

ARTICLE 31  
GRIEVANCE PROCEDURE AND ARBITRATION

31.1 Policy.

- (a) It is the intent of the University Administration and the UFF to provide a prompt, reasonable, and efficient opportunity for resolution of a dispute through the grievance procedure and arbitration process.
- (b) Resort to Other Procedures. Except as noted below, if prior to filing a grievance, 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 University Administration 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.
- (c) No Reprisal. No reprisal of any kind shall be made by the University Administration or the UFF against any grievant, any witness, any UFF designee, or any other participant in the grievance procedure by reason of such participation.
- (d) Reclassifications. A faculty member who is reclassified to an out-of-unit classification shall retain the right to file a grievance consistent with the provisions of this Article for any act or omission that gave rise to a grievance while the faculty member was in-unit.
- (e) No resolution of any individually processed grievance shall be inconsistent with the terms of this Agreement.

31.2 Definitions and Forms.

(a) Definitions.

- (1) The term “grievance” shall mean a dispute filed with the Office of Employee and Labor Relations concerning the interpretation or application of a specific term or provision of this Agreement, University rules or policies that govern faculty terms or conditions of employment, or Guidelines referenced in this Agreement, subject to specific exclusions appearing in other articles of this Agreement.
- (2) The term “grievant” means
- a. A faculty member or group of faculty members who has/have

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- 47 filed a grievance.  
48  
49 b. The UFF where it is entitled by law to file a grievance and has  
50 filed a grievance in a dispute over a provision of this  
51 Agreement.  
52  
53 c. The UFF where it has filed a grievance in a dispute over a  
54 provision of this Agreement based upon policy decisions by  
55 the University Administration which have general applicability  
56 to bargaining unit members, where such policy decisions give  
57 rise to disputes about the interpretation or application of the  
58 specific terms of this Agreement.  
59

- 60 (3) The parties may agree to consolidate grievances of a similar nature to  
61 expedite the review process.  
62

63 (b) Forms.  
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- 65 (1) Grievance Form. Each grievance must be submitted in writing on the  
66 form shown in Appendix "C" (Grievance Form), with all pertinent  
67 information explaining the disagreement or controversy, identifying  
68 the provision(s) at issue, and identifying any designee. The grievant's  
69 signature, confirming his/her intent to proceed with the grievance,  
70 shall be provided prior to the grievance hearing.  
71

- 72 (2) Arbitration Form. Each notice of arbitration shall be submitted in  
73 writing on the form shown in Appendix "D" (Notice of Arbitration).  
74 All pertinent information submitted with the Appendix "C"  
75 (Grievance Form) form, as well as the Grievance Hearing decision,  
76 shall be included as an attachment to the Appendix "D" (Notice of  
77 Arbitration) form.  
78

- 79 (3) The grievance forms, including the Appendix "G" (Exclusive Dispute  
80 Resolution Procedure for Course Assignments) form, may be filed by  
81 means of e-mail, fax, United States mail, or personal delivery. All  
82 grievance forms shall be dated when the grievance is received. The  
83 date of receipt shall be determined by the date on a receipt executed  
84 by the Office of Employee and Labor Relations if the grievance is  
85 hand delivered; by the date recorded on the fax if the grievance is  
86 filed by fax; by the date of the e-mail return receipt if e-mailed; or by  
87 the date of mailing as confirmed by the postmark if the grievance is  
88 sent by United States mail.  
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UNF – UFF Collective Bargaining Agreement 2017-2020

