

ARTICLE NN
GRIEVANCE and ARBITRATION

Section 11.1 – Grievance Overview

A. Purpose. 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 in accordance with law 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

1. Grievance - a dispute concerning the interpretation, application, or claimed violation of a specific term or provision of this Agreement, or handbook, policies, or procedures specifically incorporated by reference in this Agreement.
2. 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.
3. Grievant– any bargaining unit member, group of members, or the Union that files a grievance as defined in this Article
4. Respondent – the College or the appropriate administrator

C. Individual/ Union Grievances. The Union shall have the right to file and pursue grievances on behalf of individual bargaining unit members or groups 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 bargaining unit member grievances shall be filed on forms mutually agreed to by the parties. The Union and bargaining unit 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. Grievance Processing by an Individual or the Union. Bargaining unit members, including Union representatives and officers, shall not permit the investigation or processing of grievances to interfere with their normal work responsibilities.

E. Representation. The Union shall have the right to represent, or not represent, any bargaining unit member, upon the bargaining unit member’s request, at any step of this grievance procedure, provided, however that individual employees may, upon notice to UFF, initiate and represent

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45 themselves in processing their own individual grievances. The Union reserves the right not to
46 represent non-members. The Union has the right to be present at any step of the Grievance
47 Procedure whether or not the union is representing the Grievant in the process.

48
49 F. Non-Applicability of Grievance Procedure. This grievance procedure cannot be used by the
50 Union or any bargaining unit member to dispute a decision by the College that involves the
51 exercise of academic judgment including but not limited to decisions not to renew the contract of
52 an employee on annual contract or to dispute a decision by the College not to award a contract,
53 or a promotion, to a unit employee, except to the extent that a grievance alleges the failure by the
54 Administration to follow the procedures set forth in this Agreement.

55
56 G. Time Limits and Contents of Grievance. The time limits set forth in this article are of the
57 essence and must be strictly complied with, but may be extended by mutual written agreement of
58 the parties. A Grievant's or the Union's failure to process a grievance within the time limits set
59 forth in this Article, or that fails to contain the required contents in the Grievance as set forth
60 below, shall mean that the Grievance shall be treated as withdrawn. Upon the failure of the
61 College to provide a response within the time limits provided in this Article, the Grievant or the
62 Union may appeal to the next grievance step. In the event a deadline for action by either party
63 should fall on a weekend, or College holiday, the deadline shall be extended to the next working
64 day. Due to the importance of processing a Grievance as rapidly as possible, the number of days
65 indicated at each level should be considered as a maximum, and every effort should be made to
66 expedite the process. In order to be eligible for processing, a Grievance must be timely filed and
67 contain the following:

- 68
- 69 1. The name of the Grievant, whether it is an individual employee or the Union.
 - 70 2. The identification of the event or omission that gave rise to the Grievance and the time
71 it occurred and a short, plain statement of the facts surrounding the grievance, with an
72 explanation of how the contract was violated.
 - 73 3. The citation of the particular sections and subsections of this Agreement (not articles
74 alone) on which the Grievant relies.
 - 75 4. A statement of the precise relief sought.
 - 76 5. The signature of the Grievant(s).
- 77

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

81
82 **Section 11.2. Grievance Process**

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84 Grievances, properly and timely filed, shall be processed in accordance with the following
85 procedure.

86
87 A. Step I. Within twenty (20) working days of the occurrence of the event or omission giving
88 rise to the Grievance, or when the bargaining unit member first knew or reasonably should have
89 known of such act or omission, if that date is later, an eligible Grievant shall file the Grievance

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90 document with the Department Chair or immediate supervisor and provide a copy to the Director
91 of Human Resources. Within ten (10) working days of the receipt of the Grievance, the
92 Department Chair or immediate supervisor shall meet with the Grievant in an effort to resolve
93 the problem. The Department Chair or immediate supervisor will be allowed ten (10) working
94 days following the meeting to respond to the Grievance in writing. This written answer may
95 consist of a notation on the grievance document.

96
97 B. Step II. If the Grievance is not settled at Step 1, or if no written response is received by the
98 Grievant at Step I, or if the response is not acceptable to the Grievant at Step 1, the Grievant may
99 appeal the Grievance to Step II. Only those acts or omissions identified at Step II of the
100 Grievance procedure contained in this Agreement may be considered for arbitration under this
101 article. The appeal must be filed within ten (10) working days of the receipt of the answer from
102 the immediate administrative supervisor or, if no written answer is received, within ten (10)
103 working days after the expiration of the ten (10) working day period specified in Step I. Such
104 appeal shall be in writing and shall include a copy of the Grievance filed at Step I and the Step I
105 response, if any. The Step II filing shall be filed with the Grievant's Dean or Director and a copy
106 provided to the Director of Human Resources. Once the grievance document has been properly
107 filed at Step II, there shall be fifteen (15) working days in which to provide a written response to
108 the Grievant. The written response may consist of a notation on the grievance document. A
109 meeting to discuss the Grievance at Step II may be conducted at the discretion of the Dean or
110 Director.

