

## FAU

### 20.8 Formal Grievance Procedure.

#### (a) Filing.

(1) A grievance shall be filed (**Appendix "C"**) with the Unit Head, defined as Dean, Principal/Director of FAUS, and Dean of Students for this article, or his/her representative at Step 1. Or in the case of a grievance initiated at Step 2, it shall be filed with the Provost or designee. In all cases, a grievance must be filed within thirty (30) days following the act or omission being grieved, or the date on which the employee knew or reasonably should have known of such act or omission if that date is later. Thirty days shall be determined by a receipt executed by the office receiving the grievance, by the date of the receipt of the email, or by the date of mailing as determined by the postmark. The grievant may amend the filed grievance one time within the thirty-day filing time period, either prior to the Step 1 meeting for all grievances filed at Step 1, or prior to the Step 2 review for all grievances filed directly at Step 2.

(2) This grievance procedure shall be the sole review mechanism for resolving disputes regarding rights or benefits which are provided exclusively by this Agreement. Only those acts or omissions and sections of the Agreement identified at the initial filing may be considered at subsequent steps.

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or as extended by agreement, the grievance shall be deemed to have been resolved by the decision at the prior step or withdrawn.

#### (c) Postponement.

(1) The grievant may, in the timely-filed written grievance at Step 1, request the postponement of any action in processing the grievance formally for a period of up to ~~thirty~~ thirty-fourty-five (45) ~~30~~ days, during which period efforts to resolve the grievance informally shall be made. The initial such request shall be granted. Upon the grievant's written request, additional extensions should be granted unless to do so would impede resolution of the grievance upon mutual agreement. Upon request, the Unit Head or his/her representative shall, during the postponement period(s), arrange an informal meeting between the appropriate administrator and the grievant. The grievant shall have the right to representation by the UFF during attempts at informal resolution of the grievance. The grievant may, at any time, terminate the postponement period by giving written notice to the Unit Head or his/her representative that the grievant wishes to proceed with the Step 1 meeting. If the postponement period, or any mutually agreed to extension thereof, expires without such written notice, the grievance shall be deemed informally resolved to the grievant's satisfaction and need not be processed further.

#### (d) Step 1.

(1) Meeting. The Unit Head or his/her representative and the grievant and the grievant's representative shall meet within ten (10) days following (a) receipt of the grievance if no postponement

is requested, or (b) receipt of written notice that the grievant wishes to proceed with a Step 1 meeting. At the Step 1 meeting, the grievant shall have the right to present any evidence in support of the grievance, and the grievant and/or the UFF representative or the grievant's legal counsel (if selected pursuant to Section 20.5), and the Unit Head or his/her representative, shall discuss the grievance.

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

(3) Documents. Where practicable, the Step 1 reviewer shall make available to the grievant, or grievance representative, documentation referenced in the Step 1 decision prior to its issuance. All documents referred to in the decision and any additional documents presented by the grievant shall be attached to the decision, together with a list of these documents. The grievant shall have the right, upon written request, to receive a copy of any identifiable documents relevant to the grievance prior to the Step 1 meeting.

(e) Step 2.

(1) Review. If the grievance is not satisfactorily resolved at Step 1, the grievant may file a written request for review (Appendix "D") with the Provost or designee within twenty (20) days following receipt of the Step 1 decision by grievant's Step 1 representative. Twenty days shall be determined by a receipt executed by the office receiving the grievance, or by the date of the email.

(2) Meeting. The Provost or designee and the grievant and the grievant's representative shall meet no later than seven (7) days following receipt of written notice of request for a Step 2 review. At the Step 2 meeting, the grievant shall have the right to present any evidence in support of the grievance, and the grievant and/or the UFF representative or the grievant's legal counsel (if selected pursuant to section 20.5), and the Provost or designee shall discuss the grievance.

(3) Prior to the issuance of the Step 2 decision, the Provost or the grievant may request that the grievance be referred to an internal advisory panel. Within thirty (30) days of this Agreement's ratification, the UFF shall notify the University of six (6) faculty members who may serve on the advisory panel during the duration of this Agreement.

(4) If requested, the advisory panel will consist of two faculty members selected by the UFF from the group of six (6). The Office of the Provost will designate an administrator to serve on the three-member advisory panel. The members of the advisory panel shall not have a conflict of interest and not be from the same department/unit as the grievant.

(5) The advisory panel shall have access to the Step 1 grievance form and written decision. The advisory panel will provide the Provost or designee with its written non-binding findings and recommendation within twenty (20) calendar days.

