

## GRIEVANCE PROCEDURES

### Section 1. 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, can best promote a harmonious and cooperative relationship between the parties. The orderly process set forth in this Article shall be the sole method for the resolution of grievances.

### Section 2. Definition

- A. Grievance - a dispute concerning the interpretation, application, or claimed violation of a specific term or provision of this Agreement.
- B. 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.
- C. Faculty Member – any member of the bargaining unit
- D. Grievant– any bargaining unit member, group of members or the ~~UFF-SCF~~the Union that files a grievance as defined in this Article
- E. Respondent – the College or the appropriate administrator

### Section 3. Individual/ Union Grievances

The Union shall have the right to file and pursue grievances on behalf of individual Faculty 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.

### Section 4. 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. ~~If it is necessary to take time off during their scheduled working hours to investigate or process grievances, they shall seek the prior consent of the College. Such consent shall not be withheld when the effect would be to preclude the adequate investigation and/or presentation of the grievance or to restrict the ability of the UFF-SCF to select its own representative.~~

### Section 5. Representation

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The Union shall have the right to represent, or not represent, any Faculty Member, upon the Faculty Member's request, at any step of this grievance procedure, provided, however, that individual employees may, upon notice to UFF, initiate and represent themselves in processing their own individual grievances. The Union reserves the right not to represent non-members. The Union has the right to be present at any step of the Grievance Procedure whether or not the union is representing the Grievant in the process.

### **Section 6. 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.

### **Section 7. Time Limits and Contents of Grievance**

The time limits set forth in this article are of the essence and must be strictly complied with, but may be extended by mutual written agreement of the parties. A Grievant's or the Union's failure to process a grievance within the time limits set forth in this Article, or that fails to contain the required contents in the Grievance as set forth below, shall mean that the Grievance shall be treated as withdrawn. Upon the failure of the College to provide a response within the time limits provided in this Article, the Grievant or the Union may appeal to the next grievance step. In the event a deadline for action by either party should fall on a weekend, or College holiday, the deadline shall be extended to the next working 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. In order to be eligible for processing, a Grievance must be timely filed and contain the following:

- A. The name of the Grievant, whether it is an individual employee or the Union.
- B. The identification of the event or omission that gave rise to the Grievance and the time it occurred and a short, plain statement of the facts surrounding the grievance, with an explanation of how the contract was violated.
- C. The citation of the particular sections and subsections of this Agreement (not articles alone) on which the Grievant relies.
- D. A statement of the precise relief sought.
- E. The signature of the Grievant(s).

### **Section 8. Grievance Process**

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

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- A. Step I. Within ~~fifteen (15)~~twenty (20) working days of the occurrence of the event or omission giving rise to the Grievance, or when the Faculty Member first knew or reasonably should have known of such act or omission, if that date is later, an eligible Grievant shall file the Grievance document ~~simultaneously with the Director of Human Resources and with~~ the Department Chair or immediate supervisor and provide a copy to the Director of Human Resources. Within ten (10) working days of the receipt of the Grievance, the Department Chair or immediate supervisor shall meet with the Grievant in an effort to resolve the problem. The Department Chair or immediate supervisor will be allowed ten (10) working days following the meeting to respond to the Grievance in writing. This written answer may consist of a notation on the grievance document.
- B. Step II. If the Grievance is not settled at Step I, or if no written response is received by the grievant Grievant at Step I, or if the response is not acceptable to the Grievant at Step I, the Grievant may appeal the Grievance to Step II. Only those acts or omissions identified at Step II of the Grievance procedure contained in this Agreement may be considered for arbitration under this article. The appeal must be filed within ten (10) working days of the receipt of the answer from the immediate administrative supervisor or, if no written answer is received, within ten (10) working days after the expiration of the ten (10) working day period specified in Step I. Such appeal shall be in writing and shall include a copy of the Grievance filed at Step I and the Step I response, if any. The Step II filing shall be ~~simultaneously~~ filed with the Grievant's Dean or Director and a copy provided to the Director of Human Resources. Once the grievance document has been properly filed at Step II, there shall be fifteen (15) working days in which to provide a written response to the Grievant. The written response may consist of a notation on the grievance document. A meeting to discuss the Grievance at Step II may be conducted at the discretion of the Dean or Director.
- C. Step III. If the Grievance is not settled at Step II, or if no written response is received at Step II or if the disposition of the Grievance is unacceptable to the Grievant, the Grievant may appeal the Grievance to Step III by filing an appeal ~~simultaneously~~ with the President (or an individual designated to hear Grievances at Step III) and a copy provided to the Director of Human Resources within ten (10) working days after the receipt of the answer at Step II, or if no answer is received, within ten (10) working days after the expiration of the fifteen (15) working day period applicable to Step II. Once the grievance document has been properly filed at Step III, a meeting to discuss the Grievance at Step III will be conducted by the President (or individual designated to hear Grievances at Step III) within fifteen (15) days. . There shall be fifteen (15) working days in which to provide a written response to the Grievant after the meeting. The written response may consist of a notation on the grievance document.

