

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) 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 35th 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

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)

131 **This Notice of Arbitration was electronically filed with the Office of General Counsel**
132 **(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: _____

For the University

David Fugett
Chief Negotiator

Date _____

For the UFF

C. Wylie Lenz

Wylie Lenz
Chief Negotiator

Date 1/24/2024