to be represented by legal
53 counsel. If an employee elects not to be represented by UFF, the University shall promptly
54 inform UFF in writing of the grievance. No resolution of any individually processed
55 grievance shall be inconsistent with the terms of this Agreement and for this purpose UFF
56 shall have the right to have an observer present at all meetings called to discuss such
57 grievance and shall be sent copies of all decisions at the same time as they are sent to the
58 other parties.

59

60 11.5 Grievance Representatives. UFF shall annually furnish to the University a list of all
61 persons authorized to act as grievance representatives and shall update the list as needed.
62 The UFF grievance representative shall have the responsibility to meet all classes, office
63 hours, and other duties and responsibilities incidental to the assigned workload. Such
64 representative shall have the right during times outside of those hours scheduled for these
65 activities to investigate, consult, and prepare grievance presentations and attend grievance
66 hearings and meetings. Should any hearings or meetings with the Vice Provost of
67 Assessment and Instruction, Provost, or their designees necessitate rescheduling of
68 assigned duties, the representative may, with the approval of the appropriate
69 administrator, arrange for the rescheduling of such duties or their coverage by colleagues.
70 Such approval shall not be unreasonably withheld.

71

72 11.6 Appearances.

73 (a) When an employee participates during working hours in an arbitration proceeding as
74 the grievant, or in an official capacity during a grievance meeting between the grievant

75 or representative and the University, that employee's compensation shall neither be
76 reduced nor increased for time spent in those activities.

77
78 (b) Prior to participation in any such proceedings, conferences, or meetings, the employee
79 shall make arrangements acceptable to the appropriate supervisor for the performance of
80 the employee's duties. Approval of such arrangements shall not be unreasonably withheld.
81 Time spent in such activities outside regular working hours shall not be counted as time
82 worked.

83
84 11.7 Formal Grievance Procedure.

85
86 (a) Filing.

87 (1) A grievance shall be filed (Appendix "X") with the General Counsel's office, or
88 his/her representative at Step 1. Or in the case of a grievance initiated at Step 2, it shall
89 be filed with the Provost or designee. In all cases, a grievance must be filed within twenty
90 (20) days following the act or omission being grieved, or the date on which the employee
91 knew or reasonably should have known of such act or omission if that date is later. Twenty
92 (20) days shall be determined by a receipt executed by the office receiving the grievance,
93 or by the date of mailing as determined by the postmark.

94
95 (b) Time Limits. All time limits contained in this Article may be extended by agreement
96 of the parties, except that the time limits for the initial filing of a grievance may be
97 extended only by the University. Upon failure of the University to provide a decision
98 within the time limits provided in this Article or as extended by agreement, the grievant
99 or the UFF, where appropriate, may appeal to the next step. Upon the failure of the
100 grievant or the UFF, where appropriate, to file an appeal within the time limits provided
101 in this Article or as extended by agreement, the grievance shall be deemed to have been
102 resolved by the decision at the prior step or withdrawn.

103
104 (c) Postponement.

105
106 (1) The grievant may, in the timely-filed written grievance at Step 1, request the
107 postponement of any action in processing the grievance formally for a period of
108 up to twenty (20) days, during which period efforts to resolve the grievance
109 informally shall be made. The initial such request shall be granted. Upon the
110 grievant's written request, additional extensions may be granted unless to do so
111 would impede resolution of the grievance. Upon request, the Provost or his/her

112 designee shall, during the postponement period(s), arrange an informal meeting
113 between the appropriate administrator and the grievant. The grievant shall have
114 the right to representation by the UFF during attempts at informal resolution of the
115 grievance. The grievant may, at any time, terminate the postponement period by
116 giving written notice to the Provost or his/her designee that the grievant wishes to
117 proceed with the Step 1 meeting. If the postponement period, or any mutually
118 agreed to extension thereof, expires without such written notice, the grievance
119 shall be deemed informally resolved to the grievant's satisfaction and need not be
120 processed further.

121
122 (d) Step 1.

123
124 (1) Meeting. The Vice Provost of Assessment and Instruction or his/her representative
125 and the grievant and the grievant's representative shall meet within ten (10) days
126 following (a) receipt of the grievance if no postponement is requested, or (b)
127 receipt of written notice that the grievant wishes to proceed with a Step 1 meeting.
128 At the Step 1 meeting, the grievant shall have the right to present any evidence in
129 support of the grievance, and the grievant and/or the UFF representative or the
130 grievant's legal counsel (if selected pursuant to Section X.4), and the Vice Provost
131 of Assessment and Instruction or his/her representative, shall discuss the
132 grievance.