- 93 31.3 Burden of Proof.  
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95 (a) In all grievances except disciplinary grievances (see Article 30 on  
96 Disciplinary Action and Job Abandonment), the burden of proof shall be on  
97 the faculty member.  
98  
99 (b) In disciplinary grievances, the burden of proof shall be on the University  
100 Administration.  
101  
102 (c) In grievances filed against the Administration which allege reprisal, the  
103 grievant has the initial burden of establishing a prima facie case of reprisal.  
104 Once the grievant has established a prima facie case of reprisal, the burden  
105 shifts to the Administration to rebut the inference of reprisal by articulating  
106 some legitimate, non-reprisal reason for the Administration's action. The  
107 Administration need only offer admissible evidence to raise a genuine issue  
108 of fact as to whether it had a legitimate reason for taking its action. Once the  
109 Administration meets its burden of articulating a legitimate non-reprisal  
110 reason for its action, the burden shifts back to the grievant to show that the  
111 proffered reason is merely a pretext for reprisal.  
112  
113 31.4 Representation. The UFF shall have the exclusive right to represent any faculty  
114 member in a grievance filed under this Agreement, unless a faculty member elects self-  
115 representation or to be represented by legal counsel.  
116  
117 (a) UFF Grievance Representatives. At the beginning of each academic year,  
118 the UFF shall furnish to the University Administration a list of all faculty  
119 members authorized to act as grievance representatives, including the faculty  
120 member(s) designated as the UFF Grievance Officer(s). The UFF shall  
121 promptly notify the University Administration of additions or deletions to  
122 this list during the academic year. Such representatives shall have the right  
123 during times outside of their scheduled activities to investigate, consult,  
124 prepare grievance presentations, and attend grievance and arbitration  
125 hearings.  
126  
127 (b) If a faculty member elects not to be represented by the UFF, the University  
128 Administration shall promptly notify the UFF in writing or through email  
129 that the grievance has been filed and shall advise UFF that a copy of the  
130 Appendix "C" Grievance Form and any accompanying materials are  
131 available at the Office of Employee and Labor Relations. The UFF shall also  
132 be notified in writing of the date, time, and place of any meeting or hearing  
133 called for the purpose of discussing the grievance, shall have the right to  
134 have an observer present at all meetings and/or hearings called for the  
135 purpose of discussing such grievance, and shall be sent copies of all  
136 decisions at the same time as they are sent to the other parties.  
137  
138 31.5 Appearances.

UNF – UFF Collective Bargaining Agreement 2017-2020

- 39  
140 (a) When a faculty member participates during working hours in a grievance  
141 hearing or in an arbitration proceeding, that faculty member's compensation  
142 shall neither be reduced nor increased for time spent in those activities.  
143  
144 (b) Should participation in any grievance meeting or hearing or arbitration  
145 proceeding necessitate rescheduling of assigned duties, the faculty member  
146 may, with the approval of his/her chair/supervisor, arrange for the  
147 rescheduling of such duties or their coverage by other faculty members.  
148 Approval of such arrangements shall not be unreasonably withheld.  
149

150 31.6 Informal Resolution. The University Administration and the UFF agree that  
151 problems shall be resolved, whenever possible, before the filing of a grievance. Therefore,  
152 no grievance shall be filed until the UFF or grievant has timely requested (within 30 days  
153 of the date the UFF or grievant knew or reasonably should have known of the alleged  
154 violation) an informal resolution process with the University Administration in an effort to  
155 resolve the conflict before the filing of a grievance. If the informal resolution process has  
156 been timely requested, as provided below, the later filed grievance shall be considered to  
157 be timely filed, as long as the other deadlines specified in Article 31.7 are observed.  
158 However, if the informal resolution process has not been timely requested, as provided  
159 below, the grievance shall be considered time-barred.  
160

161 (a) All requests for informal resolution shall be in writing or by e-mail and  
162 submitted to the Office of Employee and Labor Relations within thirty (30)  
163 days of the act or omission giving rise to the dispute, or the date on which  
164 the faculty member knew or reasonably should have known of such act or  
165 omission if that date is later. The request shall contain a brief, general  
166 description of the dispute, identify the relevant provisions of this Agreement  
167 which are at issue, and include dates, times, and locations of the action(s)  
168 giving rise to the dispute.  
169

170 (b) Upon receipt of a timely filed request for informal resolution, the parties  
171 shall have thirty (30) days to attempt to informally resolve the dispute.  
172

173 (1) The faculty member may terminate the period for informal resolution  
174 at any time by filing a grievance.  
175

176 (2) If the parties are unable to reach informal resolution of the grievance  
177 within the time provided, or if the grievant has filed a formal  
178 grievance, the Office of Employee and Labor Relations shall notify  
179 the UFF that informal resolution of the dispute is not possible.  
180

181 (c) Any resolution of the dispute shall be reduced to writing by the University  
182 Administration, with copies provided to the grievant, the UFF, and the Office  
183 of Employee and Labor Relations.  
184

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1-26-18*



UNF – UFF Collective Bargaining Agreement 2017-2020

31.7 Filing of a Grievance.

(a) A grievance must be filed with the Office of Employee and Labor Relations on the form shown in Appendix C “Grievance Form” no later than fifteen (15) days following the date the Office of Employee and Labor Relations or UFF/grievant notifies the other party that informal resolution is not possible. Compliance with the fifteen (15) day period shall be evidenced by the recorded date on which the grievance was received by the Office of Employee and Labor Relations.

