

1 ARTICLE 20

2 GRIEVANCE PROCEDURE AND ARBITRATION¹

3 20.1 Policy/Informal Resolution. The parties agree that all problems should be
4 resolved, whenever possible, before filing a grievance within the time limits for
5 filing grievances stated elsewhere in this Article, and encourage open
6 communications between administrators and employees so that resort to the
7 formal grievance procedure will not normally be necessary. The parties further
8 encourage the informal resolution of grievances whenever possible. At each step
9 in the grievance process, participants are encouraged to pursue appropriate
10 modes of conflict resolution. The purpose of this Article is to promote a prompt
11 and efficient procedure for the investigation and resolution of grievances. The
12 procedures hereinafter set forth shall be the sole and exclusive method for
13 resolving grievances of employees as defined herein.

14 20.2 Resort to Other Procedures. It is the intent of the parties to first provide a
15 reasonable opportunity for resolution of a dispute through the grievance
16 procedure and arbitration process. Except as noted below, if prior to seeking
17 resolution of a dispute by filing a grievance hereunder, or while the grievance
18 proceeding is in progress, an employee requests, in writing, resolution of the
19 matter in any other forum, whether administrative or judicial, the University shall
20 have no obligation to entertain or proceed further with the matter pursuant to
21 this grievance procedure. As an exception to this provision, a grievant may file an
22 EEOC charge while the grievance is in progress when such filing becomes
23 necessary to meet federal filing deadlines pursuant to 42 U.S.C. § 2000e et seq.
24 Further, since the parties do not intend that this grievance procedure be a device
25 for appellate review, the University representative’s response to a
26 recommendation of a hearing officer or other individual or group having

¹ Section 1001.741(2) Florida Statutes, which became effective on July 1, 2023, prohibits arbitration in certain instances. To the extent the University determines that arbitration is prohibited by law from being the terminal step of a grievance submitted pursuant to any provision of this Agreement, the terminal step and final agency disposition for said grievance shall be the prior step described in that article. For example, for a grievance made pursuant to Article 20 for which arbitration is prohibited by law, the terminal step and final agency disposition shall be Step 2. If Section 1001.741(2), Florida Statutes, is amended or overturned so that the statute of the law in Florida prohibiting arbitrations changes, the Parties to this Agreement shall open negotiation return to arbitrations for all articles in this Agreement which allow for arbitration.

27 appropriate jurisdiction in any other procedure shall not be an act or omission
28 giving rise to a grievance under this procedure.

29 **20.3 Definitions and Forms.** As used herein:

30 (a) the term "grievance" shall mean a dispute filed on a form referenced in
31 Section 20.3(c) concerning the interpretation or application of a specific term or
32 Article(s) and section(s) of this Agreement, subject to those exclusions appearing
33 in other Articles of this Agreement. A Step 1 Grievance is a grievance alleging that
34 one or more violations of this Agreement have occurred at, or within, a college
35 level unit. A Step 2 Grievance is a grievance that has either:

- 36 (1) continued from the Step 1 college or unit level to the University level
37 or
38 (2) been filed alleging that one or more violations of the Agreement
39 have occurred at the dean's or the University level.

40 (b) the term "grievant" shall mean an employee or group of employees who
41 has/have filed a grievance in a dispute over a provision of this Agreement that
42 confers rights upon the employee(s) or the UFF. The UFF may file a grievance:

- 43 (1) in a dispute over a provision of this Agreement that confers rights upon
44 the UFF. A grievance filed by the UFF on behalf of the UFF shall be initiated at
45 Step 2; or
46 (2) on behalf of the bargaining unit, a group of employees, or an individual
47 employee, provided any group is identified with sufficient specificity to enable the
48 University to identify its members.

49 (c) Consolidation. The parties may agree to consolidate grievances of a similar
50 nature to expedite the review process. In a consolidated grievance, one Appendix
51 "C," "D," or "E" may be attached, bearing the signatures of the grievants.

