

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 judgment; 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" is the faculty member or the party alleging a grievance.
- d. A "complainant" is the faculty member or the party alleging a complaint.
- e. A "day" is a working day, Monday through Friday, at the unit from which the grievance or complaint arose, i.e., a day on which the University of Alaska Anchorage, University of Alaska Fairbanks, or University of Alaska Southeast, respectively, are open for business, even if classes are not scheduled.
- f. A "filing" is the receipt of a written grievance or complaint by personal delivery, certified mail or facsimile. If personal delivery is used, the administrator shall provide a written receipt. If certified mail is used, the return receipt shall establish the date of delivery. If facsimile is used, the facsimile cover sheet shall be signed by the receiving party and returned to the grievant or complainant, thus establishing date of delivery.
- g. A "response" is the receipt of the written response to a grievance or complaint by certified mail.

- 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. A "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

The grievant or 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 30 days after the event giving rise to the grievance, or within 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 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;
- 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 10 days, schedule a meeting with the grievant and a United Academics' representative to occur as soon as it can be mutually arranged. Within 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 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 10 days, schedule a meeting with the grievant and United Academics to occur as soon as it can be mutually arranged. Within 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 10 days of United Academics' receipt of the Step 3 finding or the date the finding was due, whichever occurs first.

7.2.4 Step 4: Appeal to President

The president, or designee, shall, within 10 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 10 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 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 10 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 10 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 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 judgment, the arbitrator shall not have the authority to substitute her/his judgment for that of the official making such judgment, 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 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 30 days prior to the date the grievance was filed.

7.2.6 General Provisions

a. Failure to Respond

If, at any step in 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

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. The representative's role shall be decided by the grievant.

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 unit member for exercising 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 30 days after the event giving rise to the grievance occurred or within 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 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).

7.3.1 Initiation of the Complaint

Upon formal notification of a decision involving substantive academic judgments, United Academics may, within 10 days after a unit member's receipt of such official notification, file an appeal with the chancellor. If the appeal is of a decision involving promotion, tenure, or non-retention, the appeal shall be referred by the chancellor to the Appeals Board Chair as provided in Article 7.3.3. Appeals of all other decisions involving academic judgments shall be referred by the chancellor to the chief academic officer as provided in Article 7.3.2. All appeals must include the following:

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

7.3.2 Reconsideration of the Appealed Decision

a. Provost's Option to Remand

Upon transmittal of an appeal from the chancellor, the provost may, within 10 days and at his/her sole discretion, resubmit the appealed decision to the administrative level within the appropriate deliberative procedure wherein the judgmental decision being appealed occurred. The intent and purpose of resubmission is to permit, if possible, the reconsideration of the decision within the appropriate deliberative procedure.

If the provost elects to resubmit an appealed decision, the results of the review shall be returned to the provost within 10 days and the complainant and United Academics shall be kept informed of the reconsideration process. In the event there is a question concerning the proper level or process to be followed upon resubmitting an appealed decision, United Academics shall be consulted.

The provost shall decide the appeal considering the results of the resubmission within 10 days of the receipt of the results of the review. The decision shall be provided to the complainant and to United Academics.

b. Provost's Option to Decide

Upon receipt of an appeal, the provost may, within 20 days at her/his sole discretion, issue a final and binding written decision to the complainant and to United Academics.

7.3.3 Appeal to the Appeals Board

If, pursuant to Article 7.3.1, United Academics files an appeal of a decision involving promotion, tenure, or non-retention, with the chancellor, the chancellor shall refer the appeal to the appropriate appeals board as composed in Article 7.3.4(a) within 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.

7.3.4 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 3 unit members to be selected through a process defined by United Academics and 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 judgment. In the event a member of the board is excused, the original appointing party shall appoint a replacement. A unit member's participation on an MAU appeals board will qualify for inclusion in the service component of the unit member's workload.

b. Scope of the Appeals Board

The appeals board shall be empowered to consider appeals involving substantive academic judgments 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.

The board shall not substitute its judgment 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 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 bases and implications of its recommendation.

Normally, the chancellor will accept the recommendation and proceed accordingly except in compelling circumstances wherein the chancellor believes that the best interests of the University would not be served in accepting the recommendation. In those cases where the chancellor does not accept the board's recommendation, the chancellor shall set forth in writing the reasons for the rejection. The decision of the chancellor shall be rendered in writing within 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 10 days of their receipt.

7.3.5 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. The role of the representative shall be decided by the complainant.

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.