

**APPENDIX D – ARBITRATION**

**1.1 Arbitration Procedure (Step 3).**

**(a) Step 3 Filing.** If a grievance alleging a procedural violation has not been satisfactorily resolved at Step 2, the UFF may proceed to arbitration by filing a written notice of the intent to do so (Notice of Arbitration Form).

**(1)** Each notice of arbitration must be submitted in writing on the form provided at the end of this appendix (Notice of Arbitration Form). All pertinent information submitted with the Grievance Form, as well as the Grievance Hearing decision, must be included as an attachment to the Notice of Arbitration form. The Notice of Arbitration form must be signed by the grievant and a UFF representative.

**(2)** Within fifteen (15) days after the date of the Step 2 decision, the notice of intent to proceed to arbitration must be submitted to the Office of the General Counsel ([ogc@floridapoly.edu](mailto:ogc@floridapoly.edu)) consistent with the procedures defined in Section **Error! Reference source not found.** The fifteen (15) days will be calculated as defined in Section 24.5.

**a.** In the absence of an agreement to extend the period for issuing the Step 2 decision, UFF may proceed to Step 3 if the grievant’s Step 2 representative has not received the written decision by the end of the 35<sup>th</sup> day following the conclusion of the Step 2 meeting.

**(3)** Only those acts or omissions and sections of the Agreement identified at the initial Step 2 filing, or as amended prior to the Step 2 meeting, may be considered by the Arbitrator.

**(4)** The parties shall 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 1.1(d) of this Appendix D.

**(5)** The filing or pendency of an arbitration proceeding does not impeded, preclude, or delay the University from taking the action complained of.

**(6)** When the UFF determines that a grievance lacks merit, UFF may terminate an arbitration arising from that grievance.

**(b) Selection of Arbitrator.**

**(1)** Arbitration Panel. Representatives of the University and UFF notice shall meet within ninety (90) days after the execution of this Agreement for the purpose of selecting an Panel of seven (7) members.

**a.** Each party shall submit six (6) arbitrators to create a selection list, from which parties may mutually agree to, or alternatively strike names until they select the Arbitration Panel.

**b.** The right of the first choice to strike shall be determined by a coinflip.

- 41 c. The Arbitration Panel shall be operative until a successor
- 42 Agreement is ratified, or if two (2) or more arbitrators on the
- 43 selection list are no longer active, the parties may agree in writing
- 44 to replace the inactive arbitrators or select a new panel following the
- 45 same process.
- 46 (2) Step 3 Arbitrator. The parties shall either mutually agree upon the arbitrator
- 47 charged with hearing any grievance, or select, the arbitrator from the
- 48 Arbitration Panel as set forth in this subsection.
- 49 a. A mutually-agreed-upon arbitrator does not need to be a member of
- 50 the Arbitration Panel.
- 51 b. In the event the parties cannot mutually agree upon an arbitrator, and
- 52 no later than fourteen (14) days after receipt of a notice of intent to
- 53 arbitrate, the parties shall confer for the purpose of selecting an
- 54 arbitrator from the panel.
- 55 c. The parties shall alternatively strike names from the list until one
- 56 name remains.
- 57 d. The right of the first choice to strike shall be determined by a
- 58 coinflip.
- 59 (c) Authority of the Arbitrator.
- 60 (1) The arbitrator shall neither add to, subtract from, modify, nor alter the terms
- 61 or provisions of this Agreement. Arbitrations shall be confined solely to the
- 62 application of this Agreement and the issue(s) submitted for arbitration. The
- 63 arbitrator shall refrain from issuing any statements of opinion or
- 64 conclusions not essential to the determination of the issues submitted.
- 65 (2) The arbitrator shall not substitute the arbitrator's or another's judgment for
- 66 that of the University in any matter involving the exercise of managerial
- 67 discretion.
- 68 (d) Arbitrability. Issues of arbitrability shall be separated from the substantive issue(s)
- 69 and, whenever possible, determined by means of a hearing conducted by conference
- 70 call.
- 71 (1) The arbitrator shall have ten (10) days from the hearing to render a decision
- 72 on arbitrability.
- 73 (2) If the issue is judged to be arbitrable, an arbitrator shall then be selected to
- 74 hear the substantive issue(s) in accordance with the provisions of Section
- 75 1/1(b)(1)a of this Appendix D.
- 76 (e) Conduct of Step 3 Hearing.
- 77 (1) The hearing shall commence within sixty (60) days of the arbitrator's
- 78 acceptance of selection, or as soon thereafter as is practicable.

