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WORKING PAPER
ARTICLE 11
GRIEVANCE AND ARBITRATION

5 **11.1 – Grievance**

6 A. Purpose of the Grievance Procedure. The parties agree that prompt and just settlement of
7 grievances is of mutual concern and interest. Therefore, the parties shall attempt to settle all
8 grievances promptly and fairly at the point of origin. ~~In order to achieve this, the Union and the~~
9 ~~Administration shall make available to one another all known relevant facts so as to enable the~~
10 ~~parties to resolve grievances and maintain harmony within the College environment.~~

11
12 B. Definitions for the Grievance Procedure. The following definitions will be used for the
13 grievance procedure in Article 11 of this Agreement.

- 15 | 1. Grievance – an alleged violation ~~or dispute involving the interpretation or application~~
16 | of the terms of this Agreement.
- 17
18 | 2. Aggrieved or Grievant – any faculty member, group of faculty members or the Union
19 | that files a grievance as defined in this Article.
- 20
21 | 3. Faculty Member – any member of the ~~Union or~~ bargaining unit.
- 22
23 | 4. Days, Work Days or Working Days – as used in this Article, except where the term
24 | “calendar days” is used, the term shall mean the College business days in accordance
25 | with the Board-approved College calendar.
- 26
27 | 5. Respondent – the College, or the appropriate Administrative official.
- 28

29 ~~C. Representation. The Union has the right to represent or to not represent a faculty member.~~
30 ~~The Union has the right to be present at any step of the Grievance Procedure whether or not the~~
31 ~~Union is representing the faculty member in the process.~~

32
33 ~~D. Timelines. All timelines shall be interpreted as the end of the specified working day. Due to~~
34 ~~the importance of processing a grievance as rapidly as possible, the number of days indicated at~~
35 ~~each level should be considered as a maximum, and reasonable effort should be made to expedite~~
36 ~~the process.~~

37
38 E. ~~Exceptions to Grievance and Arbitration.~~ Unless specifically stated otherwise elsewhere in
39 this Agreement, the provisions of this Grievance and Arbitration Article shall apply to the entire
40 Agreement.

41
42 ~~F C. **Grievance Procedure.** Individual grievances shall use the procedure detailed below.~~
43 ~~Grievances filed on behalf of a group of employees or the Union itself, shall be filed at the Step 3~~
44 ~~level.~~ **The Union has the right to represent the faculty member, if requested by the faculty**
45 **member, and/or be present at any step of the Grievance Procedure. All times shall be**
46 **interpreted as the end of the specified working day. Due to the importance of processing a**
47 **grievance as rapidly as possible, the number of days indicated at each level should be**
48 **considered as a maximum, and reasonable effort should be made to expedite the process.**

49
50 **D. Grievance Procedure**

- 51
- 52 1. ~~Step 1 – Notice to Respondent (Informal).~~ **Informal Discussion.** A grievant shall
53 first try to resolve the issue by discussing the grievance with **his/ her** the immediate
54 supervisor ~~or ing administrator~~, either directly or through the Union's designated
55 representative, within twenty (20) days from the date of discovery. Respondent will
56 render a verbal decision to the faculty member within fifteen (15) days from the date
57 of the **first** ~~informal~~ discussion **was held**. In the event the Respondent is not
58 available during the twenty (20) days following the alleged violation, the faculty
59 member will meet with the acting supervisor and express his/her intent to pursue the
60 informal discussion procedure.
 - 61
 - 62 2. **Step 2 – Written Grievance to Respondent.** If the grievance is not settled at Step 1, or
63 if the aggrieved person is not satisfied with the disposition at Step 1, or if there is no
64 disposition within fifteen (15) days after the discussion in Step 1, the grievant may
65 file the grievance in writing to the Dean **or the Associate Vice President of the**
66 **department,** with a copy to the Union and the Office of Legal Affairs within ten (10)
67 days. The written grievance shall detail the specific articles of the Agreement
68 allegedly violated and the reasons they were allegedly violated and proposed remedy.
69 Within ten (10) days after receiving the Step 2 written grievance, the College shall
70 submit a written response to the grievant, with a copy to the Union and the Office of
71 Legal Affairs.
 - 72
 - 73 3. **Step 3 – Disposition of Grievance** ~~Individual/Class Action/Union Grievance.~~ **a.**
74 **Individual.** **If the grievance is not settled at Step 2, or if there is no disposition within**
75 **ten (10) days after receipt of the Step 2 written grievance, the grievant may file the**

