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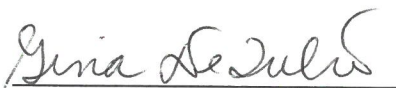
ARTICLE 11
GRIEVANCE AND ARBITRATION PROCEDURE

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

For the University



Mark L. Bonfanti
Chief Negotiator

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1 specificity to allow the University to identify the individual members. A
2 chapter grievance shall identify the specific remedy sought for the members.
3

4 (c) A chapter grievance or a grievance of a decision made by the President or
5 Provost may be initiated at Step 2. The parties may agree to consolidate
6 grievances of a similar nature to expedite the review process.
7


8 (d) Grievance Forms. Each grievance, request for review, and notice of arbitration
9 must be submitted in writing on the appropriate form attached to this
10 Agreement as Appendix X, and shall be signed by the grievant. All grievance
11 forms shall be dated and assigned an identifying number by the Provost's office
12 when the grievance is received. If there is difficulty in meeting any time limit,
13 the UFF representative may sign such documents for the grievant; however,
14 grievant's signature shall be provided prior to the Step 1 meeting or Step 2
15 review if filed directly at Step 2. All grievance forms shall be filed by email, to
16 the General Counsel's office email address (ogc@floridapoly.edu), and must
17 contain the identifying grievance number once assigned.
18

19 11.3 Burden of Proof. In all grievances, except those challenging disciplinary actions, the
20 burden of proof shall be on the employee.
21

22 11.4 Representation. UFF shall have the exclusive right to represent any in-unit employee
23 in a grievance unless an employee elects self-representation or to be represented by
24 legal counsel. If an employee elects not to be represented by UFF, the University
25 shall promptly inform UFF in writing of the grievance. No resolution of any
26 individually processed grievance shall be inconsistent with the terms of this
27 Agreement, and for this purpose, UFF shall have the right to have an observer
28 present at all meetings called to discuss such grievance and shall be sent copies of
29 all decisions at the same time as they are sent to the other parties.
30

31 11.5 Grievance Representatives. UFF shall annually furnish to the University a list of all
32 persons authorized to act as grievance representatives and shall update the list as

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1 needed. The UFF grievance representative shall have the responsibility to meet all
2 classes, office hours, and other duties and responsibilities incidental to the assigned
3 workload. Such representative shall have the right during times outside of those
4 hours scheduled for these activities to investigate, consult, and prepare grievance
5 presentations and attend grievance hearings and meetings. Should any hearings or
6 meetings with the Vice Provost of Assessment and Instruction, Provost, or their
7 designees necessitate rescheduling of assigned duties, the representative may, with
8 the approval of the appropriate administrator, arrange for the rescheduling of such
9 duties or their coverage by colleagues. Such approval shall not be unreasonably
10 withheld.

11

12 **11.6 Appearances.**

13

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

19

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

25

26 **11.7 Formal Grievance Procedure.**

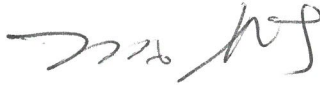
27

28 (a) Filing. All grievances shall be electronically filed via email (Appendix "X")
29 with the General Counsel's office (ogc@floridapoly.edu). In all cases, a
30 grievance must be filed within twenty (20) days following the act or omission
31 being grieved, or the date on which the employee knew or reasonably should
32 have known of such act or omission if that date is later. Twenty (20) days shall

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1 be calculated from the date in which the grievance is emailed to, and confirmed
2 as received by, the General Counsel's office.
3

4 (b) Time Limits. All time limits contained in this Article may be extended by
5 agreement of the parties, except that the time limits for the initial filing of a
6 grievance may be extended only by the University. Upon failure of the
7 University to provide a decision within the time limits provided in this Article
8 or as extended by agreement, the grievant or the UFF, where appropriate, may
9 appeal to the next step. Upon the failure of the grievant or the UFF, where
10 appropriate, to file an appeal within the time limits provided in this Article or
11 as extended by agreement, the grievance shall be deemed to have been resolved
12 by the decision at the prior step or withdrawn.
13