(6) Decision. The Provost or designee shall issue a written decision, stating the reasons for the decision to grievant's Step 2 representative within five (5) days following the conclusion of the review meeting or, when applicable, after receipt of the written findings and recommendation from the advisory panel. Five days shall be determined by a receipt executed by the office receiving the grievance, or by the date of the email. In the absence of an agreement to extend the period for issuing the Step 2 decision, UFF may proceed to Step 3, subject to the limitations below, if the grievant's Step 2 representative has not timely received the written decision. A copy of the decision shall be sent to the grievant and to UFF if the grievant elected self representation or representation by legal counsel.

(7) Per Florida Statute 1001.741, personnel actions or decisions regarding faculty, including in the areas of evaluations, promotions, tenure, discipline, or termination, may not escalate to arbitration. The final step for any such grievance shall not proceed beyond Step 2. If Florida Statute 1001.741 limiting the availability and use of arbitration is struck or enjoined by a court of competent jurisdiction or amended by the legislature to permit the arbitration of these decisions, then such decisions may escalate to arbitration. In that event, the University and UFF-FAU agree the language below will be immediately valid and in effect.

(f) Step 3 Arbitration.

**FIU**

6011 **E. Step 3. Neutral, Internal Resolution of Policy Disputes by a Panel**

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**1. Filing**

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**(a)** If the complaint has not been satisfactorily resolved at Step 2, UFF may, upon the request of the complainant, proceed to Neutral, Internal Resolution of Policy Disputes by a Panel by filing a written notice of the intent to do so. Notice of intent to proceed to Neutral, Internal Resolution of Policy Disputes by a Panel must be filed with the President or designee within forty-five (45) days after receipt of the Step 2 decision by the complainant’s Step 2 representative and shall be signed by the complainant and UFF President or designee. The complaint may be withdrawn by the complainant or by the UFF President or designee at any point prior to issuance of the Panel's decision.

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**(b)** Issues of Applicability. The parties shall stipulate to the issue(s) prior to the hearing before the Panel. If the parties are unable to stipulate to the issue(s) prior to such hearing, the parties shall proceed to a hearing on applicability of this procedure based on either procedural or substantive concerns (“applicability”). Issues of applicability shall be bifurcated from the substantive issues and, whenever possible, determined by means of a hearing conducted by conference call. The Panel shall have ten (10) days from the hearing to render a decision on applicability. If the process is judged to be applicable to the complaint,

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6036 the Panel shall then proceed to hear the substantive issue(s) in accordance  
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2. Selection of a Panel

- (a) Within fourteen (14) days after receipt of the Step 3 form by the University, representatives and UFF shall designate their representatives to the Panel using the method described below.
- (b) The President or designee shall appoint one (1) member of the Panel who shall be a current or former University employee or University alumni.
- (c) The UFF President or designee shall appoint one (1) member of the Panel who shall be a current or former University employee or University alumni.
- (d) The third member of the Panel shall be a professional labor mediator. Each party shall provide the other party with a list of five (5) potential members for the third member of the Panel. Each party shall alternatively strike a potential Panel member from the list until one remains with a coin toss used to determine which party strikes first. No person involved in any business, employment or other relationship with the University, State University or College System, or State of Florida that could reasonably be presumed to create a conflict of interest with that person's obligations as a neutral mediator of disputes involving the University shall be eligible for inclusion as the third member of the Panel.
- (e) All persons designated to members of the Panel shall be able to serve on short notice. In addition, the University and UFF shall jointly provide all Panel members with an orientation and training on the Policies and the Neutral, Internal Resolution of Policy Disputes procedures. The cost of such training shall be shared equally by the University and UFF.

6073 (f) The third member shall serve as the Chair of the Panel. The Panel shall be  
6074 governed by the Federal Mediation and Conciliation Service.

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6076 (g) The hearing by the Panel shall be held within sixty (60) days following the  
6077 selection of the Panel.

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6079 **3. Authority of the Panel**

6080 (a) The Panel in the Step 3 of the NIRD shall review the final decision solely for  
6081 the purpose of determining whether it violates a University regulation or the  
6082 applicable CBA provision and may not consider claims based on equity. The  
6083 Panel shall not add to, subtract from, modify, ignore, or alter the terms or  
6084 provisions of any BOT-UFF Policy or the BOT-UFF Agreement. Neutral,  
6085 Internal Resolution of Policy Disputes by a Panel shall be confined solely to  
6086 the application and/or interpretation of BOT-UFF Policies and the precise  
6087 issue(s) submitted for Neutral, Internal Resolution of Disputes. In rendering  
6088 its decision, the Panel shall refrain from issuing any statements of opinion or  
6089 conclusions not essential to the determination of whether the act or event  
6090 giving rise to the complaint violated applicable University regulation or  
6091 policy.