76 grievance in writing to the Vice President of Academic Affairs with a copy to the
77 Union and the Office of Legal Affairs. Within five (5) days after receiving the Step 3
78 written grievance the Vice President of Academic Affairs shall schedule a meeting
79 with the grievant and/or the Union's designated representative, to attempt to resolve
80 resolution of the matter. Within five (5) days after the meeting, the College shall
81 submit a written decision to the grievant, with a copy to the Union and the Office of
82 Legal Affairs. Grievances contesting written and/or verbal warnings may not be
83 grieved beyond this step in the grievance process and are not subject to arbitration.
84 A class action or union grievance will enter the grievance process at Step 3,
85 provided it is filed within twenty (20) days of the date of discovery.
86
87

88 ~~b. Class Action or Union. If the Union determines a grievance may be warranted on behalf of a~~
89 ~~group of employees or the Union itself, a fact-finding meeting with the appropriate administrator~~
90 ~~may be requested by the Union within twenty (20) days of discovery of the issue. The meeting~~
91 ~~will be held within ten (10) days of a written request from the Union. The Administration will~~
92 ~~give a written response within twenty (20) days from the date of the meeting~~
93

94 ~~The Union has ten (10) days from the date the written response is received, or, if no response~~
95 ~~was received, from the date the response was due, to file a grievance. All class action grievances~~
96 ~~or Union grievances will be filed at Step 3 with the Vice President, with a copy to the Office of~~
97 ~~Legal Affairs. Within five (5) days after receiving the Step 3 written class action grievance, the~~
98 ~~respondent shall schedule a meeting within the next ten (10) days with the Union's designated~~
99 ~~representative(s) with the objective of resolving the matter.~~

100
101 ~~Within ten (10) days after the meeting, the respondent shall submit a written decision to the~~
102 ~~Union representative.~~
103

- 104 4. Step 4 – Written Appeal to the College President. If the grievance aggrieved person
105 (or Union, if it is a Union or Class grievance) is not resolved satisfied by the at Step
106 3 ~~disposition~~, or if there is no disposition within five (5) days after the date of the
107 meeting, the grievant may request that the Union file, and the Union may file a
108 written appeal, with the College President or designee, with a copy to the Office of
109 Legal Affairs within ten (10) days following the receipt of the response under Step 3,
110 or if no response was received, within ten (10) days of the date the response was due.
111 Within ten (10) days following the date of filing the written grievance with the
112 College President, the College President or his/her designee will meet with the
113 aggrieved person and the Union's designated representative(s), with the objective of
114 resolving the matter. The College President shall have ten (10) days following the

115 date of the meeting to submit a written disposition to the grievant through the Union's
116 Grievance Chairperson, with a copy to the Office of Legal Affairs and to the
117 designated records custodian within the Office of Human Resources.

118
119 ~~If the grievance as defined herein is a direct result of Board actions, the Union may proceed~~
120 ~~directly to arbitration.~~

121
122 ~~G. Settlement, Withdrawal or Disposition of Grievances. Any settlement, withdrawal or~~
123 ~~disposition of a grievance at any step below arbitration in the grievance procedure shall not~~
124 ~~constitute a binding precedent for a similar grievance.~~

125
126 ~~H. Documentation and Evidence. The parties each agree to provide the other with documents~~
127 ~~and/or information that may become available. Either party may request information from the~~
128 ~~other party. If either party refuses to divulge any requested information or knowledge related to~~
129 ~~the grievance that they may have, the refusing party may not offer that information as evidence~~
130 ~~and, if offered, such evidence will be rejected by the arbitrator.~~

131
132 **I. Reprisals. The Administration of the College and/or the Union shall make no reprisals**
133 **against employees through action or omission because of their involvement in a grievance**
134 **procedure.**

