

UA Counterproposal 6 (redlined against CBA)
Package 4 - packaged with UA Article 4 Counterproposal 7 & UA Article 5 Counterproposal 7
Presented 1/18/22

ARTICLE 7

Resolution of Disputes

7.0 Purpose

In the interest of promoting harmonious and cooperative relations between the University of Alaska and United Academics, the parties hereby agree to the following terms for the resolution of disputes.

7.1 Definitions

- a. A "grievance" is:
 - i. an allegation by United Academics that there has been a specifically cited allegation of procedural errors, or omissions made in reaching decisions involving academic judgement; or
 - ii. an allegation by United Academics or the University that an express term of the Agreement has been violated, misinterpreted, or improperly applied; or
 - iii. an allegation by United Academics that there has been a violation of Regents' Policy or University Regulation to the extent it concerns a term and condition of employment as defined in the Public Employment Relations Act.
- b. A "complaint" is an allegation by United Academics involving substantive academic judgments.
- c. A "grievant" refers to the ~~UNAC~~bargaining unit member represented by United Academics alleging a grievance or the University alleging a grievance.
- d. A "complainant" refers to the ~~UNAC~~bargaining unit member represented by United Academics alleging a complaint.
- e. A "day" is a working day, Monday through Friday, on which the University of Alaska is open for business, even if classes are not scheduled.
- f. A "filing" for all steps in the grievance process is:
 - i. e-mail with demonstration of submission (e.g., copy to the originator from the originator), or
 - ii. hand delivery, or;
 - iii. USPS or a courier service with receipt of submission.

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For purposes of timeliness, filing within the system constitutes delivery. For example, the moment an e-mail is sent or the moment a letter is given to the delivery service is equivalent to filing.

- g. A "response" is the filing of the written response to a grievance or complaint.
- h. An "administrator" is the first level University official outside the bargaining unit with administrative responsibility for the academic unit in which the grievant or complainant is employed. This would normally be the dean or the director.
- i. A "meeting" can be conducted with the parties at one physical location or the parties connected by teleconference, videoconference, or other appropriate technology.
- j. An "MAU" is a major administrative unit. These are the University of Alaska Anchorage, University of Alaska Fairbanks, and the University of Alaska Southeast.
- k. A "supervisor" is the first level of administration above the administrator. This would normally be the provost of an MAU.

7.2 Grievance Resolution Process

The Grievance Resolution Process is the sole and exclusive process for resolving grievances as defined in Article 7.1(a).

7.2.1 Step 1: Informal Resolution

United Academics must notify the responsible administrator of the grievance and must attempt an informal resolution with the administrator. Notification that there is a grievance must be given in writing to the administrator within thirty (30) days after the event giving rise to the grievance, or within thirty (30) days after the grievant became aware, or reasonably should have been aware of the event giving rise to the grievance, whichever is later.

If within ten (10) days of notification of the administrator in Step 1 the attempt at an informal resolution of the grievance is not successful and United Academics chooses to pursue the grievance, United Academics must file a formal grievance in writing with the supervisor.

7.2.2 Step 2: Formal Resolution at First Level

The formal grievance shall be signed by a United Academics' representative and shall include the following:

- a. the specific term(s) of this Agreement, Board of Regents' Policy, or University Regulation alleged to have been violated, misinterpreted, or misapplied;

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- b. a description of the grounds of the grievance including names, dates, places, and times necessary for a complete understanding of the grievance;
- c. the remedy sought;
- d. the name(s), academic unit(s), MAU, telephone number, and address at which the grievant shall receive all correspondence related to the grievance; and
- e. the name, telephone number, and address of the grievant's representative.

The supervisor receiving the grievance shall, within ten (10) days, schedule a meeting with the grievant and a United Academics' representative to occur as soon as it can be mutually arranged. Within ten (10) days following that meeting, the supervisor shall issue a written finding to the grievant and to United Academics.

If United Academics is not satisfied with the finding of the supervisor at Step 2, the grievance may be advanced in writing to the chancellor within ten (10) days of United Academics' receipt of the Step 2 finding, or the date the finding was due, whichever occurs first.

If the supervisor in Step 2 is the chancellor, the grievance shall move immediately to Step 4. If the supervisor in Step 2 is the president, the grievance shall move immediately to Step 5.

7.2.3 Step 3: Appeal to Chancellor

The chancellor, or designee, receiving the Step 3 grievance shall, within ten (10) days, schedule a meeting with the grievant and United Academics to occur as soon as it can be mutually arranged. Within ten (10) days following the meeting, the chancellor, or designee, shall issue a written finding to the grievant and to United Academics.

If United Academics is not satisfied with the finding of the supervisor in Step 3, the grievance may be advanced in writing to the president of the University within ten (10) days of United Academics' receipt of the Step 3 finding or the date the finding was due, whichever occurs first.

