

1 **ARTICLE 20**

2 *GRIEVANCE PROCEDURE AND ARBITRATION*<sup>1</sup>

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

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<sup>1</sup> 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.