

1 **ARTICLE 20**

2 *GRIEVANCE PROCEDURE AND ARBITRATION*¹

3 **20.1 Policy/Informal Resolution.** The parties agree that all problems should be
4 resolved, whenever possible, before filing a grievance within the time limits for
5 filing grievances stated elsewhere in this Article, and encourage open
6 communications between administrators and employees so that resort to the
7 formal grievance procedure will not normally be necessary. The parties further
8 encourage the informal resolution of grievances whenever possible. At each step
9 in the grievance process, participants are encouraged to pursue appropriate
10 modes of conflict resolution. The purpose of this Article is to promote a prompt
11 and efficient procedure for the investigation and resolution of grievances. The
12 procedures hereinafter set forth shall be the sole and exclusive method for
13 resolving grievances of employees as defined herein.

14 **20.2 Resort to Other Procedures.** It is the intent of the parties to first provide a
15 reasonable opportunity for resolution of a dispute through the grievance
16 procedure and arbitration process. Except as noted below, if prior to seeking
17 resolution of a dispute by filing a grievance hereunder, or while the grievance
18 proceeding is in progress, an employee requests, in writing, resolution of the
19 matter in any other forum, whether administrative or judicial, the University shall
20 have no obligation to entertain or proceed further with the matter pursuant to
21 this grievance procedure. As an exception to this provision, a grievant may file an
22 EEOC charge while the grievance is in progress when such filing becomes
23 necessary to meet federal filing deadlines pursuant to 42 U.S.C. § 2000e et seq.
24 Further, since the parties do not intend that this grievance procedure be a device
25 for appellate review, the University representative's response to a
26 recommendation of a hearing officer or other individual or group having

¹ Section 1001.741(2) Florida Statutes, which became effective on July 1, 2023, prohibits arbitration in certain instances. To the extent the University determines that arbitration is prohibited by law from being the terminal step of a grievance submitted pursuant to any provision of this Agreement, the terminal step and final agency disposition for said grievance shall be the prior step described in that article. For example, for a grievance made pursuant to Article 20 for which arbitration is prohibited by law, the terminal step and final agency disposition shall be Step 2. If Section 1001.741(2), Florida Statutes, is amended or overturned so that the status of the law in Florida prohibiting arbitrations changes, the Parties to this Agreement shall open negotiations for all articles in this Agreement which allow for arbitration.

27 appropriate jurisdiction in any other procedure shall not be an act or omission
28 giving rise to a grievance under this procedure.

29 **20.3 Definitions and Forms.** As used herein:

30 (a) the term "grievance" shall mean a dispute filed on a form referenced in
31 Section 20.3(c) concerning the interpretation or application of a specific term or
32 Article(s) and section(s) of this Agreement, subject to those exclusions appearing
33 in other Articles of this Agreement. A Step 1 Grievance is a grievance alleging that
34 one or more violations of this Agreement have occurred at, or within, a college
35 level unit. A Step 2 Grievance is a grievance that has either:

36 (1) continued from the Step 1 college or unit level to the University level
37 or

38 (2) been filed alleging that one or more violations of the Agreement
39 have occurred at the dean's or the University level.

40 (b) the term "grievant" shall mean an employee or group of employees who
41 has/have filed a grievance in a dispute over a provision of this Agreement that
42 confers rights upon the employee(s) or the UFF. The UFF may file a grievance:

43 (1) in a dispute over a provision of this Agreement that confers rights upon
44 the UFF. A grievance filed by the UFF on behalf of the UFF shall be initiated at
45 Step 2; or

46 (2) on behalf of the bargaining unit, a group of employees, or an individual
47 employee, provided any group is identified with sufficient specificity to enable the
48 University to identify its members.

49 (c) Consolidation. The parties may agree to consolidate grievances of a similar
50 nature to expedite the review process. In a consolidated grievance, one Appendix
51 "C," "D," or "E" may be attached, bearing the signatures of the grievants.

