

ARTICLE 20
GRIEVANCE PROCEDURE AND ARBITRATION

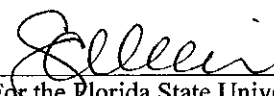
20.1 Policy/Informal Resolution. The purpose of this article is to promote a prompt and efficient procedure for the investigation and resolution of grievances. The procedures hereinafter set forth shall be the sole and exclusive method for resolving the grievances of faculty members as defined herein. The parties agree that all problems should be resolved, whenever possible, before the filing of a grievance but within the time limits for filing grievances stated elsewhere in this article, and encourage open communications between administrators and faculty members so that resorting to the formal grievance procedure will not normally be necessary. The parties further encourage the informal resolution of grievances whenever possible. At each step in the grievance process, participants are encouraged to pursue appropriate modes of conflict resolution including the use of mediation.

20.2 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. Except as noted below, if prior to seeking resolution of a dispute by filing a grievance hereunder, or while the grievance proceeding is in progress, a faculty member requests, in writing, resolution of the matter in any other forum, whether administrative or judicial, the Board or the University shall have no obligation to entertain or proceed further with the matter pursuant to this grievance procedure. As an exception to this provision, a grievant may file an 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. Further, since the parties do not intend that this grievance procedure be a device for appellate review, the President's response to a recommendation of a hearing officer or other individual or group having appropriate jurisdiction in any other procedure shall not be an act or omission giving rise to a grievance under this procedure.

20.3 Definitions and Forms. As used herein:

(a) The term "grievance" shall mean a dispute filed on a form referenced in Section 20.3(c) concerning the interpretation or application of a specific term or provision of this Agreement, subject to those exclusions appearing in other Articles of this Agreement.

(b) The term "grievant" shall mean: (1) a faculty member or group of faculty members who has/have filed a grievance in a dispute over a provision of this Agreement which confers rights upon the faculty member(s); (2) the UFF where it has filed a grievance without the aggrieved faculty member(s) in a dispute over a provision of this agreement which confers rights upon such faculty members(s); or (3) the UFF where it has filed a grievance in a dispute over a provision of this Agreement which confers rights

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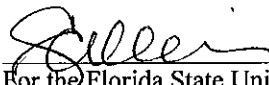
upon the UFF. A grievance filed by the FSU Chapter of the UFF which alleges a violation of its rights by the University may be initiated at Step 2. A grievance of a decision made by the President or the Provost is to be initiated at Step 2. The parties may agree to consolidate grievances of a similar nature to expedite the review process.

(c) **Grievance Forms.** Each grievance, request for review, and notice of arbitration must be submitted in writing on the appropriate form attached to this Agreement as Appendix "C", "D", or "E", respectively, and shall be signed by the grievant. All grievance forms shall be dated when the grievance is received. If there is difficulty in meeting any time limit, the UFF representative may sign such documents for the grievant; however, grievant's signature shall be provided prior to the Step 1 meeting or Step 2 meeting if filed directly at Step 2. The aforementioned grievance forms, as well as Appendix "H", may be filed by means of fax, United States mail, or any other recognized means of delivery.

20.4 **Burden of Proof.** In all grievances except disciplinary grievances in accordance with Article 16, Disciplinary Action and Job Abandonment and any other exceptions stated elsewhere in this Agreement, the burden of proof shall be on the faculty member. In disciplinary grievances, the burden of proof shall be on the Board.

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

20.6 **Grievance Representatives.** The UFF shall annually furnish to the Board a list of all persons authorized to act as grievance representatives and shall update the list as needed. The UFF grievance representative shall 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 have the right during times outside of those hours scheduled for these activities to investigate, consult, and prepare grievance presentations and attend grievance hearings and meetings. Should any hearings or meetings with the Dean or Unit Head, the Provost, or their representatives 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 not be unreasonably withheld.

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20.7 Appearances.

(a) When a faculty member participates in an arbitration hearing or in a grievance meeting between the grievant or representative and the Board or representative, that faculty member's compensation shall neither be reduced nor increased for time spent in those activities.

(b) Prior to participation in any such proceedings, conferences, or meetings, the faculty member shall make arrangements acceptable to the appropriate supervisor for the performance of the faculty member's scheduled duties as defined in Article 9.1. Approval of such arrangements shall not be unreasonably withheld. Time spent in such activities outside regular working hours shall not be counted as time worked.

