

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

13 **20.2 Resort to Other Procedures.** It is the intent of the parties to first provide a
14 reasonable opportunity for resolution of a dispute through the grievance procedure and
15 arbitration process. Except as noted below, if prior to seeking resolution of a dispute by
16 filing a grievance hereunder, or while the grievance proceeding is in progress, an
17 employee requests, in writing, resolution of the matter in any other forum, whether
18 administrative or judicial, the University shall have no obligation to entertain or proceed
19 further with the matter pursuant to this grievance procedure. As an exception to this
20 provision, a grievant may file an EEOC charge while the grievance is in progress when
21 such filing becomes necessary to meet federal filing deadlines pursuant to 42 U.S.C. §
22 2000e et seq. Further, since the parties do not intend that this grievance procedure be a
23 device for appellate review, the University representative's response to a
24 recommendation of a hearing officer or other individual or group having appropriate
25 jurisdiction in any other procedure shall not be an act or omission giving rise to a
26 grievance under this procedure.

27 **20.3 Definitions and Forms.** As used herein:

28 (a) the term "grievance" shall mean a dispute filed on a form referenced in Section
29 20.3(c) concerning the interpretation or application of a specific term or Article(s) and

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.

30 section(s) of this Agreement, subject to those exclusions appearing in other Articles of
31 this Agreement. A Step 1 Grievance is a grievance alleging that one or more violations of
32 this Agreement have occurred at, or within, a college level unit. A Step 2 Grievance is a
33 grievance that has either:

- 34 (1) continued from the Step 1 college or unit level to the University level or
- 35 (2) been filed alleging that one or more violations of the Agreement have
36 occurred at the dean's or the University level.

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

- 40 (1) in a dispute over a provision of this Agreement that confers rights upon the
41 UFF. A grievance filed by the UFF on behalf of the UFF shall be initiated at Step 2; or
- 42 (2) on behalf of the bargaining unit, a group of employees, or an individual
43 employee, provided any group is identified with sufficient specificity to enable the
44 University to identify its members.

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

48 (d) Feedback Panel. A feedback panel can be requested by the grievant at the
49 conclusion of Step 1. The feedback panel can only be used in cases where the arbitration
50 process is prohibited by law. A feedback panel shall be composed of two members, one
51 person from the bargaining unit and one person out of unit. UFF will provide a list of five
52 bargaining unit members who have agreed to serve a two year term on the feedback
53 panel to the university. The university shall make a list of five out of unit people who
54 agreed to serve a two year term on the feedback panel. If a feedback panel observation
55 is requested by the grievant UFF will select one person from the university list to serve
56 on the panel and the university shall select one person from the UFF list to serve on the
57 panel. If the person selected cannot serve on the panel the party selecting the person
58 will return to the names remaining on the list. The names on the list can be changed or
59 revised anytime within the two year term as needed as long as the changes or revisions
60 are disclosed to the other party. The panel, once selected, will consult the materials
61 submitted and produced by the end of the Step 1 process. The observation will be non-
62 binding and provide an additional voice to the process outside that of the university.

63 (de) Grievance Forms. Each grievance, request for review, and notice of arbitration
64 must be submitted in writing on the appropriate form attached to this Agreement as
65 Appendix "C," "D," or "E," respectively, and shall be signed by the grievant. All grievance
66 forms shall be dated when the grievance is received. If there is difficulty in meeting any

67 time limit, the grievance representative may sign such documents for the grievant;
68 however, the grievant's signature shall be provided prior to the Step 1 meeting or Step 2
69 review if filed directly at Step 2. The aforementioned grievance forms may be filed by
70 means of United States mail, email, or any other recognized means of delivery. Emails
71 received after 5pm Eastern time will be deemed to have arrived the next business day.

72 (ef) Remedy. A grievance shall specify the remedy sought by the grievant.

73 **20.4 Burden of Proof.** For each violation alleged in a grievance filing, except an alleged
74 violation of Article 16, the duty of proving or disproving the fact or facts in dispute
75 between the parties at the grievance proceeding(s) shall be on the employee. For
76 disciplinary violations, the burden of proving the fact or facts at the grievance
77 proceeding(s) shall be on the University.

78 **20.5 Representation.** The UFF shall have the exclusive right to represent any employee
79 in a grievance filed hereunder, unless an employee elects self-representation or to be
80 represented by legal counsel. If an employee elects not to be represented by the UFF,
81 the University shall promptly inform the UFF in writing of the grievance. No resolution of
82 any individually processed grievance shall be inconsistent with the terms of this
83 Agreement. For this purpose, the UFF shall have the right to have an observer present at
84 all meetings that include the grievant for the purpose of discussing such grievance and
85 shall be sent copies of all decisions at the same time as they are sent to the other
86 parties.