52 (d) Grievance Forms. Each grievance, request for review, and notice of
53 arbitration must be submitted in writing on the appropriate form attached to this
54 Agreement as Appendix "C," "D," or "E," respectively, and shall be signed by the
55 grievant. All grievance forms shall be dated when the grievance is received. If
56 there is difficulty in meeting any time limit, the grievance representative may sign
57 such documents for the grievant; however, the grievant's signature shall be
58 provided prior to the Step 1 meeting or Step 2 review if filed directly at Step 2.
59 The aforementioned grievance forms, as well as Appendix "H," may be filed by

60 means of ~~fax~~, United States mail, email, or any other recognized means of
61 delivery. Emails received after 5pm Eastern time will be deemed to have arrived
62 the next business day.

63 (e) Remedy. A grievance shall specify the remedy sought by the grievant.

64 **20.4 Burden of Proof.** For each violation alleged in a grievance filing, except an
65 alleged violation of Article 16, the duty of proving or disproving the fact or facts in
66 dispute between the parties at the grievance proceeding(s) shall be on the
67 employee. For disciplinary violations, the burden of proving the fact or facts at the
68 grievance proceeding(s) shall be on the University.

69 **20.5 Representation.** The UFF shall have the exclusive right to represent any
70 employee in a grievance filed hereunder, unless an employee elects self-
71 representation or to be represented by legal counsel. If an employee elects not to
72 be represented by the UFF, the University shall promptly inform the UFF in writing
73 of the grievance. No resolution of any individually processed grievance shall be
74 inconsistent with the terms of this Agreement, ~~and for~~ this purpose, the UFF
75 shall have the right to have an observer present at all meetings ~~called with that~~
76 ~~include~~ the grievant ~~or grievance representative~~ for the purpose of discussing
77 such grievance and shall be sent copies of all decisions at the same time as they
78 are sent to the other parties.

79 **20.6 Grievance Representatives.** The UFF shall, on or before September 1 of each
80 year, furnish to the University a list of all persons authorized to act as grievance
81 representatives and shall update the list as needed. The UFF grievance
82 representative shall have the responsibility to meet all classes, office hours, and
83 other duties and responsibilities incidental to their assigned workload. Some of
84 these activities are scheduled to be performed at particular times. Such
85 representative shall have the right during times outside of those hours scheduled
86 for these activities to investigate, consult, and prepare grievance presentations
87 and attend grievance hearings and meetings. Should any hearings or meetings
88 with the University's representatives necessitate rescheduling of assigned duties,
89 the representative may, with the approval of the appropriate administrator,
90 arrange for the rescheduling of such duties or their coverage by colleagues. Such
91 approval shall not be unreasonably withheld.

Commented [CR1]: Updated for readability. The UFF may send a rep to a grievance meeting that is attended by an aggrieved in-UFF employee.

Commented [CR2]: The grievance representative is the "observer" mentioned earlier in this sentence.

92 **20.7 Appearances.**

93 (a) When an employee participates during working hours in **an arbitration**
94 **proceeding or in** a grievance meeting between the grievant or representative and
95 the University, that employee's compensation shall neither be reduced nor
96 increased for time spent in those activities.

97 (b) Prior to participation in any such proceedings, conferences, or meetings,
98 the employee shall make arrangements acceptable to the appropriate supervisor
99 for the performance of the employee's duties. Approval of such arrangements
100 shall not be unreasonably withheld. Time spent in such activities outside regular
101 working hours shall not be counted as time worked.

102 **20.8 Formal Grievance Procedure.**

103 (a) Filing.

104 (1) Step 1 and Step 2 grievances shall be filed in Academic Affairs on the
105 appropriate form in the appendices within thirty days following the act or
106 omission giving rise thereto, or the date on which the employee knew or
107 reasonably should have known of such act or omission if that date is later. Thirty
108 days shall be determined by the date stamped on the completed grievance form
109 filed in Academic Affairs, or by the date of mailing **or emailing** as determined by
110 the postmark or timestamp. The grievant may amend the Appendix "C" form one
111 time, either prior to the Step 1 meeting for all grievances filed at Step 1, or prior
112 to the Step 2 review for all grievances filed directly at Step 2. Additional
113 amendments to the grievance may be permitted by mutual agreement of the
114 parties.

115 (2) An employee may seek redress of **an** alleged salary **discrimination error**
116 by filing a grievance under the provisions of this Article. An act or omission giving
117 rise to such a grievance may be the employee's receipt of the employee's **payslip**
118 **(salary warrant)** for the first full pay period in which the annual salary increases
119 referenced in the Salary Article 23 are reflected.