111
112 C. Step III. If the Grievance is not settled at Step II, or if no written response is received at Step
113 II or if the disposition of the Grievance is unacceptable to the Grievant, the Grievant may appeal
114 the Grievance to Step III by filing an appeal with the President (or an individual designated to
115 hear Grievances at Step III) and a copy provided to the Director of Human Resources within ten
116 (10) working days after the receipt of the answer at Step II, or if no answer is received, within
117 ten (10) working days after the expiration of the fifteen (15) working day period applicable to
118 Step II. Once the grievance document has been properly filed at Step III, a meeting to discuss the
119 Grievance at Step III will be conducted by the President (or individual designated to hear
120 Grievances at Step III) within fifteen (15) days. . There shall be fifteen (15) working days in
121 which to provide a written response to the Grievant after the meeting. The written response may
122 consist of a notation on the grievance document.

123 124 **Section 11.3. Arbitration**

125
126 Only those Grievances that have been processed through the grievance procedure in strict
127 compliance with all of its requirements may be taken to arbitration. If the Grievant is a union
128 member, the Union may, at its sole discretion, appeal the grievance to arbitration. However, in
129 the interest of time, the parties may mutually agree to expedite a Grievance directly to
130 arbitration. If the Grievant is not satisfied with the disposition of the Grievance at Step III, or if
131 no answer is received within the fifteen (15) working day period applicable to Step III, the
132 Grievance may be submitted to arbitration. The arbitration procedure shall be initiated by filing a
133 written request for arbitration with the Director of Human Resources within fifteen (15) working
134 days after receipt of written disposition at Step III, or, if no answer is received, within fifteen

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135 (15) working days after the expiration of the Step III fifteen (15) working day period. A copy of
136 the grievance document must be attached to the request. The filing or pendency of any Grievance
137 or of arbitration proceedings shall not operate to impede, preclude, or delay the College from
138 taking the action under consideration. In no event shall any bargaining unit member, as a result
139 of a pending Grievance, receive compensation following cessation of employment.

140
141 A. Selection of Arbitrator. Representatives of the College and the Union shall confer within
142 ninety (90) days after the ratification of this Agreement for the purpose of selecting an
143 Arbitration Panel of seven (7) members. Within fifteen (15) days after receipt of a written
144 request for arbitration, representatives of the parties shall confer and select an arbitrator from the
145 Arbitration Panel. Selection shall be by mutual agreement or by alternatively striking names
146 from the Arbitration Panel until one name remains. The right of the first choice to strike from
147 the list shall be determined by the flip of a coin.

148
149 B. If an Arbitration Panel cannot be agreed upon within ninety (90) days after the ratification of
150 this Agreement then the parties shall request from the Federal Mediation and Conciliation
151 Service (FMCS), a list of seven (7) arbitrators for each separate written request for arbitration.
152 Arbitrations may be consolidated by mutual agreement. Selection from the FMCS arbitrator list
153 shall be made by alternatively striking names from the list until one name remains. The right of
154 the first choice to strike from the list shall be determined by the flip of the coin. Each party shall
155 have the right to reject one list of arbitrators from an FMCS panel in its entirety.

156
157 C. No arbitrator shall have simultaneously more than one Grievance involving this Agreement
158 without the parties' consent.

159
160 D. The arbitration will then proceed in accordance with the reasonable orders and requests of the
161 arbitrator, but subject to the following conditions:

162
163 1. If it is necessary to hold arbitration proceedings during duty hours, parties to the
164 Grievance shall be excused from their other College duties for the duration of the
165 time they are needed in the proceedings. Every effort shall be made to accommodate
166 class scheduling.

167
168 2. The arbitrator shall not have the power to add to, subtract from, modify, or alter the
169 terms of this Agreement.

170
171 3. The arbitrator shall not have the power to abridge or curtail any rights reserved to the
172 College in this Agreement.

173
174 4. Arbitration shall be confined solely to the application and/or interpretation of this
175 Agreement. Arbitration shall be confined solely to the precise issue(s) submitted for
176 Arbitration. Only those acts or omissions identified at Step II of the grievance
177 procedure contained in this Agreement may be considered for arbitration under this
178 article. The arbitrator shall have no authority to determine any other issue(s).

