

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

13 **20.2 Resort to Other Procedures.** It is the intent of the parties to first provide a
14 reasonable opportunity for resolution of a dispute through the grievance procedure and
15 arbitration process. Except as noted below, if prior to seeking resolution of a dispute by
16 filing a grievance hereunder, or while the grievance proceeding is in progress, an
17 employee requests, in writing, resolution of the matter in any other forum, whether
18 administrative or judicial, the University shall have no obligation to entertain or proceed
19 further with the matter pursuant to this grievance procedure. As an exception to this
20 provision, a grievant may file an EEOC charge while the grievance is in progress when
21 such filing becomes necessary to meet federal filing deadlines pursuant to 42 U.S.C. §
22 2000e et seq. Further, since the parties do not intend that this grievance procedure be a
23 device for appellate review, the University representative's response to a
24 recommendation of a hearing officer or other individual or group having appropriate
25 jurisdiction in any other procedure shall not be an act or omission giving rise to a
26 grievance under this procedure.

27 **20.3 Definitions and Forms.** As used herein:

28 (a) the term "grievance" shall mean a dispute filed on a form referenced in Section
29 20.3(c) concerning the interpretation or application of a specific term or Article(s) and

Commented [CR1]: BOT views these adjectives as important, and they should be considered when any proposed revision of A20 is considered.

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 status of the law in Florida prohibiting arbitrations changes, the Parties to this Agreement shall open negotiations for all articles in this Agreement which allow for arbitration.

30 section(s) of this Agreement, subject to those exclusions appearing in other Articles of
31 this Agreement. A Step 1 Grievance is a grievance alleging that one or more violations of
32 this Agreement have occurred at, or within, a college level unit. A Step 2 Grievance is a
33 grievance that has either:

34 (1) continued from the Step 1 college or unit level to the University level or

35 (2) been filed alleging that one or more violations of the Agreement have
36 occurred at the dean's or the University level.

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

40 (1) in a dispute over a provision of this Agreement that confers rights upon the
41 UFF. A grievance filed by the UFF on behalf of the UFF shall be initiated at Step 2; or

42 (2) on behalf of the bargaining unit, a group of employees, or an individual
43 employee, provided any group is identified with sufficient specificity to enable the
44 University to identify its members.

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

48 (d) Grievance Forms. Each grievance, request for review, and notice of arbitration
49 must be submitted in writing on the appropriate form attached to this Agreement as
50 Appendix "C," "D," or "E," respectively, and shall be signed by the grievant. All grievance
51 forms shall be dated when the grievance is received. If there is difficulty in meeting any
52 time limit, the grievance representative may sign such documents for the grievant;
53 however, the grievant's signature shall be provided prior to the Step 1 meeting or Step 2
54 review if filed directly at Step 2. The aforementioned grievance forms may be filed by
55 means of United States mail, email, or any other recognized means of delivery. Emails
56 received after 5pm Eastern time will be deemed to have arrived the next business day.

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

58 **20.4 Burden of Proof.** For each violation alleged in a grievance filing, except an alleged
59 violation of Article 16, the duty of proving or disproving the fact or facts in dispute
60 between the parties at the grievance proceeding(s) shall be on the employee. For
61 disciplinary violations, the burden of proving the fact or facts at the grievance
62 proceeding(s) shall be on the University.

63 **20.5 Representation.** The UFF shall have the exclusive right to represent any employee
64 in a grievance filed hereunder, unless an employee elects self-representation or to be
65 represented by legal counsel. If an employee elects not to be represented by the UFF,

66 the University shall promptly inform the UFF in writing of the grievance. No resolution of
67 any individually processed grievance shall be inconsistent with the terms of this
68 Agreement. For this purpose, the UFF shall have the right to have an observer present at
69 all meetings that include the grievant for the purpose of discussing such grievance and
70 shall be sent copies of all decisions at the same time as they are sent to the other
71 parties.

72 **20.6 Grievance Representatives.** The UFF shall, on or before September 1 of each year,
73 furnish to the University a list of all persons authorized to act as grievance
74 representatives and shall update the list as needed. The UFF grievance representative
75 shall have the responsibility to meet all classes, office hours, and other duties and
76 responsibilities incidental to their assigned workload. Some of these activities are
77 scheduled to be performed at particular times. Such representative shall have the right
78 during times outside of those hours scheduled for these activities to investigate, consult,
79 and prepare grievance presentations and attend grievance hearings and meetings.
80 Should any hearings or meetings with the University's representatives necessitate
81 rescheduling of assigned duties, the representative may, with the approval of the
82 appropriate administrator, arrange for the rescheduling of such duties or their coverage
83 by colleagues. Such approval shall not be unreasonably withheld.