133
134 (2) Decision. The Vice Provost of Assessment and Instruction or his/her
135 representative shall issue a written decision, stating the reasons therefore, to
136 grievant's Step 1 representative within seven (7) days following the conclusion of
137 the meeting. Seven days shall be determined by a receipt executed by the office
138 receiving the grievance, or by the date of mailing as determined by the postmark
139 or email. In the absence of an agreement to extend the period for issuing the Step
140 1 decision, the grievant may proceed to Step 2 if the grievant's Step 1
141 representative has not received the written decision by the end of the 10th day
142 following the conclusion of the Step 1 meeting. A copy of the decision shall be
143 sent to the grievant and to the UFF grievance representative if the grievant elected
144 self-representation or representation by legal counsel.

145
146 (3) Documents. All documents referred to in the decision and any additional
147 documents presented by the grievant shall be attached to the decision, together
148 with a list of these documents.

149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185

(e) Step 2.

- (1) Review. If the grievance is not satisfactorily resolved at Step 1, the grievant may file a written request for review (Appendix "X") with the Provost or designee within ten (10) days following receipt of the Step 1 decision by grievant's Step 1 representative. Ten days shall be determined by a receipt executed by the office receiving the grievance, or by the date of mailing as determined by the postmark or email.
- (2) Meeting. The Provost or designee and the grievant and the grievant's representative shall meet no later than seven (7) days following receipt of written notice of request for a Step 2 review. At the Step 2 meeting, the grievant shall have the right to present any evidence in support of the grievance, and the grievant and/or the UFF representative or the grievant's legal counsel (if selected pursuant to section X.4), and the Provost or designee shall discuss the grievance.
- (3) Decision. The Provost or designee shall issue a written decision, stating the reasons for the decision to grievant's Step 2 representative within five (5) days following the conclusion of the review meeting. Five days shall be determined by a receipt executed by the office receiving the grievance, or by the date of mailing as determined by the postmark or email. In the absence of an agreement to extend the period for issuing the Step 2 decision, UFF may proceed to Step 3 if the grievant's Step 2 representative has not received the written decision by the end of the 10th day following the conclusion of the Step 2 meeting. Step 2 decisions in grievances not involving alleged procedural violations are final and binding. A copy of the decision shall be sent to the grievant and to UFF if the grievant elected self-representation or representation by legal counsel.

(f) Step 3 Arbitration.

- (1) Filing. If a grievance alleging a procedural violation has not been satisfactorily resolved at Step 2, UFF may, upon the request of the grievant, proceed to arbitration by filing a written notice of the intent to do so (Appendix "X"). Notice of intent to proceed to arbitration must be filed at the Provost's office within ten (10) days after receipt of the Step 2 decision by grievant's Step 2 representative, and must be signed by the grievant and a UFF representative. Ten (10) days shall

186 be determined by a receipt executed by the Provost's office, or by the date of
187 mailing as determined by the postmark or email. The grievance may be withdrawn
188 at any time by the grievant or by the UFF President at any point during Step 3. The
189 parties shall stipulate to the issue(s) prior to the arbitration. In the event a
190 stipulation is not reached, the parties shall proceed to a hearing on arbitrability
191 pursuant to Section 11.7(f)(4).
192

193 (2) Selection of Arbitrator.
194

195 a. Representatives of the Board and UFF shall meet within ninety (90) days after the
196 execution of this Agreement for the purpose of selecting an Arbitration Panel of
197 seven (7) members. Each party shall submit six (6) arbitrators to create a selection
198 list, from which the parties may mutually agree to, or alternatively strike names
199 until they, select the Arbitration Panel. The right of the first choice to strike shall
200 be determined by a coinflip. The Arbitration Panel shall be operative until a
201 successor Agreement is ratified.
202

203 a.b. The parties shall either mutually agree upon the arbitrator charged with
204 hearing any grievance, or select the arbitrator from the Arbitration Panel as set
205 forth below. within ten (10) days of filing a notice of intent to proceed to
206 arbitration. A mutually agreed upon arbitrator does not need to be a member of the
207 Arbitration Panel. In the event the parties cannot mutually agree upon an arbitrator,
208 each party will submit 4 names and no later than fourteen (14) days after receipt of
209 a notice of intent to arbitrate, the parties shall confer for the purpose of selecting
210 an arbitrator from the panel. The parties shall alternatively strike names from the
211 list until one name remains. The right of the first choice to strike shall be
212 determined by a coinflip. then the parties shall alternatively strike arbitrators until
213 a selection is made.
214

215 (3) Authority of the Arbitrator.
216

217 a. The arbitrator shall neither add to, subtract from, modify, nor alter the terms or
218 provisions of this Agreement. Arbitrations shall be confined solely to the
219 application of this Agreement and the precise procedural issue(s) submitted for
220 arbitration. The arbitrator shall refrain from issuing any statements of opinion or
221 conclusions not essential to the determination of the issues submitted.
222