- 79           (2) The arbitrator shall conduct the hearing at the University, unless otherwise  
80           agreed by the parties.
- 81           (3) The arbitrator shall issue the decision within forty-five (45) days of the close  
82           of the hearing or the submission of briefs, whichever is later, unless  
83           additional time is agreed to by the parties.
- 84           (4) The decision shall be in writing and shall set forth findings of fact,  
85           reasoning, and conclusions on the issues submitted.
- 86           (5) A grievance that has been filed at Step 3 an on which no action has been  
87           taken by the grievant or the UFF for sixty (60) days shall be deemed  
88           withdrawn and/or dismissed in accordance with the decision issued at the  
89           prior Step unless the delay is due to procedural or scheduling delays that are  
90           beyond the control of the grievant or UFF.
- 91           (6) Except as modified by the provisions of this Agreement, arbitration  
92           proceedings shall be conducted in accordance with the current Labor  
93           Arbitration Rules of the American Arbitration Association.
- 94           (f) Effect of Decision. The arbitrator’s decision shall be final and binding upon the  
95           Board, the University, the UFF, and the grievant, provided that either party may  
96           appeal to an appropriate court of law a decision that was rendered by the arbitrator  
97           acting outside of or beyond the arbitrator’s jurisdiction, pursuant to this Agreement  
98           and the Florida Arbitration Code as defined by law.
- 99           (g) Fees and Expenses.
- 100           (1) The parties shall equally divide all arbitration fees and expenses unless the  
101           arbitrator rules that the claim or defense was frivolous, in which case the  
102           nonprevailing party shall bear the cost of all fees and expenses associated  
103           with the arbitration, including, if awarded, attorney’s fees.
- 104           (2) Fees and expenses charged by an arbitrator for cancelation after the  
105           arbitrator’s deadline shall be borne by the party requesting the cancelation.  
106           However, if a grievance is resolved, and the cancelation of the arbitration  
107           results in any arbitration fees or expenses, such costs shall be divided  
108           equally between the parties.
- 109           (3) Each party shall bear the cost of preparing and presenting its own case  
110           including payment of expenses and compensation for its own  
111           representatives, attorneys, and witnesses.
- 112           (4) The party desiring a transcript of the arbitration proceedings shall provide  
113           notice to the other party of its intention to have a transcript of the arbitration  
114           made prior to the arbitration. The party desiring such transcript shall be  
115           responsible for scheduling a stenotype reporter to record the proceedings.  
116           The party originally requesting a transcript of the proceedings shall pay for  
117           any appearance fee of the court reporter.

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**APPENDIX D**  
**STEP 3 - NOTICE OF ARBITRATION FORM**

~~(From Article 11.2(b)(2) — Grievance & Appendix X Arbitration)~~

The United Faculty of Florida hereby gives notice of its intent to proceed to arbitration in connection with the Step 2 decision of the University, which was received by the UFF or Grievant (if not represented by UFF) on \_\_\_\_\_, in this grievance of:

NAME(S): \_\_\_\_\_  
GRIEVANCE #: \_\_\_\_\_

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**Statement of Issues Proposed for Arbitration:** (These issues must have been previously raised by the Grievant in the Step 2 Grievance.)

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(See Next Page for Additional Requirements)

132 **This Notice of Arbitration was electronically filed with the Office of General Counsel**  
133 **([ogc@floridapoly.edu](mailto:ogc@floridapoly.edu)) on \_\_\_\_\_.**  
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\_\_\_\_\_  
**Signature of UFF President or Representative**

\_\_\_\_\_  
**Date**

**I hereby authorize UFF to proceed to arbitration with my grievance. I also authorize the use, during the arbitration proceedings, of any previously released Limited-Access Records (as defined under Florida Polytechnic University Rule 6C13-6.008) pertinent to this grievance and to furnish copies of the same to the Arbitrator. If written authorization is required for the release of any Limited-Access Records, I may submit such authorization.**

**Signature of Grievant**

\_\_\_\_\_  
**Date**

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**DATE OF RECEIPT BY OFFICE OF GENERAL COUNSEL:** \_\_\_\_\_