84 **20.7 Appearances.**

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

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

94 **20.8 Formal Grievance Procedure.**

95 (a) Filing.

96 (1) Step 1 and Step 2 grievances shall be filed in Academic Affairs on the
97 appropriate form in the appendices within thirty days following the act or omission
98 giving rise thereto, or the date on which the employee knew or reasonably should have
99 known of such act or omission if that date is later. Thirty days shall be determined by
100 the date stamped on the completed grievance form filed in Academic Affairs, or by the
101 date of mailing or emailing as determined by the postmark or timestamp. The grievant
102 may amend the Appendix "C" form one time, either prior to the Step 1 meeting for all

103 grievances filed at Step 1, or prior to the Step 2 review for all grievances filed directly at
104 Step 2. Additional amendments to the grievance may be permitted by mutual
105 agreement of the parties.

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

111 (3) The filing of a grievance constitutes a waiver of any rights to judicial review of
112 agency action pursuant to Chapter 120, Florida Statutes, or to the review of such actions
113 under University procedures which may otherwise be available to address such matters.
114 This grievance procedure shall be the sole review mechanism for resolving disputes
115 regarding rights or benefits which are provided exclusively by this Agreement. Only
116 those acts or omissions and sections of the Agreement identified at the initial filing may
117 be considered at subsequent steps.

118 (b) Time Limits. All time limits contained in this Article may be extended by mutual
119 agreement of the parties. Upon failure of the University to provide a decision within the
120 time limits provided in this Article, the grievant or the UFF, where appropriate, may
121 appeal to the next step. Upon the failure of the grievant or the UFF, where appropriate,
122 to file an appeal within the time limits provided in this Article, the grievance shall be
123 deemed to have been resolved by the decision at the prior step.

124 (c) Postponement.

125 (1) The grievant may, in the written grievance at Step 1, request the
126 postponement of any action in processing the grievance formally for a period of up to
127 thirty days, during which efforts to resolve the grievance informally shall be made. The
128 initial such request shall be granted. Upon the grievant's written request, additional
129 extensions should be granted unless to do so would impede resolution of the grievance.
130 Upon request, the university's representative shall, during the postponement period(s),
131 arrange an informal meeting between the appropriate administrator and the grievant.
132 The grievant shall have the right to representation by the UFF during attempts at
133 informal resolution of the grievance. The grievant may, at any time, terminate the
134 postponement period by giving written notice to the university's representative that the
135 grievant wishes to proceed with the Step 1 meeting. If the postponement period, or any
136 extension thereof, expires without such written notice, the grievance shall be deemed
137 informally resolved to the grievant's satisfaction and need not be processed further.

138 (2) In the case of a grievance filed pursuant to the Expedited Grievance
139 Procedure referenced in Article 19, Conflict of Interest or Commitment/Outside

140 Activity, the postponement period shall be no more than seven days unless the
141 employee and the university agree otherwise.

142 (d) Step 1.

143 (1) The university may escalate a Step 1 grievance to Step 2 or de-escalate a Step
144 2 grievance to Step 1 to ensure the matter is addressed at the most appropriate
145 administrative level or to speed resolution of a grievance filed at an inappropriate step.

146 (2) Meeting. The University's representative and the grievant and the grievance
147 representative shall meet no sooner than seven and no later than fifteen days following
148 receipt of:

149 a. the grievance if no postponement is requested, or

150 b. written notice to proceed with the Step 1 meeting.

151 At the Step 1 meeting, the grievant shall have the right to present any evidence in
152 support of the grievance, and the grievant and/or the UFF representative or the
153 grievant's legal counsel (if selected), and the University's representative, shall discuss
154 the grievance.

155 (3) Decision. The University's representative shall issue a written summary of the
156 meeting and their conclusion(s), stating the reasons therefore, to grievant's Step 1
157 representative within thirty days following the conclusion of the meeting. In the
158 absence of an agreement to extend the period for issuing the Step 1 decision, the
159 grievant may proceed to Step 2 if the grievant's Step 1 representative has not received
160 the written decision by the end of the 30th day following the conclusion of the Step 1
161 meeting. A copy of the written summary shall be sent to the grievant and to the local
162 UFF Chapter if grievant elected self-representation or representation by legal counsel.