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7.2.4 Step 4: Appeal to President

The president, or designee, shall, within thirty (30) days of receipt of the grievance, schedule a meeting with the grievant and United Academics to occur as soon as it can be mutually arranged. The president, or designee, shall issue a written finding to the grievant and United Academics; within thirty (30) days following the meeting.

If United Academics is not satisfied with the finding of the president of the University, or the designee, it may advance the grievance to binding arbitration within ten (10) days of United Academics' receipt of the finding or the date the finding was due, whichever occurs first, according to the process set forth below.

7.2.5 Step 5: Arbitration

a. Arbitrator Selection

If United Academics is not satisfied with the finding of the president of the University, or ~~their his or her~~ designee, and intends to advance the grievance to binding arbitration, it may do so by so notifying the American Arbitration Association (at its regional office). This notification must be in writing according to a form letter mutually agreed by the parties and appended to this agreement, with a copy to the director of labor relations, within thirty (30) days of the grievant's receipt of the finding or the date the finding was due, whichever occurs first. The arbitrator shall be selected in accordance with the Voluntary Rules of the American Arbitration Association.

b. Arbitration Issues

Issues not specifically identified in writing in the Step 4 grievance filing or response shall not be submitted to the arbitrator for decision. The parties may mutually agree to waive this provision, but neither party shall be obligated to do so.

c. Pre-Arbitration Communication

At least thirty (30) days prior to an arbitration hearing, the parties shall provide each other tentative witness lists, statements of the issues, and copies of documentary evidence expected to be introduced in the hearing. In the interest of expediting the arbitration process, the parties shall attempt to stipulate to issues, facts, and evidence to be presented in arbitration.

d. Arbitration Hearing and Costs

The arbitrator shall schedule and conduct the hearing in accordance with the Voluntary Rules of the American Arbitration Association. The parties in the grievance, who are United Academics and the University, shall share equally the

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costs and fees of the arbitrator, with the exception of fees charged for postponement, unilateral withdrawal, or cancellation, which shall be borne by the party initiating such action. Each party shall be responsible for the costs of presenting its case.

e. Authority of the Arbitrator

The arbitrator shall have no authority to add to, subtract from, modify, or amend the terms of the Agreement. The arbitrator shall confine the decision solely to the application or interpretation of the express terms of the Agreement. Where provisions of the Agreement call for the exercise of academic judgement, the arbitrator shall not have the authority to substitute ~~her/his~~their judgement for that of the official making such judgement, but shall be confined to whether the procedural steps have been followed.

If the arbitrator finds that the procedural steps have not been followed, and that the procedural error was substantially prejudicial to the substantive decision with respect to the grievant, the arbitrator shall remand the case to the decision level where the error occurred for reevaluation and may extend an appointment not to exceed one (1) year. In no case, shall the arbitrator have the authority to grant a remedy which includes an appointment of greater than one year or has the effect of granting retention, promotion, or tenure. The decision of the arbitrator shall be final and binding on both parties to the extent permitted by provisions of this Agreement and applicable law.

f. Retroactivity

An arbitrator's award may be retroactive as the equities of each case may demand, but in no case shall an award be retroactive to a date earlier than thirty (30) days prior to the date the grievance was filed.

7.2.6 General Provisions

a. Failure to Respond

If, at any step in the Grievance Resolution Process, the University fails to respond within the time period prescribed, United Academics may advance the grievance to the next step. If, at any step in the Grievance Resolution Process, United Academics fails to respond within the time period prescribed, the grievance shall be considered permanently resolved on the basis of the University's latest response.

b. Rights of the Bargaining Unit

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A United Academics representative shall have the right to be present, either as an advocate for the grievant or as an observer, in all meetings that occur as part of the grievance procedure.

c. Extension of Timelines

By mutual agreement, the parties may extend the grievance filing and response timelines set forth in Article 7.2. Such agreements shall be confirmed in writing by the party requesting the extension.

d. Representation and Advice of Counsel

United Academics and the University may be advised or represented by counsel of their choice during any stage of grievance proceedings. Advice or representation by counsel at any level shall not be the basis for disqualifying such counsel at any other stage. Any conflict of interest which might be raised upon the basis of such advice or representation is expressly waived with respect to all other stages of the process.

e. Non-Retribution

The parties agree that there shall be no retribution or reprisal against a UNAC bargaining unit member for exercising their his or her rights under this procedure.

7.2.7 Grievances Filed by the University

The University may file a grievance against United Academics within thirty (30) days after the event giving rise to the grievance occurred or within thirty (30) days after the University became aware or reasonably should have been aware of the event giving rise to the grievance, whichever is later. The grievance shall be filed by the University's director of labor relations with the president of United Academics. If the grievance is not resolved within thirty (30) days from the date of filing, the University may advance the grievance to arbitration pursuant to Article 7.2.5. The cost and fees of the arbitrator will be apportioned between the parties as determined by the arbitrator.

