
ARTICLE 11
GRIEVANCE AND ARBITRATION

3111.1 – Grievance

A. ~~Purpose of the Grievance Procedure.~~ The parties agree that a prompt and efficient procedure for the investigation and resolution of grievances, in accordance with Chapter 447, Part II Florida Statutes, and a timely and just settlement of grievances can best promote a harmonious and cooperative relationship between the parties and thus is of mutual concern and interest.

Therefore, the parties shall attempt to settle all grievances promptly and fairly at the point of origin. In order to achieve this, the Grievant, Union and the Administration shall make available to one another all known relevant facts and provide in a timely manner such public documents and public information as may be requested to enable the parties to resolve grievances and maintain harmony within the College environment. The orderly process set forth in this Article shall be the sole method for the resolution of grievances.

B. ~~Definitions for the Grievance Procedure.~~ The following definitions will be used for ~~the grievance procedure in Article 11 of~~ this Agreement.

1. ~~Grievance – an alleged violation or a~~ dispute involving the interpretation, ~~or~~ application, or claimed violation of a specific term or provision of the terms of this Agreement or handbook, policies, or and procedures referenced mutually agreed to by specific reference in this Agreement.
2. Aggrieved or Grievant – any faculty bargaining unit member, group of ~~faculty~~ members, or the Union itself that files a grievance as defined in this Article.
3. Faculty Member – any member of the bargaining unit.
4. Days, Work Days, or Working Days- as used in this Article, unless otherwise stated herein, shall exclude official College holidays applicable to bargaining unit members but shall include a regular workweek (Monday-Friday) excluding weekends (Saturday –Sunday). A “day” shall conclude at 4:30 p.m. Days—unless otherwise stated herein shall mean the College business days in accordance with the Board-approved College calendar.
5. ~~Workdays or Working Days—shall mean the regularly scheduled working days for the individual obligated to act in the particular circumstance described.~~
- 6.5. ~~Respondent – the College or the appropriate administrator.~~

C. Representation. The Union has the right to represent or to not represent any faculty member, if requested by the faculty member, and/or be present at any step of the Grievance Procedure whether or not the Union is representing the faculty member in the process. The Union shall have the right to file and pursue grievances on behalf of individual bargaining unit members or a group of bargaining unit members, in accordance with this Article. The Union shall have the

right to file and pursue grievances on behalf of itself, in accordance with this Article. The Union and Faculty Member grievances shall be filed on forms mutually agreed to by the parties. The Union and Faculty Member grievances shall be filed separately in separate grievance documents and if a grievance is filed on behalf of an individual it shall be signed by the individual grievant

~~D. Timelines. All timelines shall be interpreted as the end of the specified day. In the event a deadline for action by either party should fall on a non-business day (holiday, weekend, or such) for the College, the deadline shall be extended to the next regular business day. Due to the importance of processing a grievance as rapidly as possible, the number of days indicated at each level should be considered as a maximum, and every effort should be made to expedite the process.~~

~~ED. Bargaining unit members, including Union representatives and officers, shall not permit the investigation or processing of grievances to interfere with their normal work responsibilities. However, they shall be permitted to process and investigate Grievances during non-classroom hours as may be necessary.~~

E. Non-Applicability of Grievance Procedure. This grievance procedure cannot be used by the Union or any Faculty Member to dispute a decision by the College that involves the exercise of academic judgment including but not limited to decisions not to renew the contract of an employee on annual contract or to dispute a decision by the College not to award a contract, or a promotion, to a unit employee, except to the extent that a grievance alleges the failure by the Administration to follow the procedures set forth in this Contract.

F. Exceptions to Grievance and Arbitration. Unless specifically stated otherwise elsewhere in this Agreement, the provisions of this Grievance and Arbitration Article shall apply to the entire Agreement.

G. Grievance Procedure. Due to the importance of processing a grievance as rapidly as possible, the number of days indicated at each level should be considered as a maximum, and every effort should be made to expedite the process.

1. Step 1 – Informal Discussion. A grievant shall first try to resolve the issue by discussing the grievance with his/ her immediate supervisor, either directly or through the Union’s designated representative, within twenty (20) workdays from the date of discovery. Respondent will render a decision to the faculty member within fifteen (15) workdays from the date the first discussion was held. In the event the Respondent is not available during the twenty (20) workday time period, the faculty member will meet with the acting supervisor and express his/her intent to pursue the informal discussion procedure.

2. Step 2 – Written Grievance to Respondent. If the grievance is not settled at Step 1, or if the aggrieved person is not satisfied with the disposition at Step 1, or if there is no disposition within fifteen (15) workdays after the discussion in Step 1, or if the

Respondent fails to meet with the Grievant within the twenty (20) workday period as above, the grievant may file the grievance in writing to the Dean or the Associate Vice President as may be appropriate, within twenty (10) workdays from deadline for the supervisor’s disposition.