163 (4) Documents. In advance of the Step 1 meeting, the grievant shall have the
164 right, upon written request, to a copy of any reasonably identifiable documents relevant
165 to the grievance. All documents referred to in the written summary and any additional
166 documents presented by the grievant shall be attached to the written summary,
167 together with a list of these documents.

168 (e) Step 2.

169 (1) Filing.

170 a. Continuation of Step 1 Grievance. If the grievance is not satisfactorily
171 resolved at Step 1, the grievant may file a written request for a review of the Step 1
172 decision. The filing must clearly articulate why the Step 1 decision on the alleged
173 violations addressed at Step 1 is incorrect. The Appendix "D" form is then filed with
174 Academic Affairs for review of the Step 1 written summary by the University's
175 representative. The grievant must make this request within thirty days following receipt
176 of the Step 1 decision by the grievant's Step 1 representative. Thirty days shall be

177 determined by the date stamped on the notice by Academic Affairs when the request is
178 received in that office, by 5pm Eastern time, the date of receipt via email, or by the date
179 of mailing as determined by the postmark or timestamp.

180 b. Step 2 Grievance Alleging Violation(s) of the Agreement at the University
181 Level. A grievance may be filed at Step 2 if it alleges that one or more violations have
182 occurred at the University level. The grievant may, in the written grievance initially
183 addressed at Step 2, request the postponement of any action in processing the
184 grievance formally for a period of up to thirty days, during which efforts to resolve the
185 grievance informally shall be made. The initial such request shall be granted. Upon the
186 grievant's written request, additional extensions should be granted unless to do so
187 would impede resolution of the grievance. Upon request, the university's representative
188 shall, during the postponement period(s), arrange an informal meeting between the
189 appropriate administrator and the grievant. The grievant shall have the right to
190 representation by the UFF during attempts at informal resolution of the grievance. The
191 grievant may, at any time, terminate the postponement period by giving written notice
192 to the university's representative that the grievant wishes to proceed with the Step 2
193 meeting. If the postponement period, or any extension thereof, expires without such
194 written notice, the grievance shall be deemed informally resolved to the grievant's
195 satisfaction and need not be processed further.

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

- 199 a. the grievance if no postponement is requested or
- 200 b. written notice that the grievant wishes to proceed with the Step 2

201 meeting.

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

206 (3) Decision. The University's representative shall issue a written decision, stating
207 the reasons therefore, to the grievant and grievant's Step 2 representative within thirty
208 days following the conclusion of the review meeting. Thirty days shall be determined by
209 a receipt executed by Academic Affairs, or by the date of mailing or emailing as
210 determined by the postmark or timestamp. In the absence of an agreement to extend
211 the period for issuing the Step 2 decision, the UFF may proceed to Step 3 if the
212 grievant's Step 2 representative has not received the written decision by the end of the
213 30th day following the conclusion of the Step 2 meeting. The University's representative

Commented [CR2]: Same postponement language as for Step 1. Want to emphasize that postponement can be conducive to "prompt and efficient" resolution of grievances.

214 may request an extension to complete the written decision, and the UFF or Grievant
215 shall not unreasonably deny such a request. A copy of the decision shall be sent to the
216 grievant and to the UFF grievance chair if the grievant elected self-representation or
217 representation by legal counsel.

218 (f) Step 3-Arbitration.

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

232 (2) Arbitration Panel. Within ninety days after the execution of this Agreement,
233 the parties shall meet to update the Arbitration Panel, including the conditions for a
234 person to serve on the Arbitration Panel. The parties agree to meet each fall to review,
235 and update if necessary, the Arbitration Panel, including the conditions for a person to
236 serve on the Arbitration Panel.

237 (3) Selection of Arbitrator. Within fourteen days after receipt of a notice of
238 intent to arbitrate, representatives of the University and the UFF shall meet for the
239 purpose of selecting an arbitrator from the Arbitration Panel. Selection shall be by
240 mutual agreement or by alternately striking names from the Arbitration Panel list until
241 one name remains. The right of the first choice to strike from the list shall be
242 determined by the flip of a coin. The arbitration shall be held within sixty days following
243 the selection of the arbitrator, if practicable.