120 (3) The filing of a grievance constitutes a waiver of any rights to judicial
121 review of agency action pursuant to Chapter 120, Florida Statutes, or to the
122 review of such actions under University procedures which may otherwise be
123 available to address such matters. This grievance procedure shall be the sole
124 review mechanism for resolving disputes regarding rights or benefits which are
125 provided exclusively by this Agreement. Only those acts or omissions and sections

Commented [CR3]: No reference to CBA 6 was ever intended.

Commented [CP4]: Updated terminology.

126 of the Agreement identified at the initial filing may be considered at subsequent
127 steps.

128 (b) Time Limits. All time limits contained in this Article may be extended by
129 mutual agreement of the parties, ~~except that the time limits for the initial filing of~~
130 ~~a grievance may be extended only by agreement between the University and the~~
131 ~~UFF~~. Upon failure of the University to provide a decision within the time limits
132 provided in this Article, the grievant or the UFF, where appropriate, may appeal to
133 the next step. Upon the failure of the grievant or the UFF, where appropriate, to
134 file an appeal within the time limits provided in this Article, the grievance shall be
135 deemed to have been resolved by the decision at the prior step.

Commented [CR5]: Change recommended for readability.

136 (c) Postponement.

137 (1) The grievant may, in the written grievance at Step 1, request the
138 postponement of any action in processing the grievance formally for a period of
139 up to thirty days, during which efforts to resolve the grievance informally shall be
140 made. The initial such request shall be granted. Upon the grievant's written
141 request, additional extensions should be granted unless to do so would impede
142 resolution of the grievance. Upon request, the university's representative shall,
143 during the postponement period(s), arrange an informal meeting between the
144 appropriate administrator and the grievant. The grievant shall have the right to
145 representation by the UFF during attempts at informal resolution of the
146 grievance. The grievant may, at any time, terminate the postponement period by
147 giving written notice to the university's representative that the grievant wishes to
148 proceed with the Step 1 meeting. If the postponement period, or any extension
149 thereof, expires without such written notice, the grievance shall be deemed
150 informally resolved to the grievant's satisfaction and need not be processed
151 further.

152 (2) In the case of a grievance filed pursuant to the Expedited Grievance
153 Procedure referenced in ~~the Article 19, regarding~~ Conflict of Interest ~~or/~~
154 ~~Commitment/Outside Activity~~, the postponement period shall be no more than
155 seven days unless the employee and the university agree otherwise.

Commented [CR6]: Full title of article included

156 (d) Step 1.

157 (1) ~~The university may escalate a Step 1 grievance to Step 2 or de-escalate a~~
158 ~~Step 2 grievance to Step 1 to ensure the matter is addressed at the most~~

Commented [CP7]: Addition to ensure grievances handled at proper level since mis-filings are not uncommon.

159 appropriate administrative level or to speed resolution of a grievance filed at an
160 inappropriate step.

161 (2) Meeting. The University’s representative and the grievant and the
162 grievance representative shall meet no sooner than seven and no later than
163 fifteen days following receipt of:

- 164 a. the grievance if no postponement is requested, or
- 165 b. written notice to proceed with the Step 1 meeting.

166 At the Step 1 meeting, the grievant shall have the right to present any evidence in
167 support of the grievance, and the grievant and/or the UFF representative or the
168 grievant's legal counsel (if selected), and the University’s representative, shall
169 discuss the grievance.

170 (3) Decision. The University’s representative shall issue a written
171 summary of the meeting and their conclusion(s), stating the reasons therefore, to
172 grievant's Step 1 representative within thirty days following the conclusion of the
173 meeting. In the absence of an agreement to extend the period for issuing the Step
174 1 decision, the grievant may proceed to Step 2 if the grievant's Step 1
175 representative has not received the written decision by the end of the 30th day
176 following the conclusion of the Step 1 meeting. A copy of the written summary
177 shall be sent to the grievant and to the local UFF Chapter if grievant elected self-
178 representation or representation by legal counsel.