6092 (b) Where an administrator has made a judgment involving the exercise of  
6093 discretion, such as decisions regarding promotion under the BOT-UFF  
6094 Promotion Policy, the Panel shall not substitute its judgment for that of the  
6095 administrator. Nor shall the Panel review such decision except for the  
6096 purpose of determining whether the decision has violated BOT- UFF Policy.

6097 (c) The Panel shall not have the power to award promotion or tenure.

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6099 (d) If the Panel determines that a BOT-UFF Policy has been violated, the Panel  
6100 shall direct the University to take appropriate action. The Panel may award  
6101 back salary where the Panel determines that the employee is not receiving  
6102 the appropriate salary from the University, but the Panel may not award  
6103 other monetary damages or penalties. If notice that further employment will  
6104 not be offered is not given on time, the Panel may direct the University to  
6105 renew the appointment only upon a

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6111 finding that no other remedy is adequate, and that the notice was  
6112 given so late that (a) the employee was deprived of reasonable  
6113 opportunity to seek other employment, or (b) the employee actually  
6114 rejected an offer of comparable employment which the employee  
6115 otherwise would have accepted.

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6117 **(e)** A Panel's decision awarding employment beyond the sixth year shall  
6118 not entitle the employee to tenure. In such cases the employee shall  
6119 serve during the seventh year without further right to notice that the  
6120 employee will not be offered employment thereafter. If an employee is  
6121 reappointed at the direction of a Panel, the President or designee may  
reassign the employee during such reappointment.

## FSU

### 20.8 Formal Grievance Procedure.

(a) Facilitation. Consistent with the policy of informal resolution set forth in Section 20.1 of this Article, no grievance shall be considered ripe for filing at Step 1 absent submission of a request for facilitation. A request for facilitation shall be filed within forty-five (45) days of the date the faculty member learned of the alleged act or omission giving rise to the dispute (or the most recent in a series of alleged acts or omissions giving rise to the dispute). All requests for facilitation shall be in writing by the affected faculty member(s) or the UFF, as appropriate, and submitted to the Vice President for Faculty Development and Advancement or his/her designee. Such requests shall contain a general description of the potential dispute, including dates, times, and locations, along with copies of relevant documentation. Upon receipt of a request for facilitation, the Vice President for Faculty Development and Advancement and the UFF shall engage in a process of facilitation for a period of thirty (30) days, which may be modified by the parties' mutual agreement, in an effort to produce an informal resolution of the potential dispute. In matters designated in the request for facilitation as time-sensitive, the facilitation period shall be fifteen (15) days. Such fifteen (15) day facilitation period may be modified by the parties' mutual agreement in writing. All resolutions shall be reduced to writing, but shall be without precedent or prejudice to the parties.

#### (b) Filing.

(1) Within fifteen (15) days from the conclusion of a facilitation period that failed to produce an informal resolution, the grievant shall be entitled to file a Step 1 grievance with the unit head, defined for the purpose of this Article as dean or comparable-level administrator, as appropriate. The grievant may amend the Appendix "C" form up to and including Step 2 of the grievance procedure so long as the factual basis of the complaint is not materially altered.

(4) Where a personnel action or decision is not subject to arbitration, the grievant may request that the Provost, prior to issuing a Step 2 decision, refer the grievance to a fact finder to conduct an investigation culminating in a written non-binding findings of facts and a non-binding recommendation for the resolution of the grievance. The Provost shall make the referral to the fact finder who will issue the non-binding findings and recommendations within ten (10) business days of their appointment. The fact finder will be a current faculty member, in or out of the bargaining unit, that is mutually agreed upon by the UFF and the University. This process is not available for contract issues that have a defined review process (i.e. Assignment, Evaluations, Discipline, Conflicts of Interest).

a. Selection of fact finder. For the first filing of a notice of intent to initiate factfinding during the term of this contract, representatives of the University and the UFF shall meet within fifteen (15) days after the receipt of a notice of intent to fact find, for the purpose of selecting a fact finder

panel, which will be used for any further fact finding during the term of this contract. The parties will meet to select a fact finder from the fact finder panel consisting of no fewer than six (6) members. Selection of an individual fact finder shall be by mutual agreement or by alternately striking names from the fact finder panel until one name remains. The right of first choice to strike from the list shall be determined by the flip of a coin. The parties may mutually select as the fact finder an individual who is not a member of the panel.

b. The fact finder shall not have a conflict of interest and not be from the same department/unit as the grievant.

**Suggestions:**

Instead of using one fact-finder, use a committee of fact-finders consisting of one UFF representative, one USF representative, and one member at large (i.e., a faculty member selected by in-unit faculty).