## Section 9. Arbitration

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Only those Grievances that have been processed through the grievance procedure in strict compliance with all of its requirements may be taken to arbitration. If the Grievant is a union member, the Union may, at its sole discretion, appeal the grievance to arbitration. However, in the interest of time, the parties may mutually agree to expedite a Grievance directly to arbitration. If the Grievant is not satisfied with the disposition of the Grievance at Step III, or if no answer is received within the fifteen (15) working day period applicable to Step III, the Grievance may be submitted to arbitration. The arbitration procedure shall be initiated by filing a written request for arbitration with the Director of Human Resources within fifteen (15) working days after receipt of written disposition at Step III, or, if no answer is received, within fifteen (15) working days after the expiration of the Step III fifteen (15) working day period. A copy of the grievance document must be attached to the request. The filing or pendency of any Grievance or of arbitration proceedings shall not operate to impede, preclude, or delay the College from taking the action under consideration. In no event shall any Faculty Member, as a result of a pending Grievance, receive compensation following cessation of employment.

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

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

- C. No arbitrator shall have simultaneously more than one Grievance involving this Agreement without the parties' consent.
- D. The arbitration will then proceed in accordance with the reasonable orders and requests of the arbitrator, but subject to the following conditions:
  - 1. If it is necessary to hold arbitration proceedings during duty hours, parties to the Grievance shall be excused from their other College duties for the duration

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of the time they are needed in the proceedings. Every effort shall be made to accommodate class scheduling.

2. The arbitrator shall not have the power to add to, subtract from, modify, or alter the terms of this Agreement.
3. The arbitrator shall not have the power to abridge or curtail any rights reserved to the College in this Agreement.
4. Arbitration shall be confined solely to the application and/or interpretation of this Agreement. Arbitration shall be confined solely to the precise issue(s) submitted for Arbitration. Only those acts or omissions identified at Step II of the grievance procedure contained in this Agreement may be considered for arbitration under this article. The arbitrator shall have no authority to ~~to~~ determine any other issue(s).

~~5. The Arbitrator shall only have the power to hear or arbitrate Grievances which arise under the terms and during the duration of this Agreement.~~

~~6.5.~~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.

~~7.6.~~Neither party will present evidence regarding offers to settle or compromise a grievance.

~~8.7.~~All costs of any arbitration, including the arbitrator's fees and expenses, cost transcripts (which shall be made available at the request of either party), and cost of meeting rooms shall be borne equally by the College and Grievant or the Union, unless otherwise agreed by the parties.

~~9.8.~~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; provided however, that in no case will an award be made for an act or omission occurring before the effective date of this Agreement.

~~10.9.~~ 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 administrator; however, if the arbitrator determines that the Agreement

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has been violated, the arbitrator shall direct the College to take appropriate action. The arbitrator shall have no power to award continuing contract status.

~~11.10.~~ The College shall not be required, as the result of any grievance resolution or arbitration decision, to violate any law, regulation, accreditation requirement or rule applicable to the operation of the College.

~~12.11.~~ The arbitrator's decision shall be final and binding, but only to the extent required by applicable law. The decision of the arbitrator will be made in writing to both parties at the same time. 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 or powers, pursuant to Florida Statutes Chapter 682.

~~13.12.~~ The arbitrator shall be empowered to make reasonable orders so that the matter can be expeditiously resolved, but shall accommodate the parties within reason as to hearing dates and continuances, where need is shown.

13. The arbitrator shall hold hearings in Manatee or Sarasota Counties, Florida unless otherwise agreed by the parties.

### Section 10. Issues of Arbitrability

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

### Section 11. Election of Remedies

A Faculty Member's election to proceed through a resolution process provided by the College's internal policies or commencement of a proceeding against the College or any managerial employee of the College or any member of the Board of Trustees in a court of law or equity, or before the Florida Public Employees Relations Commission, or any other administrative agency, by the Union or any Faculty Member, alleging the same issue or seeking the same remedy, shall be deemed a waiver by said unit member(s) or the Union of the ability to resort to the grievance or arbitration procedure contained herein for the resolution of the alleged violations of this Agreement. In such instances the grievance or arbitration will be deemed withdrawn. A Grievant electing to have a discrimination complaint resolved through the grievance/arbitration provisions will execute a formal waiver reflecting that selection. As an exception to this provision, a

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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. 2000e, et seq.

**Section 12. Applicability of Grievance Procedure**

Unless specifically and clearly excluded from grievability, this grievance procedure is applicable to any and all provisions of this Agreement.

**Section 13. Reprisal**

No reprisals of any kind will be taken by the Administration of the College and/or the Union against any Faculty Member because of his/her participation in this grievance procedure.

**Section 14 Files**

Grievance materials will be maintained in a file designated by the College and separate from personnel files as permitted by and in accordance with the Florida Public Records Law. A copy of the arbitrator's decision shall be placed in the Grievant's personnel file.

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