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

99 **20.7 Appearances.**

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

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

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

109 20.8 Formal Grievance Procedure.

110 (a) Filing.

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

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

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

133 (b) Time Limits. All time limits contained in this Article may be extended by mutual
134 agreement of the parties. Upon failure of the University to provide a decision within the
135 time limits provided in this Article, the grievant or the UFF, where appropriate, may
136 appeal to the next step. Upon the failure of the grievant or the UFF, where appropriate,
137 to file an appeal within the time limits provided in this Article, the grievance shall be
138 deemed to have been resolved by the decision at the prior step.

139 (c) Postponement.

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

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

157 (d) Step 1.

158 (1) The university may escalate a Step 1 grievance to Step 2 or de-escalate a Step
159 2 grievance to Step 1 to ensure the matter is addressed at the most appropriate
160 administrative level or to speed resolution of a grievance filed at an inappropriate step.

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

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

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

170 (3) Decision. The University's representative shall issue a written summary of the
171 meeting and their conclusion(s), stating the reasons therefore, to grievant's Step 1
172 representative within thirty days following the conclusion of the meeting. In the
173 absence of an agreement to extend the period for issuing the Step 1 decision, the
174 grievant may proceed to Step 2 if the grievant's Step 1 representative has not received
175 the written decision by the end of the 30th day following the conclusion of the Step 1

176 meeting. A copy of the written summary shall be sent to the grievant and to the local
177 UFF Chapter if grievant elected self-representation or representation by legal counsel.

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

183 (5) The grievant has the option to request an observation report from the
184 feedback panel at the conclusion of Step 1. The panel will either write an observation of
185 the results from Step 1 that can be a joint observation if both members agree or
186 separate observations if they do not. The panel will submit their observation report to
187 the person representing the grievant within two weeks at the conclusion of Step 1. The
188 grievant's representative may elect not to use the observation report at Step 2. If the
189 grievant's representative elects to use the observation report for Step 2 the report will
190 be filed two weeks before the Step 2 meeting with the university. The observation
191 report can be referred to by either party during the Step 2 process.

192 (e) Step 2.

193 (1) Filing.

194 a. Continuation of Step 1 Grievance. If the grievance is not satisfactorily
195 resolved at Step 1, the grievant may file a written request for a review of the Step 1
196 decision. The filing must clearly articulate why the Step 1 decision on the alleged
197 violations addressed at Step 1 is incorrect. The Appendix "D" form is then filed with
198 Academic Affairs for review of the Step 1 written summary by the University's
199 representative. The grievant must make this request within ~~thirty~~ forty five days
200 following receipt of the Step 1 decision by the grievant's Step 1 representative. ~~Thirty~~
201 Forty five days shall be determined by the date stamped on the notice by Academic
202 Affairs when the request is received in that office, by 5pm Eastern time, the date of
203 receipt via email, or by the date of mailing as determined by the postmark or
204 timestamp.

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

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

211 a. the grievance if no postponement is requested or

212 b. written notice that the grievant wishes to proceed with the Step 2
213 meeting.

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

218 (3) Decision. The University's representative shall issue a written decision, stating
219 the reasons therefore, to the grievant and grievant's Step 2 representative within thirty
220 days following the conclusion of the review meeting. Thirty days shall be determined by
221 a receipt executed by Academic Affairs, or by the date of mailing or emailing as
222 determined by the postmark or timestamp. In the absence of an agreement to extend
223 the period for issuing the Step 2 decision, the UFF may proceed to Step 3 if the
224 grievant's Step 2 representative has not received the written decision by the end of the
225 30th day following the conclusion of the Step 2 meeting. The University's representative
226 may request an extension to complete the written decision, and the UFF or Grievant
227 shall not unreasonably deny such a request. A copy of the decision shall be sent to the
228 grievant and to the UFF grievance chair if the grievant elected self-representation or
229 representation by legal counsel.

230 (f) Step 3-Arbitration.