(b) The grievant may amend the Appendix C “Grievance Form” form one time up to and including the Grievance Hearing so long as the factual basis of the complaint is not materially altered. However, only the alleged violation(s) identified in the initial or amended Appendix C “Grievance Form” may be considered at arbitration.

(c) The filing of a grievance constitutes a waiver of any rights to judicial review of agency action pursuant to Chapter 120, Florida Statutes (i.e., one must choose between the collective bargaining grievance process or a hearing before the Division of Administrative Hearings), and to the review of such actions under other University procedures that may otherwise be available to address such matters.

(d) Time Limits.

(1) Time is of the essence under this Article and the time limits contained in this Article may be waived or extended only by mutual agreement of the parties. However, any party may request a postponement of fifteen (15) days of any time limit. The first such request shall be granted. Any further requests will require mutual agreement of the parties, and shall be granted for good cause shown. All requests and agreements for extension shall be documented in writing.

(2) Upon failure of the University Administration to provide a decision within the time limits provided in this Article, the grievant/UFF may advance the grievance to the next step. Upon the failure of the grievant/UFF to advance a grievance within the time limits provided in this Article, the grievance shall be deemed to have been withdrawn by the grievant/UFF with prejudice.

(3) In the event that any action falls due on a Saturday, Sunday, or holiday, the action shall be considered timely if it is accomplished by 5:00 p.m. on the following business day.

(4) If the required action on any grievance falls during a time when classes are not in session, or when the faculty member is not on active

UNF – UFF Collective Bargaining Agreement 2017-2020

231 employment (such as during a summer term, sabbatical, professional  
232 development, or any other approved leave), the deadline for such  
233 action shall be extended until fifteen (15) days after the faculty  
234 member returns to active employment. The Office of Employee and  
235 Labor Relations shall notify the parties when the fifteen (15) day  
236 period begins.

- 237  
238 (5) If there is difficulty in meeting any time limit, the UFF representative  
239 may sign documents for the grievant. However, the grievant's  
240 signature shall be provided prior to the grievance hearing.

241  
242 31.8 Grievance Hearing and University Administration's Decision.

243  
244 (a) The Grievance Hearing.

- 245  
246 (1) Selection of UNF-BOT Hearing Officer for the Grievance Hearing.  
247 Following the ratification of this Agreement, the President of UNF  
248 shall select a pool of three (3) hearing officers. The Hearing Officer  
249 chosen to conduct the formal grievance hearing shall thereafter be  
250 selected at random by the Office of Employee and Labor Relations in  
251 the presence of the grievant's representative by drawing the name of a  
252 Hearing Officer from an opaque container, provided that the Hearing  
253 Officer is not a person who has been involved in the attempt at informal  
254 resolution. The parties may mutually select an individual who is not a  
255 member of the pool of Hearing Officers.

- 256  
257 (2) The grievance hearing shall be held not later than fifteen (15) days  
258 following the selection of the Hearing Officer. At the hearing, the  
259 grievant (and the grievant's representative) and the University  
260 Administration shall have the right to present any evidence, including  
261 documents, that are relevant to the grievance. Upon request, the grievant  
262 and the grievant's representative shall be provided access to all relevant  
263 documents. These documents shall be provided not later than three (3)  
264 days prior to the hearing.

265  
266 (b) The Decision.

- 267  
268 (1) The Hearing Officer shall issue a written decision, with rationale, to the  
269 grievant, the UFF, and the University Administration within thirty (30)  
270 days of the hearing. The Hearing Officer shall also prepare a list of all  
271 documents referred to in the decision and presented by either party, and  
272 attach the list to the written decision.  
273  
274 (2) If the University Administration references evidence in the written  
275 decision that was not introduced at the hearing, the hearing shall be  
276 reconvened in order to give the grievant an opportunity to discuss the

UNF – UFF Collective Bargaining Agreement 2017-2020

77 evidence. The evidence shall be provided to the grievant and the  
278 grievant's representative not later than three (3) days prior to the  
279 reconvening of the hearing.  
280

- 281 (c) In the absence of an agreement to extend the period for issuing the decision, the  
282 UFF may file for arbitration if the written decision has not been received by the  
283 parties by the end of the thirtieth (30th) day following the conclusion of the  
284 grievance hearing.  
285

286 31.9 Arbitration.

