

Article 20 - Grievance Procedure and Arbitration

20.1 Purpose. The parties encourage the informal resolution of grievances whenever possible. The purpose of this procedure is to promote prompt and efficient resolution of grievances. This procedure ~~shall~~ will be the sole and exclusive method for resolving grievances arising under the Collective Bargaining Agreement.

20.2 Definitions. As used herein:

A. "Grievance" ~~shall~~ will mean a dispute filed on the appropriate grievance form (attached to this procedure) concerning the interpretation or application of a specific term or provision of the Collective Bargaining Agreement, subject to those exclusions appearing in other articles of the agreement. The parties agree that counsels do not constitute disciplinary action. Further, since the parties do not intend that this grievance procedure be a device for appellate review, the University's response to a recommendation of a hearing officer or other individual or group having appropriate jurisdiction in any other procedure ~~shall~~ will not be an act or omission giving rise to a grievance under this procedure. Additionally, any and all matters related to faculty assignment will be processed solely in accordance with the process outlined in Appendix F, not under Article 20.

B. "Grievant" ~~shall~~ will mean UFF, a member of the bargaining unit, or group of members of the bargaining unit who has/have filed a grievance in a dispute over a provision of the Collective Bargaining Agreement. The UFF may file a grievance in a dispute over a provision of this Agreement which confers rights upon the UFF. Where several employees have essentially the same grievance, the parties may agree to consolidate the grievances. Where the parties agree to consolidation one grievance form may be attached bearing the signature of the grievants. A separate mutual agreement must be obtained to maintain the grievances as consolidated at each step of the grievance and arbitration process.

C. Grievance Form Requirements. Each grievance, request for review and notice of arbitration must be submitted in writing on the appropriate grievance form (attached to this procedure) and ~~shall~~ will be signed by the grievant(s). If there is difficulty in meeting any time limit, the UFF representative may sign such documents for the grievant; however, grievant's signature ~~shall~~ will be provided prior to the Step 2 meeting. All grievance forms ~~shall~~ will be dated when the grievance is received by the University. The grievance forms may be filed by electronic mail, facsimile, United States mail, or any other recognized means of delivery, ~~excluding electronic mail.~~

20.3 Resort to Other Procedures. It is the intent of the parties to first provide a reasonable opportunity for resolution of a dispute through the grievance procedure and arbitration process. If prior to seeking resolution of a dispute by filing a grievance hereunder, or while

the grievance proceeding is in progress, the grievant requests, in writing, resolution of the matter in any other forum, whether administrative or judicial, the University shall will have no obligation to entertain or proceed further with the grievance under this grievance procedure. As an exception to this provision, a grievant may file a federal EEOC charge while the grievance is in progress when such filing becomes necessary to meet federal filing deadlines pursuant to 42 U.S.C. section 2000e et seq.

20.4 Burden of Proof. In all grievances except disciplinary grievances, the burden of proof shall will be on the employee. In disciplinary grievances, the burden of proof shall will be on the University.

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

20.6 Identification of Grievance Representatives. UFF shall will annually provide to the University a list of all persons authorized to act as UFF grievance representatives and shall will update the list as needed.

20.7 Duties of Grievance Representatives and Grievant.

A. The UFF grievance representative shall will have the responsibility to meet all classes, office hours, and other duties and responsibilities incidental to the assigned workload. Some of these activities are scheduled to be performed at particular times. Such representative shall will have the right during times outside of those hours scheduled for these assigned activities to investigate, consult, and prepare grievance presentations and attend grievance hearings and meetings. Should any hearings or meetings necessitate rescheduling of assigned duties, the representative may, with the approval of the appropriate administrator, arrange for the rescheduling of such duties or their coverage by colleagues. Such approval shall will not be unreasonably withheld.

B. Prior to participation in any grievance proceedings, conferences, or meetings, the grievant shall will make arrangements acceptable to the appropriate supervisor for the performance of the grievant's duties. Approval of such arrangements shall will not be unreasonably withheld. Time spent in such activities outside regular working hours shall will not be counted as time worked.