231 (1) Filing. If the grievance has not been satisfactorily resolved at Step 2, the UFF
232 may, upon the request of the grievant, proceed to arbitration by filing a written notice
233 of the intent to do so. Notice of intent to proceed to arbitration by submitting Appendix
234 E with Academic Affairs within ~~thirty~~ thirty-fourty five days after receipt of the Step 2 decision
235 by grievant and grievant's Step 2 representative (if the grievant is represented by the
236 UFF, the decision will be sent to the UFF grievance representative) and shall be signed
237 by the grievant and the statewide UFF President, Director of Arbitrations or designee.
238 ~~Forty five~~ Thirty days shall be determined by a receipt executed by the office receiving
239 the grievance, or by the date of mailing as determined by the postmark or timestamp.
240 The grievance may be withdrawn at any time by the grievant or by the statewide UFF
241 President, Director of Arbitrations or designee at any point during Step 3. The parties
242 shall stipulate to the issue(s) prior to the arbitration. In the event a stipulation is not
243 reached, the parties shall proceed to a hearing on arbitrability pursuant to Section
244 20.8(f)(4).

245 (2) Arbitration Panel. Within ninety days after the execution of this Agreement,
246 the parties shall meet to update the Arbitration Panel, including the conditions for a
247 person to serve on the Arbitration Panel. The parties agree to meet each fall to review,

248 and update if necessary, the Arbitration Panel, including the conditions for a person to
249 serve on the Arbitration Panel.

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

257 (4) Authority of the Arbitrator.

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

263 b. Where an administrator has made a judgment involving the exercise of
264 discretion, such as decisions regarding tenure or promotion, the arbitrator shall not
265 substitute the arbitrator's judgment for that of the administrator. Nor shall the
266 arbitrator review such decision except for the purpose of determining whether the
267 decision has violated this Agreement. If the arbitrator determines that the Agreement
268 has been violated, the arbitrator shall direct the University to take appropriate action.
269 An arbitrator may award back salary where the arbitrator determines that the employee
270 is not receiving the appropriate salary from the University, but the arbitrator may not
271 award other monetary damages or penalties. If notice that further employment will not
272 be offered is not given on time, the arbitrator may direct the University to renew the
273 appointment only upon a finding that no other remedy is adequate, and that the notice
274 was given so late that (a) the employee was deprived of reasonable opportunity to seek
275 other employment, or (b) the employee actually rejected an offer of comparable
276 employment which the employee otherwise would have accepted.

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

282 (5) Arbitrability. Issues of arbitrability shall be bifurcated from the substantive
283 issue(s) and, whenever possible, determined by means of a hearing conducted by
284 conference call. The arbitrator shall have ten days from the hearing to render a decision

285 on arbitrability. If the issue is judged to be arbitrable, an arbitrator shall then be
286 selected to hear the substantive issue(s).

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

299 (7) Effect of Decision. The decision or award of the arbitrator shall be final and
300 binding upon the University, the UFF, and the grievant, provided that either party may
301 appeal to an appropriate court of law a decision that was rendered by the arbitrator
302 acting outside of or beyond the arbitrator's jurisdiction, pursuant to Section 682.13,
303 Florida Statutes.

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

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

319 (10) Retroactivity. An arbitrator's award may or may not be retroactive as the
320 equities of each case may demand, but in no case shall an award be retroactive to a

321 date earlier than thirty days prior to the date the grievance was initially filed in
322 accordance with this Article.

323 (g) Section 1001.741(2) Florida Statutes, which became effective on July 1, 2023,
324 prohibits arbitration in certain instances. To the extent the University determines that
325 arbitration is prohibited by law from being the terminal step of a grievance submitted
326 pursuant to any provision of this Agreement, the terminal step and final agency
327 disposition for said grievance shall be the prior step described in that article. For
328 example, for a grievance made pursuant to Article 20 for which arbitration is prohibited
329 by law, the terminal step and final agency disposition shall be Step 2. If Section
330 1001.741(2), Florida Statutes, is amended or overturned so that the status of the law in
331 Florida prohibiting arbitrations changes, the Parties to this Agreement shall open
332 negotiations for all articles in this Agreement which allow for arbitration.

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

343 **20.10 Precedent.** No complaint informally resolved, or grievance resolved at either Step
344 1 or 2, shall constitute a precedent for any purpose unless agreed to in writing by the
345 University's representative and the UFF acting through its local President or
346 representative.

347 **20.11 Processing.**

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

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

358 **20.12 Reprisal.** No reprisal of any kind will be made by the University or the UFF against
359 any grievant, any witness, any UFF representative, or any other participant in the
360 grievance procedure by reason of such participation.

361 **20.13 Records.** All written materials pertinent to a grievance shall be filed separately
362 from the evaluation file of the grievant or witnesses, except decisions resulting from
363 arbitration or a settlement.

364 **20.14 Inactive Grievances.** A grievance which has been filed at Step 1 or Step 2 or Step 3
365 and on which no action has been taken by the grievant or the UFF for ninety days shall
366 be deemed withdrawn.