

1 **ARTICLE NN**

2 **GRIEVANCE and ARBITRATION PROCEDURES**

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4 **11.1 – Grievance**

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6 **Section 1A. Purpose.** The parties agree that a prompt and efficient procedure for the
7 investigation and resolution of grievances, in accordance with Chapter 447, Part II Florida
8 Statutes, and a timely and just settlement of grievances can best promote a harmonious and
9 cooperative relationship between the parties and thus is of mutual concern and interest.
10 Therefore, the parties shall attempt to settle all grievances promptly and fairly at the point of
11 origin. In order to achieve this, the Grievant, Union and the Administration shall make available
12 to one another all known relevant facts and provide in a timely manner such public documents
13 and public information as may be requested to enable the parties to resolve grievances and
14 maintain harmony within the College environment. The orderly process set forth in this Article
15 shall be the sole method for the resolution of grievances.

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17 **Section 2B. Definition**

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19 A. Grievance - a dispute concerning the interpretation, application, or claimed violation
20 of a specific term or provision of this Agreement, or handbook, policies, or
21 procedures referenced mutually agreed to by specific reference in this Agreement.
22 B. Days, Work Days, or Working Days- as used in this Article, unless otherwise stated
23 herein, shall exclude official College holidays applicable to bargaining unit members
24 but shall include a regular workweek (Monday-Friday) excluding weekends
25 (Saturday –Sunday). A “day” shall conclude at 4:30 p.m.
26 C. Faculty Member – any member of the bargaining unit
27 D. Grievant– any bargaining unit member, group of members, or the Union that files a
28 grievance as defined in this Article
29 E. Respondent – the College or the appropriate administrator

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31 **Section 3C. Individual/ Union Grievances**

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33 The Union shall have the right to file and pursue grievances on behalf of individual bargaining
34 unit members or groups of members~~Faculty Members~~, in accordance with this Article. The
35 Union shall have the right to file and pursue grievances on behalf of itself, in accordance with
36 this Article. The Union and bargaining unit member~~Faculty Member~~ grievances shall be filed on
37 forms mutually agreed to by the parties. The Union and bargaining unit member~~Faculty Member~~
38 grievances shall be filed separately in separate grievance documents and if a grievance is filed on
39 behalf of an individual it shall be signed by the individual grievant.

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41 **Section 4D. Grievance Processing by an Individual or the Union**

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43 Bargaining unit members, including Union representatives and officers, shall not permit the
44 investigation or processing of grievances to interfere with their normal work responsibilities.

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Section 5. Representation

The Union shall have the right to represent, or not represent, any ~~Faculty Member~~bargaining unit member, upon the bargaining unit member's~~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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91 A. Step I. Within twenty (20) working days of the occurrence of the event or omission
92 giving rise to the Grievance, or when the Faculty Member first knew or reasonably
93 should have known of such act or omission, if that date is later, an eligible Grievant
94 shall file the Grievance document with the Department Chair or immediate supervisor
95 and provide a copy to the Director of Human Resources. Within ten (10) working days
96 of the receipt of the Grievance, the Department Chair or immediate supervisor shall
97 meet with the Grievant in an effort to resolve the problem. The Department Chair or
98 immediate supervisor will be allowed ten (10) working days following the meeting to
99 respond to the Grievance in writing. This written answer may consist of a notation on
100 the grievance document.

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

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

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132 **Section 9. Arbitration**
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134 Only those Grievances that have been processed through the grievance procedure in strict
135 compliance with all of its requirements may be taken to arbitration. If the Grievant is a union
136 member, the Union may, at its sole discretion, appeal the grievance to arbitration. However, in
137 the interest of time, the parties may mutually agree to expedite a Grievance directly to
138 arbitration. If the Grievant is not satisfied with the disposition of the Grievance at Step III, or if
139 no answer is received within the fifteen (15) working day period applicable to Step III, the
140 Grievance may be submitted to arbitration. The arbitration procedure shall be initiated by filing a
141 written request for arbitration with the Director of Human Resources within fifteen (15) working
142 days after receipt of written disposition at Step III, or, if no answer is received, within fifteen
143 (15) working days after the expiration of the Step III fifteen (15) working day period. A copy of
144 the grievance document must be attached to the request. The filing or pendency of any Grievance
145 or of arbitration proceedings shall not operate to impede, preclude, or delay the College from
146 taking the action under consideration. In no event shall any Faculty Member, as a result of a
147 pending Grievance, receive compensation following cessation of employment.