179 (4) Documents. In advance of the Step 1 meeting, the grievant shall have
180 the right, upon written request, to a copy of any reasonably identifiable
181 documents relevant to the grievance. ~~Where practicable, the Step 1 reviewer shall~~
182 ~~make available to the grievant, or grievance representative, documentation~~
183 ~~referenced in the Step 1 written summary prior to its issuance.~~ All documents
184 referred to in the written summary and any additional documents presented by
185 the grievant shall be attached to the written summary, together with a list of
186 these documents. ~~In advance of the Step 1 meeting, the grievant shall have the~~
187 ~~right, upon written request, to a copy of any reasonably identifiable documents~~
188 ~~relevant to the grievance.~~

189 (e) Step 2.

190 (1) Filing.

191 a. Continuation of Step 1 Grievance. If the grievance is not satisfactorily
192 resolved at Step 1, the grievant may file a written request for a review of the Step

Commented [CR8]: In practice, relevant documents have been made available very shortly before the written summary/decision is issued.

193 1 decision. The filing must clearly articulate why the Step 1 decision on the alleged
 194 violations addressed at Step 1 is incorrect. The Appendix "D" form is then filed
 195 with Academic Affairs for review of the Step 1 written summary by the
 196 University's representative. The grievant must make this request within thirty
 197 days following receipt of the Step 1 decision by the grievant's Step 1
 198 representative. Thirty days shall be determined by the date stamped on the
 199 notice by Academic Affairs when the request is received in that office, by 5pm
 200 Eastern time, the date of receipt via email, or by the date of mailing as
 201 determined by the postmark or timestamp.

202 b. Step 2 Grievance Alleging Violation(s) of the Agreement at the
 203 University Level. A grievance may be filed at Step 2 if it alleges that one or more
 204 violations have occurred at the University level.

205 (2) Meeting. The University's representative and the grievant and the
 206 grievant's representative shall meet no sooner than seven and no later than
 207 fifteen days following receipt of:

- 208 a. the grievance if no postponement is requested or
- 209 b. written notice that the grievant wishes to proceed with the Step 2
- 210 meeting.

211 At the Step 2 meeting the grievant shall have the right to present evidence
 212 in support of the grievance, and the grievant and/or the UFF representative or the
 213 grievant's legal counsel (if selected) and the University's representative shall
 214 discuss the grievance.

215 (3) Decision. The University's representative shall issue a written decision,
 216 stating the reasons therefore, to the grievant and grievant's Step 2 representative
 217 within thirty days following the conclusion of the review meeting. Thirty days shall
 218 be determined by a receipt executed by Academic Affairs, or by the date of
 219 mailing or emailing as determined by the postmark or timestamp. In the absence
 220 of an agreement to extend the period for issuing the Step 2 decision, the UFF may
 221 proceed to Step 3 if the grievant's Step 2 representative has not received the
 222 written decision by the end of the 30th day following the conclusion of the Step 2
 223 meeting. The University's representative may request an extension to complete
 224 the written decision, and the UFF or Grievant shall not unreasonably deny such a
 225 request. A copy of the decision shall be sent to the grievant and to the UFF
 226 grievance chair if the grievant elected self-representation or representation by
 227 legal counsel.

Commented [CR9]: Clarify the use of this form for filing.

228 (f) Step 3-Arbitration.

229 (1) Filing. If the grievance has not been satisfactorily resolved at Step 2, the
230 UFF may, upon the request of the grievant, proceed to arbitration by filing a
231 written notice of the intent to do so. Notice of intent to proceed to arbitration by
232 submitting Appendix E with Academic Affairs within thirty days after receipt of
233 the Step 2 decision by grievant and grievant's Step 2 representative (if the
234 grievant is represented by the UFF, the decision will be sent to the UFF grievance
235 representative) and shall be signed by the grievant and the statewide UFF
236 President, Director of Arbitrations or designee. Thirty days shall be determined by
237 a receipt executed by the office receiving the grievance, or by the date of mailing
238 as determined by the postmark or timestamp. The grievance may be withdrawn
239 at any time by the grievant or by the statewide UFF President, Director of
240 Arbitrations or designee at any point during Step 3. The parties shall stipulate to
241 the issue(s) prior to the arbitration. In the event a stipulation is not reached, the
242 parties shall proceed to a hearing on arbitrability pursuant to Section 20.8(f)(4).