- 287  
288 (a) Filing. If the grievance has not been satisfactorily resolved after the grievance  
289 hearing or through the written decision, UFF may proceed to arbitration by filing  
290 a written notice of the intent to do so on the form shown in Appendix "D"  
291 (Notice of Arbitration). The notice of intent to proceed to arbitration must be  
292 filed with the Office of Employee and Labor Relations, with a copy to the  
293 President, within thirty (30) days after receipt of the grievance decision. The  
294 grievance may be withdrawn at any time by the grievant or by the UFF President  
295 or designee or the UFF arbitration representative.  
296

297 (b) Stipulation to Issues and Arbitrability  
298

99  
300 (1) Prior to the arbitration, the University Administration and the UFF shall  
301 stipulate to the issue(s) to be arbitrated. In the event a stipulation is not  
302 reached, the arbitrator shall identify the issue(s) based upon the evidence  
303 presented.

304 (2) Arbitrability. Issues of arbitrability shall be bifurcated from the  
305 substantive issue(s) and, whenever possible, determined by means of a  
306 hearing conducted by conference call. The arbitrator shall have ten (10)  
307 days from the hearing to render a decision on arbitrability. If the issue is  
308 judged to be arbitrable, another arbitrator shall then be selected to hear the  
309 substantive issue(s).  
310

311 (c) Selection of an Arbitrator.  
312

- 313 (1) Within ten (10) days after receipt of the notice of intent to arbitrate,  
314 designees of the University Administration and the UFF shall jointly  
315 request a list of seven (7) qualified neutrals from the Federal Mediation  
316 and Conciliation Service (FMCS). The joint request to FMCS shall  
317 specify that the list of seven (7) qualified neutrals to be provided to  
318 the parties must be limited to arbitrators residing in the State of Florida  
319 with professional experience in higher education. Within seven (7) days  
320 after receipt of the list from FMCS, the parties shall meet and alternately  
321 strike names on the list. The party requesting arbitration shall strike the  
322 first name. After each party has struck three (3) names, the last remaining

UNF – UFF Collective Bargaining Agreement 2017-2020

23 name shall be the arbitrator. Failure of the parties to select an arbitrator  
324 within twenty (20) days of receipt of the list from FMCS will be  
325 considered a withdrawal of the grievance with prejudice.  
326

- 327 (2) In lieu of the selection process set forth in Article 31.9 (c) (1), above,  
328 designees of the University Administration and the UFF may meet within  
329 seven (7) days after receipt of a notice of intent to arbitrate for the purpose  
330 of selecting an independent arbitrator. Provided, however, this alternative  
331 selection process shall not be available once a list from FMCS has been  
332 requested as specified in Article 31.9 (c) (1), above.  
333

334 (d) Authority of the Arbitrator.  
335

- 336 (1) The arbitrator shall neither add to, subtract from, modify, nor alter the  
337 terms or provisions of this Agreement. Arbitration shall be confined  
338 solely to the precise issue(s) submitted for arbitration. The arbitrator shall  
339 refrain from issuing any statements of opinion or conclusion not essential  
340 to the determination of the issues submitted.  
341

- 342 (2) Where an administrator has made a judgment involving the exercise of  
343 discretion, such as decisions regarding evaluation, tenure, or promotion,  
344 the arbitrator shall not substitute the arbitrator's judgment for that of the  
345 administrator. Nor shall the arbitrator review such decision except for the  
346 purpose of determining whether the decision has violated the Agreement.  
347 If the arbitrator determines that the Agreement has been violated, the  
348 arbitrator shall direct the University Administration to take appropriate  
349 remedial action, consistent with this Agreement, which the arbitrator may  
350 specify.  
351

- 352 a. An arbitrator may award back salary when the arbitrator  
353 determines that the faculty member is not receiving the appropriate  
354 salary from the University Administration. In addition to an award  
355 of back salary, the arbitrator may also require the University  
356 Administration to make retroactive payment of lost contractual  
357 economic benefits that are proven to be directly affected by the  
358 award of back salary. However, the arbitrator may not award any  
359 other monetary damages or penalties.  
360

- 361 b. If the arbitrator finds that "notice that no further employment will  
362 be offered" was not given consistent with the notice provisions of  
363 the Nonreappointment Article, and that the notice was given so late  
364 that (a) the faculty member was deprived of reasonable opportunity  
365 to seek other employment, or (b) the faculty member actually  
366 rejected a written offer of comparable employment which the  
367 faculty member otherwise would have accepted had notice been  
368 timely given, and the arbitrator finds that no other remedy is

A handwritten signature is written over the text of paragraph 2. Above the signature, the letters 'GFC' and the word 'The' are written and circled. Below the signature, the date '1-26-18' is written.