52 (d) Grievance Forms. Each grievance, request for review, and notice of
53 arbitration must be submitted in writing on the appropriate form attached to this
54 Agreement as Appendix "C," "D," or "E," respectively, and shall be signed by the
55 grievant. All grievance forms shall be dated when the grievance is received. If
56 there is difficulty in meeting any time limit, the grievance representative may sign
57 such documents for the grievant; however, the grievant's signature shall be
58 provided prior to the Step 1 meeting or Step 2 review if filed directly at Step 2.
59 The aforementioned grievance forms may be filed by means of United States mail,

60 email, or any other recognized means of delivery. Emails received after 5pm
61 Eastern time will be deemed to have arrived the next business day.

62 (e) Remedy. A grievance shall specify the remedy sought by the grievant.

63 **20.4 Burden of Proof.** For each violation alleged in a grievance filing, except an
64 alleged violation of Article 16, the duty of proving or disproving the fact or facts in
65 dispute between the parties at the grievance proceeding(s) shall be on the
66 employee. For disciplinary violations, the burden of proving the fact or facts at the
67 grievance proceeding(s) shall be on the University.

68 **20.5 Representation.** The UFF shall have the exclusive right to represent any
69 employee in a grievance filed hereunder, unless an employee elects self-
70 representation or to be represented by legal counsel. If an employee elects not to
71 be represented by the UFF, the University shall promptly inform the UFF in writing
72 of the grievance. No resolution of any individually processed grievance shall be
73 inconsistent with the terms of this Agreement. For this purpose, the UFF shall
74 have the right to have an observer present at all meetings that include the
75 grievant for the purpose of discussing such grievance and shall be sent copies of
76 all decisions at the same time as they are sent to the other parties.

77 **20.6 Grievance Representatives.** The UFF shall, on or before September 1 of each
78 year, furnish to the University a list of all persons authorized to act as grievance
79 representatives and shall update the list as needed. The UFF grievance
80 representative shall have the responsibility to meet all classes, office hours, and
81 other duties and responsibilities incidental to their assigned workload. Some of
82 these activities are scheduled to be performed at particular times. Such
83 representative shall have the right during times outside of those hours scheduled
84 for these activities to investigate, consult, and prepare grievance presentations
85 and attend grievance hearings and meetings. Should any hearings or meetings
86 with the University's representatives necessitate rescheduling of assigned duties,
87 the representative may, with the approval of the appropriate administrator,
88 arrange for the rescheduling of such duties or their coverage by colleagues. Such
89 approval shall not be unreasonably withheld.

90 **20.7 Appearances.**

91 (a) When an employee participates during working hours in an arbitration
92 proceeding or in a grievance meeting between the grievant or representative and

93 the University, that employee's compensation shall neither be reduced nor
94 increased for time spent in those activities.

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

100 20.8 Formal Grievance Procedure.

101 (a) Filing.

102 (1) Step 1 and Step 2 grievances shall be filed in Academic Affairs on the
103 appropriate form in the appendices within thirty days following the act or
104 omission giving rise thereto, or the date on which the employee knew or
105 reasonably should have known of such act or omission if that date is later. Thirty
106 days shall be determined by the date stamped on the completed grievance form
107 filed in Academic Affairs, or by the date of mailing or emailing as determined by
108 the postmark or timestamp. The grievant may amend the Appendix "C" form one
109 time, either prior to the Step 1 meeting for all grievances filed at Step 1, or prior
110 to the Step 2 review for all grievances filed directly at Step 2. Additional
111 amendments to the grievance may be permitted by mutual agreement of the
112 parties.

113 (2) An employee may seek redress of an alleged salary error by filing a
114 grievance under the provisions of this Article. An act or omission giving rise to
115 such a grievance may be the employee's receipt of the employee's payslip (salary
116 warrant) for the first full pay period in which the annual salary increases
117 referenced in the Salary Article 23 are reflected.