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- 180 5. In any arbitration involving a question of monetary liability, the parties shall have a
181 right to a reasonable time for briefing the case and a decision shall be due within
182 thirty (30) working days after the date set for filing briefs. Time limitations may be
183 adjusted by mutual agreement of the Parties.
184
- 185 6. Neither party will present evidence regarding offers to settle or compromise a
186 grievance.
187
- 188 7. All costs of any arbitration, including the arbitrator’s fees and expenses, cost of
189 transcripts (which shall be made available at the request of either party), and cost of
190 meeting rooms shall be borne equally by the College and Grievant or the Union,
191 unless otherwise agreed by the parties.
192
- 193 8. An arbitrator’s award may or may not be retroactive as the equities of each case may
194 demand, but in no case shall an award be retroactive to a date earlier than 30 days
195 prior to the date the Grievance was initially filed in accordance with the grievance
196 procedure of the Agreement or the date on which the act or omission occurred,
197 whichever is earlier; provided however, that in no case will an award be made for an
198 act or omission occurring before the effective date of this Agreement.
199
- 200 9. Where an administrator has made a judgment involving the exercise of discretion the
201 arbitrator shall not substitute the arbitrator’s judgment for that of the administrator;
202 however, if the arbitrator determines that the Agreement has been violated, the
203 arbitrator shall direct the College to take appropriate action. The arbitrator shall have
204 no power to award continuing contract status.
205
- 206 10. The College shall not be required, as the result of any grievance resolution or
207 arbitration decision, to violate any law, regulation, accreditation requirement or rule
208 applicable to the operation of the College.
209
- 210 11. The arbitrator’s decision shall be final and binding, but only to the extent required by
211 applicable law. The decision of the arbitrator will be made in writing to both parties
212 at the same time. Either party may appeal to an appropriate court of law a decision
213 that was rendered by the arbitrator acting outside of or beyond the arbitrator’s
214 jurisdiction or powers, pursuant to Florida Statutes Chapter 682.
215
- 216 12. The arbitrator shall be empowered to make reasonable orders so that the matter can be
217 expeditiously resolved, but shall accommodate the parties within reason as to hearing
218 dates and continuances, where need is shown.
219
- 220 13. The arbitrator shall hold hearings in Manatee or Sarasota Counties, Florida unless
221 otherwise agreed by the parties.
222

223 E. Issues of Arbitrability. Issues of arbitrability shall be bifurcated from the substantive issues
224 and will be initially decided by an arbitrator who is selected pursuant to the process outlined in

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225 this grievance procedure. Issues of arbitrability will be determined by means of hearing
226 conducted by telephonic or videoconference methods, unless mutually agreed otherwise. The
227 arbitrator shall have fifteen (15) days from the hearing to render a decision on arbitrability. If the
228 issue(s) is judged to be arbitrable, a separate arbitrator shall then be selected to hear the
229 substantive issue(s).

230
231 F. Election of Remedies. A bargaining unit member's election to proceed through a resolution
232 process provided by the College's internal policies or commencement of a proceeding against the
233 College or any managerial employee of the College or any member of the Board of Trustees in a
234 court of law or equity, or before the Florida Public Employees Relations Commission, or any
235 other administrative agency, by the Union or any Faculty Member, alleging the same issue or
236 seeking the same remedy, shall be deemed a waiver by said unit member(s) or the Union of the
237 ability to resort to the grievance or arbitration procedure contained herein for the resolution of
238 the alleged violations of this Agreement. In such instances the grievance or arbitration will be
239 deemed withdrawn. A Grievant electing to have a discrimination complaint resolved through the
240 grievance/arbitration provisions will execute a formal waiver reflecting that selection. As an
241 exception to this provision, a Grievant may file a federal EEOC charge while the Grievance is in
242 progress when such filing becomes necessary to meet federal filing deadlines pursuant to 42
243 U.S.C. 2000e, et seq.

244
245 G. Applicability of Grievance Procedure. Unless specifically and clearly excluded from
246 grievability, this grievance procedure is applicable to any and all provisions of this Agreement.

247
248 H. Reprisal. No reprisals of any kind will be taken by the Administration of the College and/or
249 the Union against any bargaining unit member because of his/her participation in this grievance
250 procedure.

251
252 I. Files. Grievance materials will be maintained in a file designated by the College and separate
253 from personnel files as permitted by and in accordance with the Chapter 1012.81, and Florida
254 Public Records Law. A copy of the arbitrator's decision shall be placed in the Grievant's
255 personnel file.

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