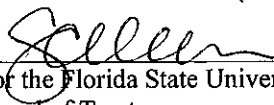
20.8 Formal Grievance Procedure.

(a) Facilitation. Consistent with the policy of informal resolution set forth in Section 20.1 of this Article, no grievance shall be considered ripe for filing at Step 1 absent submission of a request for facilitation. A request for facilitation shall be filed within forty-five (45) days of the date the faculty member learned of the alleged act or omission giving rise to the dispute (or the most recent in a series of alleged acts or omissions giving rise to the dispute). All requests for facilitation shall be in writing by the affected faculty member(s) or the UFF, as appropriate, and submitted to the Dean of the Faculties or his/her designee. Such requests shall contain a general description of the potential dispute, including dates, times, and locations, along with copies of relevant documentation. Upon receipt of a request for facilitation, the Dean of the Faculties and the UFF shall engage in a process of facilitation for a period of thirty (30) days, which may be modified by the parties' mutual agreement, in an effort to produce an informal resolution of the potential dispute. In matters designated in the request for facilitation as time-sensitive, the facilitation period shall be fifteen (15) days. Such fifteen (15) day facilitation period may be modified by the parties' mutual agreement in writing. All resolutions shall be reduced to writing, but shall be without precedent or prejudice to the parties.

(b) Filing.

(1) Within ~~thirty (30)~~ **fifteen (15)** days from the conclusion of a facilitation period that failed to produce an informal resolution, the grievant shall be entitled to file a Step 1 grievance with the Unit Head, defined for the purpose of this Article as Dean, Director of Libraries, or comparable-level administrator, as appropriate. The grievant may amend the Appendix "C" form up to and including Step 2 of the grievance procedure so long as the factual basis of the complaint is not materially altered.

(2) A faculty member may seek redress of alleged salary discrimination by filing a grievance under the provisions of Article 20. An act or omission giving rise to such a grievance may be the faculty member's receipt of the salary warrant for the first full-pay period in which the annual salary increases referenced in Article 23 are reflected.

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(3) 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 that may otherwise be available to address such matters. This grievance procedure shall be the sole review mechanism for resolving disputes regarding rights or benefits that are provided exclusively by this Agreement. Except as otherwise provided herein, only those acts or omissions and sections of the Agreement identified at the initial filing may be considered at subsequent steps.

(c) Time Limits. All time limits contained in this Article may be extended by mutual agreement of the parties, except that the time limits for the initial filing of a grievance may be extended only by agreement between the University and the UFF. Upon failure of the Board 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 be deemed to have been resolved by the decision at the prior step.

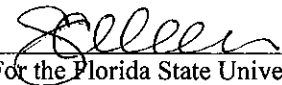
(d) Step 1.

(1) Meeting. The Unit Head or his/her representative and the grievant and the grievant's representative shall meet at a mutually convenient time within ~~ten (10)~~ **fifteen (15)** days following receipt of the grievance. At the Step 1 meeting, the grievant shall 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 Section 20.5), and the Unit Head or representative, shall discuss the grievance.

(2) Decision. The Unit Head or representative shall issue a written decision, stating the reasons therefore, to grievant's Step 1 representative within ~~seven (7)~~ **fifteen (15)** days following the conclusion of the meeting. ~~Seven (7)~~ **Fifteen (15)** days shall be determined by a receipt executed by the office receiving the grievance, or by the date of mailing as determined by the postmark. 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 ~~tenth (10th)~~ **twentieth (20th)** day following the conclusion of the Step 1 meeting. A copy of the decision shall be sent to the grievant and to the local UFF grievance representative if the grievant elected self-representation or representation by legal counsel.

(3) Documents. Where practicable, the Step 1 reviewer shall make available to the grievant, or grievance representative, documentation referenced in the Step 1 decision prior to its issuance. All documents referred to in the decision and any additional documents presented by the grievant shall be attached to the decision, together with a list of these documents. In advance of the Step 1 meeting, the grievant shall have the right, upon written request, to a copy of any identifiable documents relevant to the grievance.

(4) Step 1 Meeting Waiver. The Step 1 meeting may be waived by mutual written agreement between the Board and the UFF.

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(e) Step 2.

(1) Review. If the grievance is not satisfactorily resolved at Step 1, the grievant may file a written request for review with the Provost or his/her representative within ~~twenty (20)~~ **fifteen (15)** days following receipt of the Step 1 decision by the grievant's Step 1 representative. ~~Twenty (20)~~ **Fifteen (15)** days shall be determined by a receipt executed by the office receiving the grievance, or by the date of mailing as determined by the postmark.

