



UNITED ACADEMICS PROPOSAL

ARTICLE 16 ARBITRATION

Section 1. If the grievance brought under Article 15, Grievance Procedure is not resolved at Step 3, the Union may submit the matter to arbitration.

Section 2. Notice of intent to arbitrate must be filed with the Provost, ~~with a copy to the General Counsel,~~ within 20 working days of date of ~~issuance~~ receipt of the Step 3 decision.

Section 3. Within ~~15~~ 5 working days of receipt of the notice of intent to arbitrate, the parties shall meet to attempt to agree upon an arbitrator. If the parties are unable to agree upon an arbitrator within ~~10 days~~ 5 working days of the meeting, the party initiating arbitration shall request the Oregon Employment Relations Board to submit a list of five arbitrators with experience in ~~university faculty employment~~ higher education cases cases, none of whom shall be an employee of the University, ~~another college or university,~~ the Union, the AFL-CIO, the AFT, the AAUP or any other labor organization unless both parties agree otherwise in writing. The arbitrator shall be or shall have been a practicing attorney.

Each party shall alternately strike one name from the list of five. ~~The parties will flip a coin to decide which party strikes first.~~ The last remaining person on the list shall be selected as the arbitrator.

If the arbitrator selected cannot hold the hearing within 90 working days and either party does not agree to an extension, a new list of 5 names shall be requested from the Oregon Employment Relations Board and the selection procedure shall be repeated.

Section 4. At least 10 working days in advance of the scheduled hearing, the parties shall meet to draft a submission agreement. They shall attempt to agree on the precise issue to be submitted to arbitration, a stipulation of facts, joint exhibits and any other matter designed to expedite the arbitration process.

If the parties are unable to agree on the precise issue to be submitted, each party shall submit its own version of the issue and the arbitrator shall decide the precise issue to be arbitrated, ~~with the decision made prior to determining arbitrability.~~

Section 5. The arbitrator shall hold the hearing in Eugene, Oregon unless otherwise agreed in writing by the parties. The hearing shall be held without unreasonable delay upon the arbitrator's acceptance of the case, but in no case less than 30 working days or

1 more than 90 working days from the arbitrator's acceptance of the case, unless the parties
2 agree in writing otherwise.

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4 If the arbitrator or either party requests that post-hearing briefs be submitted, the
5 arbitrator shall establish a date for the submission of such briefs and the record will be
6 deemed to have been closed as of such date.

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8 **Section 6.** ~~In a proceeding under this Article for which there is a submission agreement,~~
9 ~~the first matter to be decided is the arbitrator's jurisdiction to act. In the absence of a~~
10 ~~submission agreement, the arbitrator shall first decide the issue to be arbitrated, and then~~
11 ~~the question of the arbitrator's jurisdiction. If arbitrability is in dispute, the arbitrator~~
12 ~~shall hear the parties on the question before issuing a decision determining arbitrability.~~
13 ~~Upon concluding that the issue is arbitrable, the arbitrator shall proceed with the hearing,~~
14 ~~with each party retaining the right to seek judicial review of the arbitrator's decision as to~~
15 ~~jurisdiction. Upon concluding that the arbitrator has no jurisdiction, the arbitrator shall~~
16 ~~not hear the matter or make any decision or recommendation regarding the merits of the~~
17 ~~case.~~

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19 **Section 7. 6.** The arbitrator derives authority wholly and exclusively from this
20 Agreement. The arbitrator shall not add to, subtract from, modify, or alter the terms or
21 provisions of this Agreement. ~~The arbitrator shall refrain from issuing any statement,~~
22 ~~opinion, or conclusion not essential to the determination of the issue submitted. No~~
23 ~~punitive damages may be awarded.~~

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25 ~~Except as otherwise provided in this Agreement, the arbitrator shall have no authority to~~
26 ~~hear or decide any issue or grievance relating to any academic judgment as defined in this~~
27 ~~Agreement. In cases involving academic judgment, the arbitrator shall not substitute his~~
28 ~~or her judgment for that of the University, nor shall the arbitrator review such decision~~
29 ~~except for the purpose of determining whether the procedural steps provided in this~~
30 ~~Agreement have been followed. If the arbitrator determines that procedural steps have~~
31 ~~not been followed where an exercise of academic judgment is involved, the arbitrator~~
32 ~~shall direct that the matter be reconsidered by the appropriate decision maker in~~
33 ~~accordance with relevant procedural steps. With respect to matters of academic~~
34 ~~judgment, the arbitrator may not direct that the status quo ante be maintained. Under no~~
35 ~~circumstances may an arbitrator direct that a bargaining unit member be appointed,~~
36 ~~reappointed, reinstated, promoted or awarded tenure. The arbitrator shall have no~~
37 ~~authority to award monetary damages, fines or penalties. The arbitrator shall have no~~
38 ~~authority to make a decision limiting or interfering in any way with the powers, duties, or~~
39 ~~responsibilities of the University which have not been expressly limited by this~~
40 ~~Agreement. The arbitrator shall have no authority to order the reinstatement of any~~
41 ~~person who has been convicted of a crime or who has entered into any kind of plea,~~
42 ~~deferred prosecution, or other agreement of like character regardless of the University's~~
43 ~~past practices. The arbitrator shall not consider the discipline of members of another~~

1 bargaining unit or other University employees who are not members of the bargaining
2 unit represented by this Union, or of employees of any other employer, in rendering a
3 decision.

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5 The arbitrator shall have no authority to hear or decide any issue or grievance relating to
6 any academic decision or judgment, except whether an academic decision was arbitrary
7 and capricious, or based on false information, or otherwise contrary to the terms of this
8 Agreement.

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10 **Section 7.** The arbitrator shall issue a decision within 30 days of the close of the hearing
11 unless the parties have agreed to additional time. The decision of the arbitrator shall be in
12 writing and shall set forth findings of fact, reasoning and conclusions on the issues
13 submitted. The decision of the arbitrator shall be final and binding upon the parties as to
14 the issues submitted, provided that either party may seek judicial review of the decision
15 as provided by law or based upon a reasonable, good faith allegation that the arbitrator
16 has misapplied a provision of this Agreement.

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18 **Section 8.** All fees and expenses of the arbitrator shall be paid by the party not prevailing
19 in the matter.

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21 Each party shall bear the cost of preparing and presenting its own case. Expenses of
22 witnesses, if any, shall be borne by the party calling the witness. The costs of any
23 transcripts of the hearing required by the arbitrator shall be divided equally between the
24 parties and each party will be furnished a copy. If either party wishes a transcript of the
25 hearing, it may have one made at its own expense and shall be under no obligation to
26 provide the arbitrator or the other party with a copy.

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28 **Section 9.** The compensation of any faculty member called as a witness and/or serving as
29 the Union representative in an arbitration hearing shall not be reduced for a reasonable
30 period of time to prepare for and to give testimony at the hearing, or in the case of the
31 Union representative, to represent the Union at the hearing. Every effort shall be made to
32 avoid unduly disrupting the work of any faculty member called to serve as a witness.