C. When an employee participates during working hours in an arbitration proceeding or in a grievance meeting between the grievant or representative and the University, that employee's compensation ~~shall will~~ neither be reduced nor increased for time spent in those activities.

20.8 Formal Grievance Procedure.

A. Filing.

(1). A grievance ~~shall will~~ be filed with the designated university representative at Step 1 within ~~thirty (30)~~~~forty-five (45)~~ days following the act or omission giving rise thereto, or the date on which the grievant knew or reasonably should have known of such act or omission if that date is later. The expiration of the ~~thirtyforty-five-~~day period ~~shall will~~ be evidenced by a receipt executed by the office receiving the grievance, or by the date of mailing as determined by the postmark or email timestamp on the recipient's computer. The grievance may be amended one time, prior to the Step 2 meeting.

(2). The filing of a grievance constitutes a waiver of any rights to judicial review of agency action pursuant to Chapter 120, Florida Statutes, or to the review of such actions under university procedures which may otherwise be available to address such matters. This grievance procedure ~~shall will~~ be the sole review mechanism for resolving disputes regarding rights or benefits provided exclusively by the Collective Bargaining Agreement, except for any assignment disputes which will be processed under the procedures outlined in Appendix F. Only those acts or omissions and sections of the Collective Bargaining Agreement identified at the in the initial written grievance document, filing or as amended, in writing, in one per Section (1) above, may be considered at subsequent steps. In its sole discretion, the University may choose to consider any verbal amendment offered during a Step 2 meeting.

(3). The grievant may seek redress of alleged salary discrimination by filing a grievance under the provisions of this article. An act or omission giving rise to such a grievance may be the employee's receipt (including the posting of an employee's salary warrant or pay 'stub' to the ~~GEMS website~~ University's personnel system for those employees who receive their pay by direct deposit) of the employee's salary warrant for the first full-pay period in which the annual salary increases referenced in the article concerning salary are reflected.

B. Time Limits. All time limits may be extended by mutual agreement of the parties, except for the deadline to initially file the grievance. Upon failure of the University

to provide a decision within the time limits provided in this Article, 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, the grievance ~~shall~~ will be deemed to have been resolved by the decision at the prior step.

C. Optional Postponement and ~~Postponement~~ Informal Resolution.

~~(1) The grievant may at the time of filing, in the a 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 (30) days, to allow for Informal Resolution during which period efforts to resolve the grievance informally shall be made. The initial such request shall will be granted. Upon the grievant's written request, a Additional extensions should be granted can occur upon mutual written agreement, unless to do so would impede resolution of the grievance. upon mutual agreement. Upon request for Informal Resolution, the University's representative Unit Head or his/her representative shall will, during the postponement Informal Resolution period(s), arrange an informal meeting between the appropriate administrator and the grievant. The grievant shall will have the right to representation by the UFF during attempts at informal resolution of the grievance, and the University's representative may also attend such Informal Resolution meeting. The grievant may, at any time, terminate the postponement Informal Resolution period by giving written notice to the Unit Head or his/her the University's representative that the grievant wishes to proceed with the Step 1 meeting. If the postponement Informal Resolution period, or including any mutually agreed to extension thereof, expires without such written notice, the grievance shall will be deemed informally resolved to the grievant's satisfaction and need not be processed further.~~

D. Step 1.

~~(1) Meeting. The Grievance Representative of the University and the grievant and the grievant's representative shall will meet within fourteen ten (14 10) days following (a) receipt of the grievance if no postponement Informal Resolution 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 will 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 20.5. Representation); and the University representative, shall will discuss the grievance.~~

~~(2) Documents. In advance of the Step 1 meeting, the grievant will have the right, upon written request, to a copy of any existing and identifiable documents in the University's possession which the Grievant believes are necessary for the presentation of their grievance.~~