243 (2) Selection of Arbitrator. Within ninety days after the execution of this
244 Agreement, the parties shall review the existing Arbitration Panel list. If either
245 party wishes to make changes to the panel, or if an arbitrator needs to be added
246 because of a vacancy, representatives of the University and the UFF shall meet to
247 make changes or additions to that list in order to maintain an Arbitration Panel of
248 no fewer than nine members. Within fourteen days after receipt of a notice of
249 intent to arbitrate, representatives of the University and the UFF shall meet for
250 the purpose of selecting an arbitrator from the Panel. Selection shall be by mutual
251 agreement or by alternately striking names from the Arbitration Panel list until
252 one name remains. The right of the first choice to strike from the list shall be
253 determined by the flip of a coin. The arbitration shall be held within sixty days
254 following the selection of the arbitrator, if practicable.

255 (3) Authority of the Arbitrator.

256 a. The arbitrator shall not add to, subtract from, modify, or alter the
257 terms or provisions of this Agreement. Arbitration shall be confined solely to the
258 application and/or interpretation of this Agreement and the precise issue(s)
259 submitted for arbitration. The arbitrator shall refrain from issuing any statements
260 of opinion or conclusions not essential to the determination of the issues
261 submitted.

262 b. Where an administrator has made a judgment involving the exercise
263 of discretion, such as decisions regarding tenure or promotion, the arbitrator shall
264 not substitute the arbitrator's judgment for that of the administrator. Nor shall
265 the arbitrator review such decision except for the purpose of determining
266 whether the decision has violated this Agreement. If the arbitrator determines
267 that the Agreement has been violated, the arbitrator shall direct the University to
268 take appropriate action. An arbitrator may award back salary where the arbitrator
269 determines that the employee is not receiving the appropriate salary from the
270 University, but the arbitrator may not award other monetary damages or
271 penalties. If notice that further employment will not be offered is not given on
272 time, the arbitrator may direct the University to renew the appointment only
273 upon a finding that no other remedy is adequate, and that the notice was given so
274 late that (a) the employee was deprived of reasonable opportunity to seek other
275 employment, or (b) the employee actually rejected an offer of comparable
276 employment which the employee otherwise would have accepted.

277 c. An arbitrator's decision awarding employment beyond the sixth year
278 shall not entitle the employee to tenure. In such cases the employee shall serve
279 during the seventh year without further right to notice that the employee will not
280 be offered employment thereafter. If an employee is reappointed at the direction
281 of an arbitrator, the University's representative may reassign the employee
282 during such reappointment.

283 (4) Arbitrability. Issues of arbitrability shall be bifurcated from the
284 substantive issue(s) and, whenever possible, determined by means of a hearing
285 conducted by conference call. The arbitrator shall have ten days from the hearing
286 to render a decision on arbitrability. If the issue is judged to be arbitrable, an
287 arbitrator shall then be selected to hear the substantive issue(s).

288 (5) Conduct of Hearing. The arbitrator shall hold the hearing in the city
289 where the grievant is employed, unless otherwise agreed by the parties. The
290 hearing shall commence within twenty-five days of the arbitrator's acceptance of
291 selection, or as soon thereafter as is practicable, and the arbitrator shall issue the
292 decision within forty-five days of the close of the hearing or the submission of
293 briefs, whichever is later, unless additional time is agreed to by the parties. The
294 decision shall be in writing and shall set forth findings of fact, reasoning, and
295 conclusions on the issues submitted. Except as expressly specified in this Article,
296 the provisions of the Florida Arbitration Code, Chapter 682, Florida Statutes, shall

297 not apply. Except as modified by the provisions of this Agreement, arbitration
298 proceedings shall be conducted in accordance with the rules and procedures of
299 the American Arbitration Association.

300 (6) Effect of Decision. The decision or award of the arbitrator shall be final
301 and binding upon the University, the UFF, and the grievant, provided that either
302 party may appeal to an appropriate court of law a decision that was rendered by
303 the arbitrator acting outside of or beyond the arbitrator's jurisdiction, pursuant to
304 Section 682.13, Florida Statutes.

305 (7) Venue. For purposes of venue in any judicial review of an arbitrator's
306 decision issued under this agreement, the parties agree that such an appeal shall
307 be filed in the courts in Orange County, Florida, unless both parties specifically
308 agree otherwise in a particular instance. In an action commenced in Orange
309 County, neither the University nor the UFF will move for a change of venue based
310 upon the defendant's residence in fact if other than Orange County.