- 223 b. The arbitrator shall not substitute the arbitrator's or another's judgment for that of
224 the University in any matter.
225
- 226 c. If the arbitrator determines that the Agreement has been violated, the arbitrator
227 shall direct the University to correct any procedural violations and reapply the
228 applicable procedures.
229
- 230 b. d. In cases involving disciplinary action, if the arbitrator determines that the
231 alleged misconduct leading to the disciplinary action occurred, the arbitrator does
232 not have authority to modify the given discipline, and the arbitrator shall deny the
233 grievance. However, if the arbitrator determines that the misconduct did not occur,
234 the arbitrator shall sustain the grievance and award an appropriate remedy.
235
- 236 (4) Arbitrability. Issues of arbitrability shall be separated from the substantive issue(s)
237 and, whenever possible, determined by means of a hearing conducted by
238 conference call. The arbitrator shall have ten (10) days from the hearing to render
239 a decision on arbitrability. If the issue is judged to be arbitrable, an arbitrator shall
240 then be selected to hear the substantive issue(s) in accordance with the provisions
241 of Section 11.7(f)(2).
242
- 243 (5) Conduct of Hearing. The arbitrator shall hold the hearing at the University, unless
244 otherwise agreed by the parties. The hearing shall commence within ~~twenty-~~
245 fivesixty (2560) days of the arbitrator's acceptance of selection, or as soon
246 thereafter as is practicable, and the arbitrator shall issue the decision within forty-
247 five (45) days of the close of the hearing or the submission of briefs, whichever is
248 later, unless additional time is agreed to by the parties. The decision shall be in
249 writing and shall set forth findings of fact, reasoning, and conclusions on the issues
250 submitted. Except as modified by the provisions of this Agreement, arbitration
251 proceedings shall be conducted in accordance with the current Labor Arbitration
252 Rules of the American Arbitration Association.
253
- 254 (6) Effect of Decision. The arbitrator's decision shall be final and binding upon the
255 Board, the University, the UFF, and the grievant, provided that either party may
256 appeal to an appropriate court of law a decision that was rendered by the arbitrator
257 acting outside of or beyond the arbitrator's jurisdiction, pursuant to this Agreement
258 and the Florida Arbitration Code as defined by law.
259

260 (7) Fees and Expenses. The parties shall equally divide all arbitration fees and
261 expenses. Fees and expenses charged by an arbitrator for cancelation after
262 withdrawal is the responsibility of the withdrawing party. Each party shall bear the
263 cost of preparing and presenting its own case including payment of expenses and
264 compensation for its own representatives, attorneys, and witnesses. The party
265 desiring a transcript of the arbitration proceedings shall provide notice to the other
266 party of its intention to have a transcript of the arbitration made prior to the
267 arbitration. The party desiring such transcript shall be responsible for scheduling
268 a stenotype reporter to record the proceedings. The party originally requesting a
269 transcript of the proceedings shall pay for any appearance fee of the court reporter.
270

271 11.8 Filings and Notification. All documents, except the initial filing, required or
272 permitted to be issued or filed pursuant to this Article may be transmitted by email, fax,
273 United States mail, or any other recognized delivery service. If any action falls due on a
274 Saturday, Sunday, or University recognized holiday, the action will be considered timely
275 if it is accomplished by 5:00 P.M. on the following business day.
276

277 11.9 Precedent. No complaint informally resolved, or grievance resolved at either Step 1
278 or 2, shall constitute a precedent for any purpose unless agreed to in writing by the Board
279 of Trustees or representatives and the UFF acting through its President or representative.
280

281 11.10 Reprisal. No reprisal of any kind will be made by the Board, the University, or the
282 UFF against any grievant, any witness, any UFF representative, or any other participant
283 in the grievance procedure for such participation.
284

285 11.11 Records. All written materials pertinent to a grievance shall be filed separately from
286 the evaluation file of the grievant or witnesses, except decisions resulting from arbitration
287 or settlement.
288

289 11.12 Inactive Grievances. A grievance which has been filed at Step 2 or Step 3 and on
290 which no action has been taken by the grievant or the UFF for forty-five (45) days shall
291 be deemed withdrawn and resolved in accordance with the decision issued at the prior
292 Step.
293
294

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

333

334

335

336 Remedy Sought: _____

337

338 III. AUTHORIZATION

339

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

342

343 UFF _____

344 Legal Counsel _____

345 Myself _____

346

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

349

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

355

356 This grievance was filed with the Office of the Vice Provost of Assessment and
357 Instruction (as defined in Section 11.7(a)(1)) on _____ by (check one) mail
358 (certified or registered, restricted delivery, return receipt requested) ; personal
359 delivery ; other (specify) _____.

360 EMAIL

361

362

363 _____

364 Signature of Grievant

365 (Grievant must sign if grievance is to be processed.)