118 (3) The filing of a grievance constitutes a waiver of any rights to judicial
119 review of agency action pursuant to Chapter 120, Florida Statutes, or to the
120 review of such actions under University procedures which may otherwise be
121 available to address such matters. This grievance procedure shall be the sole
122 review mechanism for resolving disputes regarding rights or benefits which are
123 provided exclusively by this Agreement. Only those acts or omissions and sections
124 of the Agreement identified at the initial filing may be considered at subsequent
125 steps.

126 (b) Time Limits. All time limits contained in this Article may be extended by
127 mutual agreement of the parties. Upon failure of the University to provide a
128 decision within the time limits provided in this Article, the grievant or the UFF,
129 where appropriate, may appeal to the next step. Upon the failure of the grievant
130 or the UFF, where appropriate, to file an appeal within the time limits provided in
131 this Article, the grievance shall be deemed to have been resolved by the decision
132 at the prior step.

133 (c) Postponement.

134 (1) The grievant may, in the written grievance at Step 1, request the
135 postponement of any action in processing the grievance formally for a period of
136 up to thirty days, during which efforts to resolve the grievance informally shall be
137 made. The initial such request shall be granted. Upon the grievant's written
138 request, additional extensions should be granted unless to do so would impede
139 resolution of the grievance. Upon request, the university's representative shall,
140 during the postponement period(s), arrange an informal meeting between the
141 appropriate administrator and the grievant. The grievant shall have the right to
142 representation by the UFF during attempts at informal resolution of the
143 grievance. The grievant may, at any time, terminate the postponement period by
144 giving written notice to the university's representative that the grievant wishes to
145 proceed with the Step 1 meeting. If the postponement period, or any extension
146 thereof, expires without such written notice, the grievance shall be deemed
147 informally resolved to the grievant's satisfaction and need not be processed
148 further.

149 (2) In the case of a grievance filed pursuant to the Expedited Grievance
150 Procedure referenced in Article 19, Conflict of Interest or Commitment/Outside
151 Activity, the postponement period shall be no more than seven days unless the
152 employee and the university agree otherwise.

153 (d) Step 1.

154 (1) The university may escalate a Step 1 grievance to Step 2 or de-escalate a
155 Step 2 grievance to Step 1 to ensure the matter is addressed at the most
156 appropriate administrative level or to speed resolution of a grievance filed at an
157 inappropriate step.

158 (2) Meeting. The University's representative and the grievant and the
159 grievance representative shall meet no sooner than seven and no later than
160 fifteen days following receipt of:

- 161 a. the grievance if no postponement is requested, or
- 162 b. written notice to proceed with the Step 1 meeting.

163 At the Step 1 meeting, the grievant shall have the right to present any evidence in
164 support of the grievance, and the grievant and/or the UFF representative or the
165 grievant's legal counsel (if selected), and the University's representative, shall
166 discuss the grievance.

167 (3) Decision. The University's representative shall issue a written summary
168 of the meeting and their conclusion(s), stating the reasons therefore, to grievant's
169 Step 1 representative within thirty days following the conclusion of the meeting.
170 In the absence of an agreement to extend the period for issuing the Step 1
171 decision, the grievant may proceed to Step 2 if the grievant's Step 1
172 representative has not received the written decision by the end of the 30th day
173 following the conclusion of the Step 1 meeting. A copy of the written summary
174 shall be sent to the grievant and to the local UFF Chapter if grievant elected self-
175 representation or representation by legal counsel.

176 (4) Documents. In advance of the Step 1 meeting, the grievant shall have
177 the right, upon written request, to a copy of any reasonably identifiable
178 documents relevant to the grievance. All documents referred to in the written
179 summary and any additional documents presented by the grievant shall be
180 attached to the written summary, together with a list of these documents.

181 (e) Step 2.

182 (1) Filing.