14 (c) Postponement. The grievant may, in the timely-filed written grievance at Step
15 1, request the postponement of any action in processing the grievance formally
16 for a period of up to thirty (30) days, during which period efforts to resolve the
17 grievance informally shall be made. The initial request shall be granted. Upon
18 the grievant's written request, additional extensions may be granted unless to
19 do so would impede resolution of the grievance. Upon request, the Provost or
20 his/her designee shall, during the postponement period(s), arrange an informal
21 meeting between the appropriate administrator and the grievant. The grievant
22 shall have the right to representation by the UFF during attempts at informal
23 resolution of the grievance. The grievant may, at any time, terminate the
24 postponement period by giving written notice to the Provost or his/her designee
25 that the grievant wishes to proceed with the Step 1 meeting. If the
26 postponement period, or any mutually agreed to extension thereof, expires
27 without such written notice, the grievance shall be deemed informally resolved
28 to the grievant's satisfaction and need not be processed further.
29

30 (d) Step 1.
31

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1 (1) Meeting. The Vice Provost of Assessment and Instruction or his/her
2 representative and the grievant and the grievant's representative shall meet
3 within ten (10) days following (a) receipt of the grievance if no postponement
4 is requested, or (b) receipt of written notice that the grievant wishes to proceed
5 with a Step 1 meeting. At the Step 1 meeting, the grievant shall have the right
6 to present any evidence in support of the grievance, and the grievant and/or the
7 UFF representative or the grievant's legal counsel (if selected pursuant to
8 Section X.4), and the Vice Provost of Assessment and Instruction or his/her
9 representative, shall discuss the grievance.

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

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

26
27 (e) Step 2.

28
29 (1) Review. If the grievance is not satisfactorily resolved at Step 1, the grievant
30 may file a written request for review (Appendix "X") with the Provost or
31 designee within ten (10) days following receipt of the Step 1 decision by
32 grievant's Step 1 representative. Ten days shall be determined by a receipt

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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.

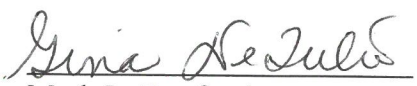
(3) Decision. The Provost or designee shall issue a written decision, stating the reasons for the decision to grievant's Step 2 representative within five (5) days following the conclusion of the review meeting. Five days shall be determined by a receipt executed by the office receiving the grievance, 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 be determined by a receipt executed by the

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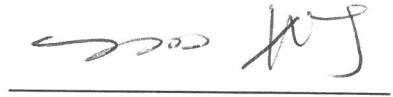
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Provost's office, or by the date of mailing as determined by the postmark or email. The grievance may be withdrawn at any time by the grievant or by the UFF President at any point during Step 3. The parties shall stipulate to the issue(s) prior to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

(2) Selection of Arbitrator.

- a. Representatives of the Board and UFF shall meet within ninety (90) days after the execution of this Agreement for the purpose of selecting an Arbitration Panel of seven (7) members. Each party shall submit six (6) arbitrators to create a selection list, from which the parties may mutually agree to, or alternatively strike names until they, select the Arbitration Panel. The right of the first choice to strike shall be determined by a coinflip. The Arbitration Panel shall be operative until a successor Agreement is ratified.
- b. The parties shall either mutually agree upon the arbitrator charged with hearing any grievance, or select the arbitrator from the Arbitration Panel as set forth below. A mutually agreed upon arbitrator does not need to be a member of the Arbitration Panel. In the event the parties cannot mutually agree upon an arbitrator, and no later than fourteen (14) days after receipt of a notice of intent to arbitrate, the parties shall confer for the purpose of selecting an arbitrator from the panel. The parties shall alternatively strike names from the list until one name remains. The right of the first choice to strike shall be determined by a coinflip.

(3) Authority of the Arbitrator.

- a. The arbitrator shall neither add to, subtract from, modify, nor alter the terms or provisions of this Agreement. Arbitrations shall be confined solely to the application of this Agreement and the issue(s) submitted

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1 for arbitration. The arbitrator shall refrain from issuing any statements
2 of opinion or conclusions not essential to the determination of the issues
3 submitted.
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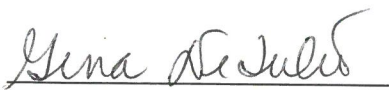
5 b. The arbitrator shall not substitute the arbitrator's or another's judgment
6 for that of the University in any matter.
7