~~(23) Decision. The designated University representative will issue a written decision no later than forty-five (45) days after the close of the Step 1 meeting. This decision will outline the reasons for the decision and will append any documents additional to items offered by the grievant. Links to Collective Bargaining Agreement, University Regulations, Policies and/or Procedures may be provided in lieu of appending documents to the decision. The expiration of the forty-five (45) day period will be evidenced by email timestamps and/or any documentation indicating delivery through US Mail or other delivery method (i.e. postmark). The decision will be provided to the grievant and the grievant's representative, as applicable. The University representative shall will issue a written decision, stating the reasons for their decision therefore, to grievant's Step 1 representative within ten seven (10-7) days following the conclusion of the meeting. The start of the ten (10) Seven days shall will be determined by a receipt executed by the office receiving the grievance, or by the date of mailing as determined by the postmark or time stamp in the recipient's 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 will 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 may make available to the grievant, or grievance representative, documentation referenced in the Step 1 decision prior to its issuance which are in addition to any documents submitted by the grievant. References to University Regulations, Policies or Procedures may be provided by including the applicable web link in any response. All documents referred to in the decision which are in addition to and any additional documents presented by the grievant shall will 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. In advance of the Step 1 meeting, the grievant will have the right, upon written request, to a copy of any existing and identifiable documents in the University's possession which the Grievant believes are necessary for the presentation of their grievance.~~

~~All grievances shall will be placed in informal resolution status for thirty (30) days unless both the University and UFF agree otherwise. During the informal resolution period efforts to resolve the grievance informally shall will be made. Additional extensions may be granted upon mutual agreement. Upon request of the grievant or grievant's representative, the University representative shall will, during the informal resolution period(s), arrange an~~

~~informal meeting between the appropriate administrator and the grievant. The grievant shall will have the right to representation by the UFF during attempts at informal resolution of the grievance. If the grievance is not satisfactorily resolved during the initial informal Step 1 resolution period, the grievant may give written notice requesting Step 2 review within seven (7) days from the expiration of the initial Step 1 period. If the grievant does not request a Step 2 review within seven (7) days from the expiration of the initial informal Step 1 resolution period or if any extension of that period expires without the grievant filing a request for Step 2 review, the grievance shall be deemed informally resolved to the grievant's satisfaction and need not be processed further. The expiration of the seven (7) day period shall be evidenced by a receipt executed by the office receiving the request for Step 2 review, or by the date of mailing as determined by the postmark.~~

~~ED. — Step 2:~~

~~(1). Meeting. The designated University representative and the grievant and/or the grievant's representative shall will agree to meet within ~~fourteen~~ fifteen ~~seven~~ (14/15/7) days following receipt of the written notice requesting Step 2 review. At the Step 2 meeting, the grievant shall will have the right to present any evidence in support of the grievance, and the grievant and/or the grievant's representative or the grievant's legal counsel (if selected pursuant to 20.5. Representation) and the designated university representative shall will discuss the grievance.~~

~~(2). Decision. The designated University representative shall will issue a written decision, stating the reasons therefore, to grievant's Step 2 representative within thirty (30) days following the conclusion of the meeting. The expiration of the thirty-day period shall will be evidenced by a receipt executed by the office receiving the grievance, or by the date of mailing as determined by the postmark. A copy of the decision shall will be sent to the grievant, to the grievant's representative and to UFF if grievant elected self-representation or representation by legal counsel.~~

~~The designated University representative will issue a written decision no later than forty-five (45) days after the close of the Step 2 meeting. This decision will outline the reasons for the decision and will append any documents additional to items offered by the grievant. Links to Collective Bargaining Agreement, University Regulations, Policies and/or Procedures may be provided in lieu of appending documents to the decision. The expiration of the forty-five (45) day period will be evidenced by email delivery information and/or any document indicating deliver through US Mail or other delivery method. The decision will be provided to the grievant, the grievant's representative and to UFF if the grievant previously elected to self-represent or be represented by their own attorney.~~

~~(2) Prior to the issuance of the Step 2 decision, the designated University representative 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.~~

~~(3) 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.~~

~~(4) The advisory panel shall have access to the Step 1 grievance form and written decision. The advisory panel will provide the designated University representative and the UFF representative with its written non-binding findings and recommendations within twenty (20) calendar days.~~

~~(5) Decision. The designated University representative shall issue a written decision, stating the reasons for the decision to grievant's Step 2 representative within seven (7) days following the conclusion of the review meeting or, when applicable, after receipt of the written findings and recommendation from the advisory panel. Seven 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.~~

~~(64) Prohibition on Arbitration. 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 proceed to arbitration. The final step for any such grievance shall will 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-USF agree the language below will be immediately valid and in effect.~~

~~(73). Documents. All documents referred to in the Step 2 decision and any additional documents presented by the grievant shall will be attached to the decision, together with a list of these documents. In advance of the Step 2 meeting, the grievant shall will have the right, upon written request, to a copy of any existing and identifiable documents in the University's possession which the Grievant believes are necessary for the presentation of their relevant to the grievance.~~

FE. Step 23 Arbitration.