183 a. Continuation of Step 1 Grievance. If the grievance is not satisfactorily
184 resolved at Step 1, the grievant may file a written request for a review of the Step
185 1 decision. The filing must clearly articulate why the Step 1 decision on the alleged
186 violations addressed at Step 1 is incorrect. The Appendix "D" form is then filed
187 with Academic Affairs for review of the Step 1 written summary by the
188 University's representative. The grievant must make this request within thirty
189 days following receipt of the Step 1 decision by the grievant's Step 1
190 representative. Thirty days shall be determined by the date stamped on the
191 notice by Academic Affairs when the request is received in that office, by 5pm

192 Eastern time, the date of receipt via email, or by the date of mailing as
193 determined by the postmark or timestamp.

194 b. Step 2 Grievance Alleging Violation(s) of the Agreement at the
195 University Level. A grievance may be filed at Step 2 if it alleges that one or more
196 violations have occurred at the University level.

197 (2) Meeting. The University's representative and the grievant and the
198 grievant's representative shall meet no sooner than seven and no later than
199 fifteen days following receipt of:

200 a. the grievance if no postponement is requested or

201 b. written notice that the grievant wishes to proceed with the Step 2
202 meeting.

203 At the Step 2 meeting the grievant shall have the right to present evidence
204 in support of the grievance, and the grievant and/or the UFF representative or the
205 grievant's legal counsel (if selected) and the University's representative shall
206 discuss the grievance.

207 (3) Decision. The University's representative shall issue a written decision,
208 stating the reasons therefore, to the grievant and grievant's Step 2 representative
209 within thirty days following the conclusion of the review meeting. Thirty days shall
210 be determined by a receipt executed by Academic Affairs, or by the date of
211 mailing or emailing as determined by the postmark or timestamp. In the absence
212 of an agreement to extend the period for issuing the Step 2 decision, the UFF may
213 proceed to Step 3 if the grievant's Step 2 representative has not received the
214 written decision by the end of the 30th day following the conclusion of the Step 2
215 meeting. The University's representative may request an extension to complete
216 the written decision, and the UFF or Grievant shall not unreasonably deny such a
217 request. A copy of the decision shall be sent to the grievant and to the UFF
218 grievance chair if the grievant elected self-representation or representation by
219 legal counsel.

220 (f) Step 3-Arbitration.

221 (1) Filing. If the grievance has not been satisfactorily resolved at Step 2, the
222 UFF may, upon the request of the grievant, proceed to arbitration by filing a
223 written notice of the intent to do so. Notice of intent to proceed to arbitration by
224 submitting Appendix E with Academic Affairs within thirty days after receipt of
225 the Step 2 decision by grievant and grievant's Step 2 representative (if the

226 grievant is represented by the UFF, the decision will be sent to the UFF grievance
227 representative) and shall be signed by the grievant and the statewide UFF
228 President, Director of Arbitrations or designee. Thirty days shall be determined by
229 a receipt executed by the office receiving the grievance, or by the date of mailing
230 as determined by the postmark or timestamp. The grievance may be withdrawn
231 at any time by the grievant or by the statewide UFF President, Director of
232 Arbitrations or designee at any point during Step 3. The parties shall stipulate to
233 the issue(s) prior to the arbitration. In the event a stipulation is not reached, the
234 parties shall proceed to a hearing on arbitrability pursuant to Section 20.8(f)(4).

235 (2) Arbitration Panel. Within ninety days after the execution of this
236 Agreement, the parties shall meet to update the Arbitration Panel, including the
237 conditions for a person to serve on the Arbitration Panel. The parties agree to
238 meet each fall to review, and update if necessary, the Arbitration Panel, including
239 the conditions for a person to serve on the Arbitration Panel.

240 (3) Selection of Arbitrator. Within fourteen days after receipt of a notice of
241 intent to arbitrate, representatives of the University and the UFF shall meet for
242 the purpose of selecting an arbitrator from the Arbitration Panel. Selection shall
243 be by mutual agreement or by alternately striking names from the Arbitration
244 Panel list until one name remains. The right of the first choice to strike from the
245 list shall be determined by the flip of a coin. The arbitration shall be held within
246 sixty days following the selection of the arbitrator, if practicable.