135

136 **Section 117.2 – Arbitration** **ARBITRATION PROCEDURE**

137 A. Appeal to Arbitration **Purpose of the Arbitration Procedure.** When **an aggrieved person(s)**
138 ~~the grievant~~ is not satisfied with the final decision of the formal grievance process, the Union
139 may appeal the grievance to arbitration. The decision to appeal to arbitration will be in writing,
140 addressed to and received by the College President or designee within ~~thirty (30)~~ **twenty (20)**
141 days after receipt of the College's final action by the ~~grievant~~ **aggrieved person(s)**. **Arbitration**
142 **under this Agreement shall be limited to those grievances processed through the steps of the**
143 **Grievance Procedure and subject to this Article. The following articles shall be subject to**
144 **arbitration: Dues Check-off, Faculty Rights, Union Rights, and Reduction in Force.** This
145 ~~grievance~~ **arbitration** procedure cannot be used by the Union or any employee to dispute a
146 decision made by the College not to renew the contract of an employee on annual contract, or to
147 dispute a decision by the College not to award a continuing contract to **a** ~~an in-~~ unit employee,
148 except to the extent that a grievance alleges the failure by the Administration to follow the
149 procedures set forth in this Contract.

150

151 ~~B.~~ Prior to arbitration, the Union will meet with the College President or designee to stipulate
152 those issues upon which the parties can agree and the issue(s) for arbitration. In the event the
153 parties cannot agree on the issue(s) at arbitration the Arbitrator may determine those issues.
154

155 ~~€~~ **B.** Selection of Arbitrator. **Within twenty (20) days of receipt by the President of the**
156 **aggrieved person's notification to appeal to arbitration. In the event the parties cannot**
157 **mutually agree to an arbitrator or arbitration panel, not to exceed 7 arbitrators, the parties**
158 **shall jointly request in writing, from the Federal Mediation and Conciliation Service, a panel**
159 **of seven (7) arbitrators. The Union shall strike the first name from the panel; the College shall**
160 **strike the second name; the Union shall strike the third name; the College shall strike the**
161 **fourth name; the remaining name shall be designated as the arbitrator and the Federal**
162 **Mediation and Conciliation Service shall be so notified in writing by the parties.**

163 Representatives of the College and the Union shall meet within ninety (90) days after the
164 execution of this Agreement for the purpose of selecting an Arbitration Panel of ten (10) or more
165 members. ~~This panel shall be used until one of the following occurs: a complete new~~
166 ~~Agreement is reached, the number of active arbitrators on the panel is reduced to seven or fewer,~~
167 ~~the parties mutually agree to revise the panel.~~ Within fourteen (14) days after receipt of a notice
168 of intent to arbitrate, representatives of the College and the Union shall meet for the purpose of
169 selecting an arbitrator from the Panel. Selection shall be by mutual agreement or by alternately
170 striking names from the Arbitration Panel list until one name remains. The right of the first
171 choice to strike from the list shall be determined by the flip of a coin. If the parties are unable to
172 agree to a panel of arbitrators, they shall follow the normal American Arbitration Association
173 procedure for the selection of an arbitrator. The parties may mutually select as the arbitrator an
174 individual who is not a member of the Arbitration Panel. The arbitration shall be held within
175 sixty (60) days following the selection of the arbitrator.
176

177 ~~Ɖ~~ **C.** Hearing Before the Arbitrator. The arbitrator shall arrange for any hearing he/she deems
178 necessary as soon as practical after the arbitrator is notified of his selection. If it is necessary to
179 hold arbitration proceedings during duty hours, parties to the grievance **shall** ~~may~~ be excused
180 from their other College duties for the duration of the time they are needed in the proceedings.
181 Each ~~marty-party~~ shall have the right to present evidence, present, cross-examine, and/or
182 sequester witnesses, and submit a post-hearing brief.
183

184 ~~E~~ **D.** Disposition. The arbitrator shall render a decision in writing within thirty (30) days after
185 the close of the hearing. If briefs are submitted, the hearing is closed on the date set by the
186 arbitrator for the submission of briefs. **However, time limitations may be adjusted by mutual**
187 **agreement of the parties.** The decision of the arbitrator will be made in writing to both parties at

188 the same time. The delivery of the decision will be made by e-mail or certified mail, return
189 receipt requested as determined by the Arbitrator.