(2) Meeting. The Provost or representative and the grievant and the grievant's representative shall meet at a mutually convenient date and time not later than ~~seven (7)~~ **fifteen (15)** days following receipt of written notice of request for a Step 2 review. At the Step 2 meeting, the grievant shall 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 Section 20.5), and the Provost or representative, shall discuss the grievance.

(3) Decision. The Provost or his/her representative shall issue a written decision, stating the reasons therefore, to grievant's Step 2 representative within ~~five (5)~~ **fifteen (15)** days following the conclusion of the review meeting. ~~Five~~ **Fifteen (15)** days shall be determined by a receipt executed by the office receiving the grievance, or by the date of mailing as determined by the postmark. In the absence of an agreement to extend the period for issuing the Step 2 decision, the UFF may proceed to Step 3 (arbitration) if the grievant's Step 2 representative has not received the written decision by the end of the ~~tenth (10th)~~ **twentieth (20th)** day following the conclusion of the Step 2 meeting. A copy of the decision shall be sent to the grievant and to the UFF if the grievant elected self-representation or representation by legal counsel.

(4) Documents. The decision shall not refer to any documents other than those presented by the grievant and the Provost or representative at or prior to the Step 2 meeting, except by mutual written agreement of the grievant and the Provost or representative. Documents referred to in the decision and any additional documents presented by the grievant at or prior to the Step 2 meeting shall be attached to the decision unless such documents are public and readily available, together with a list of these documents.

(f) Step 3 Arbitration.

(1) Filing. If the grievance has not been satisfactorily resolved at Step 2, the 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 Office of the President within ~~thirty (30)~~ **fifteen (15)** days after receipt of the Step 2 decision by the grievant's Step 2 representative and shall be signed by the grievant and the state UFF President or representative, or state UFF Director of Arbitrations. ~~Thirty (30)~~ **Fifteen (15)** days shall be determined by a receipt executed by the office receiving the grievance, or by the date of mailing as determined by the postmark. The grievance may be withdrawn at any time by the grievant or by the UFF President or Director of Arbitrations at any point during Step 3. The parties shall

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stipulate to the issue(s) prior to the arbitration. In the event a stipulation is not reached, the parties shall proceed to a hearing on arbitrability pursuant to Section 20.8 (f)(4).

(2) Selection of Arbitrator. Representatives of the University and the UFF shall meet within ninety (90) days after the execution of this Agreement for the purpose of selecting an Arbitration Panel of no less than five (5) members. Within ~~fourteen~~ **fifteen** (14-15) days after receipt of a notice of intent to arbitrate, representatives of the University and the UFF shall meet for the purpose of selecting an arbitrator from the Panel. Selection shall 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 be determined by the flip of a coin. If the parties are unable to agree to a panel of arbitrators, they shall follow the normal American Arbitration Association procedure for the selection of an arbitrator. The parties may mutually select as the arbitrator an individual who is not a member of the Arbitration Panel. The arbitration shall be held within sixty (60) days following the selection of the arbitrator.


(3) Authority of the Arbitrator.

a. The arbitrator shall neither add to, subtract from, modify, nor alter the terms or provisions of this Agreement. Arbitration shall be confined solely to the application and/or interpretation of this Agreement and the precise issue(s) submitted for arbitration. The arbitrator shall 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 shall not substitute the arbitrator's judgment for that of the administrator. Nor shall the arbitrator review such decision except for the purpose of determining whether the decision has violated this Agreement. If the arbitrator determines that the Agreement has been violated, the arbitrator shall direct the University to take appropriate action that the arbitrator shall specify. An arbitrator may award back salary where the arbitrator determines that the faculty member is not receiving the appropriate salary from the University, and any other payments to which a faculty member is entitled by the provisions of this Agreement, 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 faculty member was deprived of reasonable opportunity to seek other employment, or (b) the faculty member actually rejected an offer of comparable employment which the faculty member otherwise would have accepted.

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

(4) Arbitrability. Issues of arbitrability shall be bifurcated from the substantive issue(s) and, whenever possible, determined by means of a hearing conducted

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by conference call. The arbitrator shall have ten (10) days from the hearing to render a decision on arbitrability. If the issue is judged to be arbitrable, an arbitrator shall then be selected to hear the substantive issue(s) in accordance with the provisions of Section 20.8(f)(2).