247 (4) Authority of the Arbitrator.

248 a. The arbitrator shall not add to, subtract from, modify, or alter the
249 terms or provisions of this Agreement. Arbitration shall be confined solely to the
250 application and/or interpretation of this Agreement and the precise issue(s)
251 submitted for arbitration. The arbitrator shall refrain from issuing any statements
252 of opinion or conclusions not essential to the determination of the issues
253 submitted.

254 b. Where an administrator has made a judgment involving the exercise
255 of discretion, such as decisions regarding tenure or promotion, the arbitrator shall
256 not substitute the arbitrator's judgment for that of the administrator. Nor shall
257 the arbitrator review such decision except for the purpose of determining
258 whether the decision has violated this Agreement. If the arbitrator determines
259 that the Agreement has been violated, the arbitrator shall direct the University to
260 take appropriate action. An arbitrator may award back salary where the arbitrator

261 determines that the employee is not receiving the appropriate salary from the
262 University, but the arbitrator may not award other monetary damages or
263 penalties. If notice that further employment will not be offered is not given on
264 time, the arbitrator may direct the University to renew the appointment only
265 upon a finding that no other remedy is adequate, and that the notice was given so
266 late that (a) the employee was deprived of reasonable opportunity to seek other
267 employment, or (b) the employee actually rejected an offer of comparable
268 employment which the employee otherwise would have accepted.

269 c. An arbitrator's decision awarding employment beyond the sixth year
270 shall not entitle the employee to tenure. In such cases the employee shall serve
271 during the seventh year without further right to notice that the employee will not
272 be offered employment thereafter. If an employee is reappointed at the direction
273 of an arbitrator, the University's representative may reassign the employee
274 during such reappointment.

275 (5) Arbitrability. Issues of arbitrability shall be bifurcated from the
276 substantive issue(s) and, whenever possible, determined by means of a hearing
277 conducted by conference call. The arbitrator shall have ten days from the hearing
278 to render a decision on arbitrability. If the issue is judged to be arbitrable, an
279 arbitrator shall then be selected to hear the substantive issue(s).

280 (6) Conduct of Hearing. The arbitrator shall hold the hearing on the main
281 campus of the University, unless otherwise agreed by the parties. The hearing
282 shall commence within twenty-five days of the arbitrator's acceptance of
283 selection, or as soon thereafter as is practicable, and the arbitrator shall issue the
284 decision within forty-five days of the close of the hearing or the submission of
285 briefs, whichever is later, unless additional time is agreed to by the parties. The
286 decision shall be in writing and shall set forth findings of fact, reasoning, and
287 conclusions on the issues submitted. Except as expressly specified in this Article,
288 the provisions of the Florida Arbitration Code, Chapter 682, Florida Statutes, shall
289 not apply. Except as modified by the provisions of this Agreement, or if modified
290 by the terms included in the conditions for a person to serve on the Arbitration
291 Panel, arbitration proceedings shall be conducted in accordance with the rules
292 and procedures of the American Arbitration Association.

293 (7) Effect of Decision. The decision or award of the arbitrator shall be final
294 and binding upon the University, the UFF, and the grievant, provided that either
295 party may appeal to an appropriate court of law a decision that was rendered by

296 the arbitrator acting outside of or beyond the arbitrator's jurisdiction, pursuant to
297 Section 682.13, Florida Statutes.

298 (8) Venue. For purposes of venue in any judicial review of an arbitrator's
299 decision issued under this agreement, the parties agree that such an appeal shall
300 be filed in the courts in Orange County, Florida, unless both parties specifically
301 agree otherwise in a particular instance. In an action commenced in Orange
302 County, neither the University nor the UFF will move for a change of venue based
303 upon the defendant's residence in fact if other than Orange County.