8 (4) Arbitrability. Issues of arbitrability shall be separated from the substantive
9 issue(s) and, whenever possible, determined by means of a hearing conducted
10 by conference call. The arbitrator shall have ten (10) days from the hearing to
11 render a decision on arbitrability. If the issue is judged to be arbitrable, an
12 arbitrator shall then be selected to hear the substantive issue(s) in accordance
13 with the provisions of Section 11.7(f)(2).
14

15 (5) Conduct of Hearing. The arbitrator shall hold the hearing at the University,
16 unless otherwise agreed by the parties. The hearing shall commence within
17 sixty (60) days of the arbitrator's acceptance of selection, or as soon thereafter
18 as is practicable, and the arbitrator shall issue the decision within forty-five
19 (45) days of the close of the hearing or the submission of briefs, whichever is
20 later, unless additional time is agreed to by the parties. The decision shall be in
21 writing and shall set forth findings of fact, reasoning, and conclusions on the
22 issues submitted. Except as modified by the provisions of this Agreement,
23 arbitration proceedings shall be conducted in accordance with the current
24 Labor Arbitration Rules of the American Arbitration Association.
25

26 (6) Effect of Decision. The arbitrator's decision shall be final and binding upon
27 the Board, the University, the UFF, and the grievant, provided that either party
28 may appeal to an appropriate court of law a decision that was rendered by the
29 arbitrator acting outside of or beyond the arbitrator's jurisdiction, pursuant to
30 this Agreement and the Florida Arbitration Code as defined by law.
31

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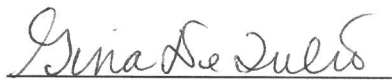
1 (7) Fees and Expenses. The parties shall equally divide all arbitration fees and
2 expenses, unless the arbitrator rules that the grievance was frivolous, in which
3 case the filing party shall bear the cost of all fees and expenses associated with
4 the arbitration, including, if awarded, attorney's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

18 11.8 Filings and Notification. All documents, except the initial filing, required or
19 permitted to be issued or filed pursuant to this Article may be transmitted by email,
20 fax, United States mail, or any other recognized delivery service. If any action falls
21 due on a Saturday, Sunday, or University recognized holiday, the action will be
22 considered timely if it is accomplished by 5:00 P.M. on the following business day.
23

24 11.9 Precedent. No complaint informally resolved, or grievance resolved at either Step 1
25 or 2, shall constitute a precedent for any purpose unless agreed to in writing by the
26 Board of Trustees or representatives and the UFF acting through its President or
27 representative.
28

29 11.10 Reprisal. No reprisal of any kind will be made by the Board, the University, or the
30 UFF against any grievant, any witness, any UFF representative, or any other
31 participant in the grievance procedure for such participation.
32

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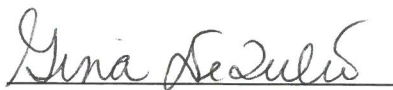


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- 1 11.11 Records. All written materials pertinent to a grievance shall be filed separately from
2 the evaluation file of the grievant or witnesses, except decisions resulting from
3 arbitration or settlement.
4
5 11.12 Inactive Grievances. A grievance which has been filed at Step 2 or Step 3 and on
6 which no action has been taken by the grievant or the UFF for forty-five (45) days
7 shall be deemed withdrawn and resolved in accordance with the decision issued at
8 the prior Step.
9
10

For the University



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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 _____

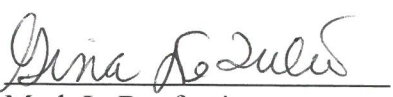
I (do)____(do not)____ want a postponement for up to 30 days to seek informal resolution of this grievance.

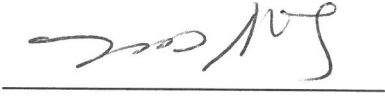
I UNDERSTAND AND AGREE THAT BY FILING THIS GRIEVANCE, I WAIVE WHATEVER RIGHTS I MAY HAVE UNDER CHAPTER 120 OF THE FLORIDA STATUTES WITH REGARD TO THE MATTERS I HAVE RAISED HEREIN AND UNDER ALL OTHER UNIVERSITY PROCEDURES WHICH MAY BE AVAILABLE TO ADDRESS THESE MATTERS.

This grievance was electronically filed with the Office of the General Counsel (ogc@floridapoly.edu) on _____.

For the University

For the UFF





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


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For the UFF



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Chief Negotiator
10/10/2018

Date