Article 6

Nondiscrimination

6.1 Statement of Intent.

A. The University and the UFF fully support all laws intended to protect and safeguard the rights and opportunities of each employee to work in an environment free from any form of discrimination or harassment. The parties recognize their obligations under federal and state laws and rules and regulations prohibiting discrimination or harassment, including required implementation of affirmative action and equal opportunity programs.

B. The University and the UFF affirm their commitment to equal employment opportunities, diversity and affirmative action. The implementation of affirmative action programs will require positive actions that will affect terms and conditions of employment and to this end the parties have, in this Agreement and elsewhere, undertaken programs to ensure equitable opportunities for employees to receive salary adjustments, tenure, promotion, sabbaticals, and other benefits. This statement of intent is not subject to Article 20, Grievance Procedure and Arbitration.

6.2 Policy.

A. Nondiscrimination. Neither the University nor the UFF shall discriminate against any employee based upon race, color, sex, gender identity and expression, sexual orientation, religion, national origin, age, military status, veteran status, disability, political affiliation, or marital status, nor shall the University or the UFF abridge any rights of employees related to union activity granted under Chapter 447, Florida Statutes, including but not limited to the right to assist or to refrain from assisting the UFF. Personnel decisions shall be based on job-related criteria and performance.

B. Sexual Harassment.

(1). Sexual harassment is a prohibited form of sex discrimination. In Meritor Savings Bank v. Vinson, 106 S.Ct. 2399 (1986), the United States Supreme Court defined sexual harassment in the employment context as including the following:

> Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(2). In addition to the parties' concern with respect to sexual harassment in the employment context, the parties also recognize the potential for this form of illegal discrimination against students. Relationships between employees and students, even if consensual, may become exploitative, and especially so when a student's academic work, residential life, or athletic endeavors are supervised or evaluated by the employee. These relationships may involve a conflict of interest.

C. Investigation of Charges of Discrimination. Charges of discrimination alleging unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature that constitutes sexual harassment, including those filed by employees against students, shall be promptly reviewed/investigated according to established university procedures. No employee reviewed/investigated under such procedures shall be disciplined until such review is complete and a finding of discrimination has been issued.

If after the completion of the review/investigation, any finding of discrimination is made, a record of the complete findings will be placed in the employee's evaluation file. If no finding of discrimination on any charge or complaint is made, no record of the charge or complaint will be placed in the employee's evaluation file unless the employee requests in writing that a record of the complete review/investigation be placed in the evaluation file.

6.3 Access to Documents. No employee shall be refused a request to inspect and copy documents relating to the employee’s claim of discrimination, except for records which are exempt from the provisions of the Public Records Act, Chapter 119, Florida Statutes, provided, however, the University may charge for copies of documents in accordance with law, rule, university procedures, and this Agreement.

6.4 Consultation. As part of the consultation process described in Article 2, Consultation the parties agree to discuss efforts made to appoint and retain women and minority employees.

6.5 Grievance Procedures. Claims of such discrimination by the University may be presented as grievances pursuant to Article 20, Grievance Procedure and Arbitration. It is the intent of the parties that matters which may be presented as grievances under the Grievance Procedure, be so presented and resolved thereunder instead of using other procedures. However, the UFF agrees not to process cases arising under this Article when alternate procedures to the Grievance Procedure are initiated by the grievant, except as specifically provided for in Article 20.3.