304 (9) Fees and Expenses. All fees and expenses of the arbitrator shall be
305 divided equally between the parties. Each party shall bear the cost of preparing
306 and presenting its own case. The party desiring a transcript of the arbitration
307 proceedings shall provide written notice to the other party of its intention to have
308 a transcript of the arbitration made at least one week prior to the date of the
309 arbitration. The party desiring such transcript shall be responsible for scheduling a
310 stenotype reporter to record the proceedings. The parties shall share equally the
311 appearance fee of the stenotype reporter and the cost of obtaining an original
312 transcript and one copy for the party originally requesting a transcript of the
313 proceedings.

314 (10) Retroactivity. An arbitrator's award may or may not be retroactive as
315 the equities of each case may demand, but in no case shall an award be
316 retroactive to a date earlier than thirty days prior to the date the grievance was
317 initially filed in accordance with this Article.

318 (g) Section 1001.741(2) Florida Statutes, which became effective on July 1, 2023,
319 prohibits arbitration in certain instances. To the extent the University determines
320 that arbitration is prohibited by law from being the terminal step of a grievance
321 submitted pursuant to any provision of this Agreement, the terminal step and
322 final agency disposition for said grievance shall be the prior step described in that
323 article. For example, for a grievance made pursuant to Article 20 for which
324 arbitration is prohibited by law, the terminal step and final agency disposition
325 shall be Step 2. If Section 1001.741(2), Florida Statutes, is amended or overturned
326 so that the status of the law in Florida prohibiting arbitrations changes, the
327 Parties to this Agreement shall open negotiations for all articles in this Agreement
328 which allow for arbitration.

329 **20.9 Filings and Notification.** All documents required or permitted to be issued or
330 filed pursuant to this Article may be transmitted by United States mail, email, or
331 any other recognized delivery service. Refusal to accept delivery to the address
332 indicated in the university's records will be deemed as delivered. Receipt by UFF
333 Representative shall constitute receipt only when the UFF represents the
334 employee. Step 1 and Step 2 decisions shall be transmitted to the grievance
335 representative (s) by personal delivery with written documentation of receipt or
336 by certified mail, return receipt requested, or via email. In the event that any
337 action falls due on a Saturday, Sunday, or holiday (as referred to in in the Leaves
338 Article), the action will be considered timely if it is accomplished by 5:00 p.m. on
339 the following business day.

340 **20.10 Precedent.** No complaint informally resolved, or grievance resolved at
341 either Step 1 or 2, shall constitute a precedent for any purpose unless agreed to in
342 writing by the University's representative and the UFF acting through its local
343 President or representative.

344 **20.11 Processing.**

345 (a) The filing or pendency of any grievance or arbitration proceedings under
346 this Article shall not operate to impede, preclude, or delay the University from
347 taking the action complained of. Reasonable efforts, including the shortening of
348 time limits when practical, shall be made to conclude the processing of a
349 grievance prior to the expiration of the grievant's employment, whether by
350 termination or failure to reappoint. An employee with a pending grievance will
351 not continue to be compensated beyond the last date of employment.

352 (b) The University's representative may refuse consideration of a grievance not
353 filed or processed in accordance with this Article. The UFF retains the ability to
354 challenge the refusal of a grievance through an arbitrability hearing.

355 **20.12 Reprisal.** No reprisal of any kind will be made by the University or the UFF
356 against any grievant, any witness, any UFF representative, or any other
357 participant in the grievance procedure by reason of such participation.

358 **20.13 Records.** All written materials pertinent to a grievance shall be filed
359 separately from the evaluation file of the grievant or witnesses, except decisions
360 resulting from arbitration or a settlement.

361 **20.14 Inactive Grievances.** A grievance which has been filed at Step 1 or Step 2 or
362 Step 3 and on which no action has been taken by the grievant or the UFF for
363 ninety days shall be deemed withdrawn.