The written grievance shall be on the Grievance form in Appendix of this Agreement and shall

- a. briefly state the pertinent facts in enough detail to enable an otherwise uninformed third party to determine from the document the alleged violation, assuming the truth of the facts as stated;
- b. specify the particular Article(s) and Section(s) of this Agreement that are being relied upon for the prosecution of the grievance and the College will be entitled to rely exclusively on these required references;
- c. specify with particularity the relief sought.

A class action or union grievance shall be filed with the Vice President at Step 2, provided it is filed within twenty (20) workdays of the date of discovery by the union.

3. Step 3 – Appeal of Step 3 Disposition. If the grievance is not settled at Step 2, or if there is no disposition within ten (10) workdays after receipt of the Step 2 written grievance, the grievant shall have ten (10) workdays to file the grievance in writing to the President of the College. Within five (5) workdays after receiving the Step 3 written grievance the President of Academic Affairs shall schedule a meeting with the grievant and/or the Union’s designated representative, to attempt resolution of the matter. Within five (5) workdays after the meeting, the President shall submit a written decision to the grievant.

H. Reprisals. The Administration of the College and/or the Union shall make no reprisals against employees through action or omission because of their involvement in a grievance procedure.

11.2 – Arbitration Procedure

A. Purpose of the Arbitration Procedure. When the grievant is not satisfied with the final decision of the formal grievance process, the Grievant may appeal the decision to arbitration. If the Grievant is a Union member, only the Union may at the sole discretion of the UFF state organization appeal the grievance to arbitration. If the Grievant is not a Union member, the Grievant is not required to have Union permission to appeal to arbitration. The decision to appeal to arbitration will be in writing, delivered to the College President or designee within ~~twenty (20)~~fifteen (15) workdays after receipt by the grievant of the College’s ~~final action~~Step III decision or expiration of the Step III decision time period. Arbitration under this Agreement shall be limited to those grievances processed through the steps of the Grievance Procedure and subject to this Article. However, in the interest of time, the parties may mutually agree to expedite a grievance directly to arbitration. The filing or pendency of any Grievance or of arbitration proceedings shall not operate to impede, preclude, or delay the College from taking

134 the action under consideration. In no event shall any Faculty Member, as a result of a pending
135 Grievance, receive compensation following cessation of employment.

136
137 B. Issues of Arbitrability. Issues of arbitrability shall be bifurcated from the substantive issues
138 and will be initially decided by an arbitrator who is selected pursuant to the process outlined in
139 this grievance procedure. Issues of arbitrability will be determined by means of hearing
140 conducted by telephonic or videoconference methods, unless mutually agreed otherwise. The
141 arbitrator shall have fifteen (15) days from the hearing to render a decision on arbitrability. If the
142 issue(s) is judged to be arbitrable, a separate arbitrator shall then be selected to hear the
143 substantive issue(s).

144
145 C. Election of Remedies. A Faculty Member’s election to proceed through a resolution process
146 provided by the College’s internal policies or commencement of a proceeding against the
147 College or any managerial employee of the College or any member of the Board of Trustees in a
148 court of law or equity, or before the Florida Public Employees Relations Commission, or any
149 other administrative agency, by the Union or any Faculty Member, alleging the same issue or
150 seeking the same remedy, shall be deemed a waiver by said unit member(s) or the Union of the
151 ability to resort to the grievance or arbitration procedure contained herein for the resolution of
152 the alleged violations of this Agreement. In such instances the grievance or arbitration will be
153 deemed withdrawn. A Grievant electing to have a discrimination complaint resolved through the
154 grievance/arbitration provisions will execute a formal waiver reflecting that selection. As an
155 exception to this provision, a Grievant may file a federal EEOC charge while the Grievance is in
156 progress when such filing becomes necessary to meet federal filing deadlines pursuant to 42
157 U.S.C. 2000e, et seq.

158
159 **BD.** Selection of Arbitrator. Representatives of the College and the UFF shall meet within
160 ninety (90) days after the execution of this Agreement for the purpose of selecting an
161 Arbitration Panel of seven (7) members. Within fifteen (15) days after receipt of a notice of
162 intent to arbitrate, representatives of the College and the UFF shall meet to select an arbitrator
163 from the Panel. Selection shall be by mutual agreement or by alternately striking names from the
164 Arbitration Panel list until one name remains. The right of the first choice to strike from the list
165 shall be determined by the flip of a coin.

166
167 ~~In the event~~If the parties cannot mutually agree to an arbitrator, the parties shall request jointly
168 request in writing, from the Federal Mediation and Conciliation Service (FMCS), a list of seven
169 (7) arbitrators. Selection from the FMCS arbitration list shall be made by alternately striking
170 names from the list until one name remains. The arbitration shall be held within sixty (60) days
171 following the selection of the arbitrator unless the parties mutually agree to extend the time.