(5) **Conduct of Hearing.** The arbitrator shall hold the hearing in Tallahassee, unless otherwise agreed by the parties. The hearing shall commence within sixty (60) days of the arbitrator's acceptance of selection and the arbitrator shall 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 shall be in writing and shall set forth findings of fact, reasoning, and conclusions on the issues submitted. Except as modified by the provisions of this Agreement, arbitration proceedings shall 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 be final and binding upon the University, the UFF, and the grievant, provided that either party may appeal such award to an appropriate court of law pursuant to the Florida Arbitration Code, Chapter 682, 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 be filed in the courts in Leon County, Florida, unless both parties specifically agree otherwise in a particular instance. In an action commenced in Leon County, neither the Board nor the UFF will move for a change of venue based upon the defendant's residence in fact if other than Leon County.

(8) **Fees and Expenses.** All fees and expenses of the arbitrator shall be divided equally between the parties. Each party shall bear the cost of preparing and presenting its own case. The party desiring a transcript of the arbitration proceedings shall 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 be responsible for scheduling a stenotype reporter to record the proceedings. The parties shall share equally the appearance fee of the stenotype reporter and the cost of obtaining an original transcript and one copy for the party originally requesting a transcript of the proceedings. The requesting party shall, 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 an award be retroactive to a date earlier than thirty (30) days prior to the date the grievance was initially filed in accordance with this Article.

20.9 **Filings and Notification.** With the exception of Step 1 and Step 2 decisions, all documents required or permitted to be issued or filed pursuant to this Article may be transmitted by fax, United States mail, or any other recognized delivery service (note: email is not an acceptable form of delivery). Step 1 and Step 2 decisions shall be

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transmitted to the grievant's representative(s) by personal delivery with written documentation of receipt or by certified mail, return receipt requested. In the event that any action falls due on a Saturday, Sunday, or holiday (as referred to in Section 17.5), 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 informally resolved, or grievance resolved at either Step 1 or 2, shall constitute a precedent for any purpose unless agreed to in writing by the Board of Trustees or representative 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 Article shall not operate to impede, preclude, or delay the University from taking the action complained of. Reasonable efforts, including the shortening of time limits when practical, shall be made to conclude the processing of a grievance prior to the expiration of the grievant's employment, whether by termination or failure to reappoint. A faculty member with a pending grievance will not continue to be compensated beyond the last date of employment.

(b) Nothing herein shall be construed to authorize the Unit Head, the President, the Provost, or their representatives to refuse to respond to a grievance filed under this Article.

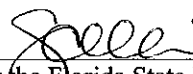
20.12 Reprisal. No reprisal of any kind will be made by the University or the UFF against any grievant, any witness, any UFF representative, or any other participant in the grievance procedure by reason of such participation. In a grievance where the arbitrator has established that the grievant has made a prima facie case of reprisal, the burden of proof shall be on the Board to demonstrate that there was no reprisal.

20.13 Records. All written materials pertinent to a grievance shall 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 2 or Step 3 and on which no action has been taken by the grievant or the UFF for sixty (60) days shall be deemed withdrawn and resolved in accordance with the decision issued at the prior Step.

20.15 Expedited Grievance Procedure for Conflict of Interest (Section 19.5).

(a) A grievance alleging a violation of Article 19 shall be heard at Step 1 by the President or representative no more than seven (7) days after it has been filed. The President or representative shall issue a Step 1 decision no more than 7 days after the Step 1 meeting.

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(b) A request for review of the Step 1 decision shall be filed using Appendix "D", no more than seven (7) days following the receipt of the Step 1 decision. The Step 2 meeting shall be held no more than 7 days after the receipt of Appendix "D", and the Step 2 decision shall be issued no more than 7 days after the meeting.

(c) A request for arbitration using Appendix "E" shall be filed within fourteen (14) days after receipt of the Step 2 decision. An arbitrator shall be selected by the parties no more than fourteen (14) days following the receipt of the Appendix "E". The arbitrator shall issue a memorandum of decision within 7 days following the conclusion of the arbitration, to be followed by a written opinion and award in accordance with Section 20.8(f)(5).

(d) The parties shall establish a panel of three (3) experienced arbitrators to hear a grievance filed in accordance with this Section.

(e) All other provisions of Article 20 shall apply to these grievances, except as noted above.

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