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

157
158 If an Arbitration Panel cannot be agreed upon within ninety (90) days after the
159 ratification of this Agreement then the parties shall request from the Federal
160 Mediation and Conciliation Service (FMCS), a list of seven (7) arbitrators for each
161 separate written request for arbitration. Arbitrations may be consolidated by mutual
162 agreement. Selection from the FMCS arbitrator list shall be made by alternatively
163 striking names from the list until one name remains. The right of the first choice to
164 strike from the list shall be determined by the flip of the coin. Each party shall have
165 the right to reject one list of arbitrators from an FMCS panel in its entirety.

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167 C. No arbitrator shall have simultaneously more than one Grievance involving this
168 Agreement without the parties' consent.

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

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

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- 178 2. The arbitrator shall not have the power to add to, subtract from, modify, or
179 alter the terms of this Agreement.
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- 181 3. The arbitrator shall not have the power to abridge or curtail any rights
182 reserved to the College in this Agreement.
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- 184 4. Arbitration shall be confined solely to the application and/or interpretation of
185 this Agreement. Arbitration shall be confined solely to the precise issue(s)
186 submitted for Arbitration. Only those acts or omissions identified at Step II of
187 the grievance procedure contained in this Agreement may be considered for
188 arbitration under this article. The arbitrator shall have no authority to
189 determine any other issue(s).
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- 192 5. In any arbitration involving a question of monetary liability, the parties shall
193 have a right to a reasonable time for briefing the case and a decision shall be
194 due within thirty (30) working days after the date set for filing briefs. Time
195 limitations may be adjusted by mutual agreement of the Parties.
196
- 197 6. Neither party will present evidence regarding offers to settle or compromise a
198 grievance.
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- 200 7. All costs of any arbitration, including the arbitrator’s fees and expenses, cost
201 transcripts (which shall be made available at the request of either party), and
202 cost of meeting rooms shall be borne equally by the College and Grievant or
203 the Union, unless otherwise agreed by the parties.
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- 205 8. An arbitrator’s award may or may not be retroactive as the equities of each
206 case may demand, but in no case shall an award be retroactive to a date earlier
207 than 30 days prior to the date the Grievance was initially filed in accordance
208 with the grievance procedure of the Agreement or the date on which the act or
209 omission occurred, whichever is earlier; provided however, that in no case
210 will an award be made for an act or omission occurring before the effective
211 date of this Agreement.
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- 213 9. Where an administrator has made a judgment involving the exercise of
214 discretion the arbitrator shall not substitute the arbitrator’s judgment for that
215 of the administrator; however, if the arbitrator determines that the Agreement
216 has been violated, the arbitrator shall direct the College to take appropriate
217 action. The arbitrator shall have no power to award continuing contract status.
218 10. The College shall not be required, as the result of any grievance resolution or
219 arbitration decision, to violate any law, regulation, accreditation requirement
220 or rule applicable to the operation of the College.
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222 11. The arbitrator’s decision shall be final and binding, but only to the extent
223 required by applicable law. The decision of the arbitrator will be made in
224 writing to both parties at the same time. Either party may appeal to an
225 appropriate court of law a decision that was rendered by the arbitrator acting
226 outside of or beyond the arbitrator’s jurisdiction or powers, pursuant to
227 Florida Statutes Chapter 682.

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

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

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237 **Section 10. Issues of Arbitrability**

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

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246 **Section 11. Election of Remedies**

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

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261 **Section 12. Applicability of Grievance Procedure**

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

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266 **Section 13. Reprisal**

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

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272 **Section 14 Files**

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