311 (8) Fees and Expenses. All fees and expenses of the arbitrator shall be
312 divided equally between the parties. Each party shall bear the cost of preparing
313 and presenting its own case. The party desiring a transcript of the arbitration
314 proceedings shall provide written notice to the other party of its intention to have
315 a transcript of the arbitration made at least one week prior to the date of the
316 arbitration. The party desiring such transcript shall be responsible for scheduling a
317 stenotype reporter to record the proceedings. The parties shall share equally the
318 appearance fee of the stenotype reporter and the cost of obtaining an original
319 transcript and one copy for the party originally requesting a transcript of the
320 proceedings.

321 (9) Retroactivity. An arbitrator's award may or may not be retroactive as
322 the equities of each case may demand, but in no case shall an award be
323 retroactive to a date earlier than thirty days prior to the date the grievance was
324 initially filed in accordance with this Article.

325 (g) Section 1001.741(2) Florida Statutes, which became effective on July 1, 2023,
326 prohibits arbitration in certain instances. To the extent the University determines
327 that arbitration is prohibited by law from being the terminal step of a grievance
328 submitted pursuant to any provision of this Agreement, the terminal step and
329 final agency disposition for said grievance shall be the prior step described in that
330 article. For example, for a grievance made pursuant to Article 20 for which

331 arbitration is prohibited by law, the terminal step and final agency disposition
 332 shall be Step 2. If Section 1001.741(2), Florida Statutes, is amended or overturned
 333 so that the statute of the law in Florida prohibiting arbitrations changes, the
 334 Parties to this Agreement shall ~~open negotiations~~ return to arbitration for all
 335 articles in this Agreement which allow for arbitration.

336 **20.9 Filings and Notification.** All documents required or permitted to be issued or
 337 filed pursuant to this Article may be transmitted by ~~fax~~, United States mail, email,
 338 or any other recognized delivery service. Refusal to accept delivery to the address
 339 indicated in the university's records will be deemed as delivered. Receipt by UFF
 340 Representative shall constitute receipt only when the UFF represents the
 341 employee. Step 1 and Step 2 decisions shall be transmitted to the grievance
 342 representative (s) by personal delivery with written documentation of receipt or
 343 by certified mail, return receipt requested, or via email. In the event that any
 344 action falls due on a Saturday, Sunday, or holiday (as referred to in in the Leaves
 345 Article), the action will be considered timely if it is accomplished by 5:00 p.m. on
 346 the following business day.

347 **20.10 Precedent.** No complaint informally resolved, or grievance resolved at
 348 either Step 1 or 2, shall constitute a precedent for any purpose unless agreed to in
 349 writing by the University's representative and the UFF acting through its local
 350 President or representative.

351 **20.11 Processing.**

352 (a) The filing or pendency of any grievance **or arbitration** proceedings under
 353 this Article shall not operate to impede, preclude, or delay the University from
 354 taking the action complained of. Reasonable efforts, including the shortening of
 355 time limits when practical, shall be made to conclude the processing of a
 356 grievance prior to the expiration of the grievant's employment, whether by
 357 termination or failure to reappoint. An employee with a pending grievance will
 358 not continue to be compensated beyond the last date of employment.

359 (b) The University's representative may refuse consideration of a grievance not
 360 filed or processed in accordance with this Article. The UFF retains the ability to
 361 challenge the refusal of a grievance through an arbitrability hearing.

Commented [CP10]: The addition of email means we can let the fax go - CCAS does not have a dedicated fax machine.

362 **20.12 Reprisal.** No reprisal of any kind will be made by the University or the UFF
363 against any grievant, any witness, any UFF representative, or any other
364 participant in the grievance procedure by reason of such participation.

365 **20.13 Records.** All written materials pertinent to a grievance shall be filed
366 separately from the evaluation file of the grievant or witnesses, except decisions
367 resulting from arbitration or a settlement.

368 **20.14 Inactive Grievances.** A grievance which has been filed at Step 1 or Step 2 or
369 Step 3 and on which no action has been taken by the grievant or the UFF for
370 ninety days shall be deemed withdrawn ~~and resolved in accordance with the~~
371 ~~decision issued at the prior Step.~~