~~The parties acknowledge that _____, Fla Statute, eliminated arbitration as a part of the grievance process. That statute is the subject of a legal challenge and the parties agree to maintain this language in the Collective Bargaining Agreement during the pendency of the litigation. The parties further acknowledge and agree that arbitration under the below language is unavailable until the resolution of the legal challenge of the statute should such challenge result in the reinstatement of arbitration.~~

(1). Filing. If the grievance has not been satisfactorily resolved at Step 2, UFF may, upon the request of the grievant, proceed to arbitration by filing a written notice of the intent to do so. Notice of intent to proceed to arbitration must be filed with the designated University representative within thirty (30) days after receipt of the Step 21 decision by grievant's Step 21 representative and ~~shall will~~ be signed by the grievant and the UFF President or representative. ~~._~~ The expiration of the thirty-day period ~~shall will~~ be evidenced by a receipt executed by the office receiving the grievance, or by the date of mailing as determined by the postmark ~~or email timestamp~~. The grievance may be withdrawn ~~at any time~~ by the grievant or by the UFF President or representative at ~~any point time~~ prior to issuance of the arbitrator's decision. The parties ~~shall will~~ stipulate to the issue(s) prior to the arbitration. In the event a stipulation is not reached, the parties ~~shall will~~ proceed to a hearing on arbitrability as described in Article 20.8(E)(4) below.

(2). Selection of Arbitrator. ~~._~~ Once a grievance is escalated to Arbitration, the parties may prefer to mutually agree on an Arbitrator. Otherwise, the moving party ~~shall will~~ file a request with the Federal Mediation and Conciliation Service (FMCS) for a panel of Arbitrators. Within fourteen (14) days after receipt of the panel representatives of the University and UFF ~~shall will~~ meet for the purpose of selecting an arbitrator from the Panel. Selection ~~shall will~~ be by mutual agreement or by alternately striking names from the Arbitration Panel list until one name remains. The right of the first choice to strike from the list ~~shall will~~ be determined by the flip of a coin. ~~._~~ The arbitration ~~shall will~~ be held within sixty days following the selection of the Arbitrator, except as mutually agreed to by the parties. ~~._~~

(3). Authority of the Arbitrator.

a. The arbitrator ~~shall will~~ neither add to, subtract from, modify, nor alter the terms or provisions of the Collective Bargaining Agreement. The arbitrator's decision ~~shall will~~ be confined solely to the application and/or interpretation of the Collective Bargaining Agreement and the precise issue(s) submitted for arbitration. The arbitrator ~~shall will~~ refrain from issuing any statements of opinion or conclusions not essential to the determination of the issues submitted.

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

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

(4) Arbitrability. Issues of arbitrability shatt will be bifurcated from the substantive issue(s) and, whenever possible, determined by means of a hearing conducted by conference call. The arbitrator shatt will have ten (10) days from the hearing to render a decision on arbitrability. If the issue is judged to be arbitrable, an arbitrator shatt will then be selected to hear the substantive issue(s).

(5). Conduct of Hearing. The arbitrator shatt will hold the hearing in- Tampa, Florida, unless otherwise agreed by the parties. The hearing shatt will commence within twenty-five (25) days of the arbitrator's acceptance of selection, or as soon thereafter as is practicable, and -the arbitrator shatt will issue the decision within forty-five (45) days of the close of the hearing or the submission of briefs, whichever is later, unless additional time is agreed to by the parties. The decision shatt will be in writing and shatt will set forth findings of fact, reasoning, and conclusions on the issues submitted. Except as expressly specified in this procedure, the provisions of the Florida Arbitration Code, Chapter 682, Florida Statutes, shatt will not apply. Except as modified by the provisions of the Collective

Bargaining Agreement, arbitration proceedings ~~shall will~~ be conducted in accordance with the rules and procedures of the American Arbitration Association.