244 (4) Authority of the Arbitrator.

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

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

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

269 (5) Arbitrability. Issues of arbitrability shall be bifurcated from the substantive
270 issue(s) and, whenever possible, determined by means of a hearing conducted by
271 conference call. The arbitrator shall have ten days from the hearing to render a decision
272 on arbitrability. If the issue is judged to be arbitrable, an arbitrator shall then be
273 selected to hear the substantive issue(s).

274 (6) Conduct of Hearing. The arbitrator shall hold the hearing on the main campus
275 of the University, unless otherwise agreed by the parties. The hearing shall commence
276 within twenty-five days of the arbitrator's acceptance of selection, or as soon thereafter
277 as is practicable, and the arbitrator shall issue the decision within forty-five days of the
278 close of the hearing or the submission of briefs, whichever is later, unless additional
279 time is agreed to by the parties. The decision shall be in writing and shall set forth
280 findings of fact, reasoning, and conclusions on the issues submitted. Except as expressly
281 specified in this Article, the provisions of the Florida Arbitration Code, Chapter 682,
282 Florida Statutes, shall not apply. Except as modified by the provisions of this Agreement,
283 or if modified by the terms included in the conditions for a person to serve on the
284 Arbitration Panel, arbitration proceedings shall be conducted in accordance with the
285 rules and procedures of the American Arbitration Association.

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

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

297 (9) Fees and Expenses. All fees and expenses of the arbitrator shall be divided
298 equally between the parties. Each party shall bear the cost of preparing and presenting
299 its own case. The party desiring a transcript of the arbitration proceedings shall provide
300 written notice to the other party of its intention to have a transcript of the arbitration
301 made at least one week prior to the date of the arbitration. The party desiring such
302 transcript shall be responsible for scheduling a stenotype reporter to record the
303 proceedings. The parties shall share equally the appearance fee of the stenotype
304 reporter and the cost of obtaining an original transcript and one copy for the party
305 originally requesting a transcript of the proceedings.

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

310 (g) Section 1001.741(2) Florida Statutes, which became effective on July 1, 2023,
311 prohibits arbitration in certain instances. To the extent the University determines that
312 arbitration is prohibited by law from being the terminal step of a grievance submitted
313 pursuant to any provision of this Agreement, the terminal step and final agency
314 disposition for said grievance shall be the prior step described in that article. For
315 example, for a grievance made pursuant to Article 20 for which arbitration is prohibited
316 by law, the terminal step and final agency disposition shall be Step 2. If Section
317 1001.741(2), Florida Statutes, is amended or overturned so that the status of the law in
318 Florida prohibiting arbitrations changes, the Parties to this Agreement shall open
319 negotiations for all articles in this Agreement which allow for arbitration.

320 **20.9 Filings and Notification.** All documents required or permitted to be issued or filed
321 pursuant to this Article may be transmitted by United States mail, email, or any other
322 recognized delivery service. Refusal to accept delivery to the address indicated in the

323 university's records will be deemed as delivered. Receipt by UFF Representative shall
324 constitute receipt only when the UFF represents the employee. Step 1 and Step 2
325 decisions shall be transmitted to the grievance representative (s) by personal delivery
326 with written documentation of receipt or by certified mail, return receipt requested, or
327 via email. In the event that any action falls due on a Saturday, Sunday, or holiday (as
328 referred to in the Leaves Article), the action will be considered timely if it is
329 accomplished by 5:00 p.m. on the following business day.

330 **20.10 Precedent.** No complaint informally resolved, or grievance resolved at either Step
331 1 or 2, shall constitute a precedent for any purpose unless agreed to in writing by the
332 University's representative and the UFF acting through its local President or
333 representative.

334 **20.11 Processing.**

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

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

345 **20.12 Reprisal.** No reprisal of any kind will be made by the University or the UFF against
346 any grievant, any witness, any UFF representative, or any other participant in the
347 grievance procedure by reason of such participation.

348 **20.13 Records.** All written materials pertinent to a grievance shall be filed separately
349 from the evaluation file of the grievant or witnesses, except decisions resulting from
350 arbitration or a settlement.

351 **20.14 Inactive Grievances.** A grievance which has been filed at Step 1 or Step 2 or Step 3
352 and on which no action has been taken by the grievant or the UFF for ninety days shall
353 be deemed withdrawn.