7.3 Complaint Resolution Process

The Complaint Resolution Process is the sole and exclusive process for resolving complaints as defined in Article 7.1(b). A complaint concerning promotion, tenure, or non-retention is subject to the process described in 7.3.1. All other complaints are subject to the process described in 7.3.2. All formal complaints or appeals must include the following:

- a. a statement of the decision being appealed;
- b. the reasons why the complainant disagrees with the decision;

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- c. the remedy sought;
- d. the name(s), academic unit(s), MAU, telephone number, and address at which the complainant(s) shall receive all correspondence related to the complaint; and
- e. the name, telephone number, and address of the complainant's representative.

7.3.1 Complaints Regarding Promotion, Tenure, or Non-Retention

Upon formal notification of a decision involving promotion, tenure or non-retention, United Academics may, within ten (10) days after a ~~UNAC bargaining unit~~ member's receipt of such official notification, file an appeal with the chancellor. The ~~c~~Chancellor shall refer the appeal to the appropriate appeals board as described below within ten (10) days of receipt of the appeal. The chancellor shall transmit the appeal to the chair of the appeals board for consideration by that body and a copy to United Academics.

The Appeals Board

a. Composition of the Appeals Board

An appeals board shall be formed at each MAU. The appeals board shall be composed of ~~three (3) UNAC bargaining unit~~ members to be selected through a process defined by United Academics and ~~three (3)~~ University representatives to be determined by the chancellor. United Academics will select the seventh member of the board who will serve as chair. Members shall be excused from considering any appeal if they have a professional or personal conflict such that they cannot render an impartial judgement. In the event a member of the board is excused, the original appointing party shall appoint a replacement. A ~~UNAC bargaining unit~~ member's participation on an MAU appeals board will qualify for inclusion in the service component of the ~~UNAC bargaining unit~~ member's workload. To facilitate a timely appeals process, ~~bargaining unit~~~~UNAC~~ member representatives for the upcoming academic year will be identified as part of the annual workload process.

b. Scope of the Appeals Board

The appeals board shall be empowered to consider appeals involving substantive academic judgements in matters of promotion, tenure, and non-retention. The function of the board is to hear the evidence relating to an appeal and to render a majority recommendation. The evidence subject to review by the board is limited to the documentary evidence considered in the original academic decision being appealed. The board may seek testimony from witnesses for clarification of the documentary evidence.

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The board shall not substitute its judgement for that of the person or persons charged with the responsibility for making the appealed decision except that it may disagree with an appealed judgmental decision when, upon review of the entire record, the appealed decision is not reasonably supported by the evidence contained in the record.

c. Procedures of the Appeals Board

The board shall conduct its deliberations according to informal and non-adversarial procedures.

d. Recommendation of the Appeals Board

The board shall, within thirty (30) days of the receipt of the appeal from the chancellor, prepare a written recommendation addressing each issue included in the appeal presented to the board. The board's recommendation shall be forwarded to the chancellor as the final recommendation on the appealed decision. Members of the board not concurring with the majority opinion may submit a minority recommendation, which shall be presented in a meeting with the chancellor along with the majority recommendation.

e. Decision by the Chancellor

Upon advance written notice to the chair of the board, the chancellor may meet with the board at any time after receiving its recommendation for the sole purpose of seeking clarification concerning the basis and implications of its recommendation.

The decision of the chancellor shall be rendered in writing within twenty (20) days of the receipt of the board's recommendations. The chancellor's decision is final and binding and not subject to further review. Copies of the board's recommendations and the chancellor's decision shall be transmitted by the chancellor to the complainant and to United Academics within ten (10) days of their receipt.

7.3.2 Resolution of All Other Complaints

Prior to initiation of a formal written complaint, the ~~UNAC bargaining unit~~ member shall attempt an informal resolution of the dispute. Upon failure to reach a resolution during the informal process, a formal notification of a decision from the dean/director or designee shall be provided in writing to the ~~bargaining unit~~UNAC member within five (5) days of the informal resolution meeting. United Academics may, within five (5) days after the ~~UNAC bargaining unit~~ member's receipt of such official notification, file an appeal with the provost. The provost shall require a written response from the dean/director or designee within five (5) days explaining the reason(s) for the decision. The provost has ten (10) days to make a decision, which within that time shall include a joint meeting with the ~~UNAC bargaining unit~~ member and dean/director or designee. The decision of the provost is final

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and not subject to further appeal. The provost's final decision will be sent in writing to the UNAC bargaining unit member and United Academics.

7.3.3 General Provisions

a. Rights of the Bargaining Unit


A United Academics representative shall have the right to be present, either as an advocate for the complainant or as an observer, in all meetings that occur as part of the complaint procedure.

b. Extension of Timelines


By mutual agreement, the parties may extend the complaint filing and response timelines set forth above. Such agreements shall be confirmed in writing by the party requesting the extension.

c. Non-Retribution

The parties agree that there shall be no retribution or reprisal against a UNAC bargaining unit member for exercising ~~his or her~~their rights under this procedure.

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