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

(7). Venue. For purposes of venue in any judicial review of an arbitrator's decision issued under this agreement, the parties agree that such an appeal ~~shall will~~ be filed in the courts in Hillsborough County, Florida, unless both parties specifically agree otherwise in a particular instance.

(8). Fees and Expenses. All fees and expenses of the arbitrator ~~shall will~~ be divided equally between the parties. Each party ~~shall will~~ bear the cost of preparing and presenting its own case. The party desiring a transcript of the arbitration proceedings ~~shall will~~ provide written notice to the other party of its intention to have a transcript of the arbitration made at least one week prior to the date of the arbitration. The party desiring such transcript ~~shall will~~ be responsible for scheduling a court reporter to record the proceedings and ~~shall will~~ be solely responsible for the appearance fees of the court reporter and the cost of any transcripts of the proceedings which that party may order. The requesting party ~~shall will~~, at its expense, photocopy the copy of the transcript received from the reporter and deliver the photocopy to the other party within five days after receiving the copy of the transcript from the reporter.

(9). Retroactivity. An arbitrator's award may or may not be retroactive as the equities of each case may demand, but in no case ~~shall will~~ an award be retroactive to a date earlier than ~~thirty forty-five (4530)~~ days prior to the date the grievance was initially filed.

20.9 Filings and Notification. All documents related to grievances required or permitted to be issued or filed may be transmitted by United States mail, email, or other recognized delivery service as described in Article 3.2C. In the event that any action falls due on a Saturday, Sunday, or holiday (as defined in this Agreement), the action will be considered timely if it is accomplished by 5:00 P.M. on the following business day.

20.10 Precedent. No ~~complaint grievance informally~~ resolved ~~in the through Informal Resolution stage~~, or ~~grievance resolved~~ at ~~either~~ Step 1 ~~or 2~~, ~~shall will~~ constitute a precedent for any purpose unless agreed to in writing by the President of the University and the UFF acting through its President or representative.

20.11 Processing.

A. The filing or pendency of any grievance or arbitration proceedings under this procedure ~~shall will~~ not operate to impede, preclude, or delay the University from taking the action complained of. Reasonable efforts, including ~~the mutually agreement of to~~ shortening ~~ing of~~ time limits when practical, ~~shall will~~ be made to conclude the processing of a grievance prior to the expiration of the grievant's employment, whether by termination or non-reappointment. An employee with a pending grievance will not continue to be compensated beyond the last date of employment.

B. The University may refuse consideration of a grievance not filed or processed in accordance with this Article procedure.

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

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

20.14 Inactive Grievances. A grievance which has been filed at Step 3 and on which no action has been taken by the grievant or UFF for ninety (90) days ~~shall will~~ be deemed withdrawn and resolved in accordance with the decision issued at the prior Step.

20.15 Non-Binding Mediation. ~~At any point during the grievance process, the parties may elect, by mutual written agreement, to participate in non-binding mediation concerning the grievance. The parties may utilize the Federal Mediation and Conciliation Service (hereafter "FMCS"), but it is not required. All pending grievance deadlines will be tolled from If the parties choose to participate in non-binding mediation through a mutual written agreement, then the parties will mutually agree, in writing, to establish a future date to reinstate any grievance timelines which may be impacted by an agreement to engage in mediation contained herein shall will be suspended, pending the outcome of mediation; from the The date of the signed written agreement of the parties to pursue non-binding mediation will toll any pending grievance timelines. Should mediation successfully resolve the grievance, where as confirmed by both parties in writing, the grievance shall will be deemed closed. Should mediation not successfully resolve the grievance, which shall will be documented in writing by both parties, the suspension of the timelines of the grievance shall will be dissolved and the grievance process will return to the point at which the grievance was tolled and will restart any remaining timeline proceed in accordance with the timelines established under this Article shall proceed as detailed herein.~~