172
173 **CE.** Hearing Before the Arbitrator. The arbitrator shall arrange for any hearing he/she deems
174 necessary as soon as practical after the arbitrator is notified of his selection. If it is necessary to
175 hold arbitration proceedings during duty hours, parties to the grievance shall be excused from
176 their other College duties for the duration of the time they are needed in the proceedings. Each
177 party shall have the right to present evidence, present, cross-examine, and/or sequester witnesses,
178 and submit a post-hearing brief.

179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223

DF. Disposition. The arbitrator shall render a decision in writing within thirty (30) days after the close of the hearing. If briefs are submitted, the hearing is closed on the date set by the arbitrator for the submission of briefs. However, time limitations may be adjusted by mutual agreement of the parties. The decision of the arbitrator will be made in writing to both parties at the same time. The delivery of the decision will be made by e-mail or certified mail, return receipt requested as determined by the Arbitrator.

EG. Authority of the Arbitrator - The arbitrator shall be limited to the written grievance submitted by the grievant or the Union. In the area of financial awards, the power of the arbitrator shall be limited to cases where the aggrieved person has been judged to have been discharged or suspended without cause and the arbitrator’s power in such cases shall be limited to reinstatement and the amount of back pay due, if any. The arbitrator shall have no power to award continuing contract status. If the arbitrator’s award includes back pay, earnings or compensation received from any sources shall be deducted from the award. Failure to mitigate and/or laches may also be considered as a deduction or set-off.

1. The decision of the arbitrator, if within the limitations of his/her authority as set forth herein and in Florida Statutes, shall be final and binding. The arbitrator shall not have the power to add to, subtract from, modify, or alter the provisions of this Agreement.
2. The arbitrator shall not have the power to abridge or curtail any rights reserved to the College in this Agreement.
2. Arbitration shall be confined solely to the facts and/or allegations of the written grievance. The arbitrator shall have no authority to determine any other issue(s). Where an administrator has made a judgment involving the exercise of discretion, the arbitrator shall not substitute the arbitrator’s judgment for that of the College. If the arbitrator determines that the Agreement has been violated, the arbitrator shall direct the College to take appropriate corrective action.
3. The arbitrator shall only have the power to hear or arbitrate grievances which arise under the terms and during the duration of this Agreement.
4. In any arbitration involving a question of monetary liability, the parties shall have a right to a reasonable time for briefing the case and a decision shall be due within thirty (30) working days after the date set for filing briefs. Time limitations may be adjusted by mutual agreement of the Parties
5. Neither party will present evidence regarding offers to settle or compromise a grievance.
6. An arbitrator’s award may or may not be retroactive as the equities of each case may demand, but in no case shall an award be retroactive to a date earlier than 30 days prior to the date the Grievance was initially filed in accordance with the grievance procedure of the Agreement or the date on which the act or omission occurred, whichever is earlier;

224 | provided however, that in no case will an award be made for an act or omission occurring
225 | before the effective date of this Agreement.

226 |
227 | 7. The College shall not be required, as the result of any grievance resolution or arbitration
228 | decision, to violate any law, regulation, accreditation requirement or rule applicable to
229 | the operation of the College.

230 |
231 |
232 |
233 | FH. Fees and Expenses of Arbitration. All costs of any arbitration, including the arbitrator's
234 | fees and expenses, cost transcripts (which shall be made available at the request of either party),
235 | and cost of meeting rooms shall be borne equally by the College and Grievant or the Union,
236 | unless otherwise agreed by the parties. The parties shall share equally the Arbitrator's fees for the
237 | arbitration.

238 |
239 | GI. Burden of Proof. The College shall have the burden of proof by a preponderance of the
240 | evidence in all grievances involving the determination of just cause for imposing discipline. In
241 | other matters the Burden of Proof shall be on the grievant and/or Union.

242 |
243 | J. If it is necessary to hold arbitration proceedings during duty hours, parties to the Grievance
244 | shall be excused from their other College duties for the duration of the time they are needed in
245 | the proceedings. Every effort shall be made to accommodate class scheduling.

246 |
247 | HK. Files. Grievance materials will be maintained in a file designated by the President
248 | College and separate from personnel files and in accordance with the Public Records Law. A
249 | copy of the arbitrator's written decision shall be placed in the grievant's personnel file.

250 |
251 | I. Processing. The filing or pendency of any grievance, or of arbitration proceedings, under
252 | this Article shall not operate to impede, preclude, or delay the College from taking the action
253 | complained of. In no event shall any faculty member, as a result of a pending grievance, receive
254 | compensation following cessation of employment.