UNF – UFF Collective Bargaining Agreement 2017-2020

adequate, the arbitrator may in that instance direct the University Administration to renew the appointment for an additional year.

- c. An arbitrator's decision awarding employment beyond the sixth (6th) year shall not entitle the faculty member to tenure. In cases in which the arbitrator finds procedural error, finds that the decision was not based on the specified criteria, or finds that the decision was based on an unreasonable application of those criteria, the grievant's appointment shall be renewed and the grievant shall be allowed to reapply for tenure under the same conditions and with the same protections under this Agreement that would apply to any other faculty member. The arbitrator shall retain jurisdiction to ensure that the grievant's rights are not violated during the reapplication process. In no instance may an arbitrator award tenure or promotion.

(e) Hearing and Decision.

- (1) The hearing shall commence within thirty (30) days of the arbitrator's acceptance of selection, or as soon thereafter as is practicable.

- (2) Except as modified by the provisions of this Agreement, the arbitration proceeding shall be conducted in accordance with the rules and procedures of the American Arbitration Association.

- (3) The arbitrator shall issue the decision within thirty (30) days of the close of the hearing or the submission of briefs, whichever is later, unless additional time is agreed to by the University Administration and the UFF or grievant (if the grievant is representing himself or herself). The decision shall be in writing and shall set forth findings of fact, reasoning, and conclusions on the issues submitted.

- (f) Effect of Decision. The decision or award of the arbitrator shall be final and binding upon the Board, the University Administration, the UFF, and the grievant, provided that either party may appeal to an appropriate court of law, pursuant to Chapter 682, Florida Statutes, any decision that was rendered by the arbitrator acting outside or beyond the arbitrator's jurisdiction.

- (g) 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 sixty (60) days prior to the date the grievance was initially filed. However, if it is determined that the grievant did not receive the proper salary due to a clerical error on the part of the Administration, the grievant shall receive the amount to which he/she would have been entitled were it not for the Administration's clerical error.

UNF – UFF Collective Bargaining Agreement 2017-2020

15 (h) Fees and Expenses. All fees and expenses of the arbitrator shall be divided  
416 equally between the parties. Each party shall bear the cost of preparing its own  
417 case and paying its own designee, attorney, and witnesses as applicable.  
418

419 31.10 Precedent. No complaint informally resolved, or grievance resolved, shall constitute a  
420 precedent for any purpose unless agreed to in writing by the President or designee and the UFF  
421 acting through its President or designee.  
422

423 31.11 Records. All written materials created as a result of a grievance, except decisions  
424 resulting from arbitration or settlement, shall be filed in a secure location, separate from the  
425 evaluation file of the grievant or witnesses.  
426

427 31.12 Expedited Grievance Procedure for Conflict of Interest.  
428

429 (a) A grievance alleging a violation of the conflict of interest provisions of this  
430 Agreement shall be filed with the President or designee who shall meet with the  
431 grievant and his/her representative no later than seven (7) days after the grievance  
432 has been filed, if practicable, to review the grievance. The President or designee  
433 shall issue a decision no later than seven (7) days following the grievance hearing.  
434

435 (b) The UFF, if it chooses to proceed to arbitration, shall file a request for arbitration  
436 within fifteen (15) days after receipt of the President or designee's written  
37 decision, using Appendix "D" (Notice of Arbitration).  
438

439 (c) An arbitrator shall be selected by the parties not later than fifteen (15) days  
440 following receipt of the Appendix "D" (Notice of Arbitration) form.  
441

442 (d) The arbitrator shall issue a memorandum of decision within seven (7) days  
443 following the conclusion of the arbitration, to be followed by a written opinion  
444 and award in accordance with Articles 31.9(d) and (e).  
445

446 (e) All other provisions of this article shall apply to a grievance filed under this  
447 subsection, except as noted above.  
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449  
450