190
191 ~~**FE.** Arbitrator's Jurisdiction . The jurisdiction and authority of the arbitrator and his opinion
192 and award shall be confined exclusively to the interpretation and/or application of the
193 provision(s) of this Agreement at issue between the Union and the Administration. The arbitrator
194 shall have no authority to add to, detract from, alter, amend, or modify any provision of this
195 Agreement; to impose on either party a limitation or obligation not explicitly provided for in this
196 Agreement; or to establish or alter any wage rate or wage structure. The arbitrator shall not hear
197 or decide more than one grievance without the mutual consent of the Administration and the
198 Union. The written award of the arbitrator on the merits of any grievance adjudicated within his
199 jurisdiction and authority shall be final and binding on the aggrieved employee, the Union and
200 the Administration, unless either party contests it before a court of competent jurisdiction as
201 permitted by state law.~~

202
203 **Authority of the Arbitrator - The arbitrator shall be limited to the written grievance submitted**
204 **by the grievant or the Union. In the area of financial awards, the power of the arbitrator shall**
205 **be limited to cases where the aggrieved person has been judged to have been discharged or**
206 **suspended without cause and the arbitrator's power in such cases shall be limited to**
207 **reinstatement and the amount of back pay due, if any. The arbitrator shall have no power to**
208 **award continuing contract status. If the arbitrator's award includes back pay, earnings or**
209 **compensation received from any sources shall be deducted from the award Failure to mitigate**
210 **and/or laches may also be considered as a deduction or set-off.**

211
212 **The decision of the arbitrator, if within the limitations of his/her authority as set forth herein**
213 **and in Florida Statutes shall be final and binding. The arbitrator shall not have the power to**
214 **add to, subtract from, modify, or alter the provisions of this Agreement.**

215
216 **Arbitration shall be confined solely to the facts and/or allegations of the written grievance.**
217 **The arbitrator shall have no authority to determine any other issue(s). Where an administrator**
218 **has made a judgment involving the exercise of discretion, the arbitrator shall not substitute the**
219 **arbitrator's judgment for that of the College. If the arbitrator determines that the Agreement**
220 **has been violated, the arbitrator shall direct the College to take appropriate corrective action.**

221
222 **The arbitrator shall only have the power to hear or arbitrate grievances which arise under the**
223 **terms and during the duration of this Agreement.**

224
225

226 G **F.** Fees and Expenses of Arbitration. ~~The College and the Union shall each pay one-half~~
227 ~~(1/2) of the total cost of all arbitrator charges incurred in the arbitration process. However,~~
228 ~~expenses for witnesses who are not a party to the grievance shall be borne by the party that calls~~
229 ~~them and any recording costs will be borne by the requesting party(ies). If a transcript is required~~
230 ~~by the arbitrator, the parties shall split the cost. Copies of the transcript may only be obtained~~
231 ~~through the Court Reporter. If the transcript is obtained under the Public Records Act, the~~
232 ~~requesting party agrees to pay the Court Reporter an amount equal to the cost of the transcript.~~
233 **Costs of the Arbitration – Each party shall be responsible for its own expenses related to any**
234 **arbitration. The party seeking arbitration shall be responsible for the Arbitrator’s fees for the**
235 **arbitration.**
236

237 H **G.**Burden of Proof. The College shall have the burden of proof by a preponderance of the
238 evidence in all grievances involving the determination of just cause for imposing discipline.
239 In other matters the Burden of Proof shall be on the grievant and/or Union.
240

241
242 **H. Files – Grievance materials will be maintained in a file designated by the President and**
243 **separate from personnel files and in accordance with the Public Records Law. A copy of**
244 **the arbitrator’s written decision shall be placed in the grievant’s personnel file.**
245

246 **I. Processing - The filing or pendency of any grievance, or of arbitration proceedings, under**
247 **this Article shall not operate to impede, preclude, or delay the College from taking the**
248 **action complained of. In no event shall any faculty member, as a result of a pending**
249 **grievance, receive compensation following cessation of employment.**
250

251 **J. If the grievant and/or the Union has the ability to seek relief for the issues in the grievance**
252 **in some other forum such as, but not limited to DOAH, PERC, Federal or State Courts**
253 **the grievant must affirmatively elect to forego such other potential avenues of relief if the**
254 **grievant or the Union is to proceed to arbitration.**
255