

**ARTICLE 15
ARBITRATION**

Section 1. Arbitration of Grievances

If the grievance brought under **Article 13** Error! Reference source not found. (Grievances) is not resolved at Step 3 of that procedure or as a result of consultation under Section 6, **Article 13**, the complaining party (the Union or University) may submit the matter to arbitration. Notice of intent to arbitrate must be filed with the President of the University or designee or the Union within twenty (20) working days of receipt of the Step 3 decision or the last consultation as appropriate (**Article 13**, Section 6).

Section 2. Selection of the Arbitrator

Within five (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 five (5) working days of the meeting, the party initiating arbitration shall request the Employment Relations Board to submit a list of five arbitrators, none of whom shall be an employee of the University, the Union or the American Federation of Teachers, unless both parties have agreed to the contrary.

Each party shall alternately strike one name from the list of five; the remaining person shall be selected as the arbitrator. The party initiating arbitration shall strike the first name.

If the arbitrator selected cannot hold the hearing ~~or render a decision within the time limits provided herein within twenty (20) days of selection~~ and the parties do not agree to an extension of time, the selection procedure shall be repeated as provided herein. ~~unless the parties agree to employ an arbitrator on the original list.~~

Section 3. Submission Agreement

As soon as practicable after the notice of intent to arbitrate has been filed, the parties shall meet to draft a submission agreement. They shall attempt to agree on the precise issue to be submitted to arbitration, 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; and such decision shall be made prior to determining arbitrability.

Section 4. Conduct of the Hearing

The arbitrator shall hold the hearing in Eugene, Oregon unless otherwise agreed by the parties. ~~The hearing shall commence within fifteen (15) working days of the arbitrator's acceptance of the case, unless both parties agree to an extension of time.~~

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

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51 **Section 5. Arbitrability**

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53 In any proceeding under this Article for which there is a submission agreement, the first matter
54 to be decided is the arbitrator's jurisdiction to act. In the absence of a submission agreement, the
55 arbitrator shall first decide the issue to be arbitrated as provided in Section 3 of this Article; then
56 the arbitrator's jurisdiction shall be decided. If arbitrability is in dispute between the parties, the
57 arbitrator shall hear the parties on the question before announcing the decision on arbitrability.

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59 Upon concluding that the arbitrator has no power to act, the arbitrator shall not hear the matter
60 nor make any decision or recommendation regarding the merits of the matter.

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62 **Section 6. Authority of the Arbitrator**

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64 The arbitrator shall not add to, subtract from, modify or alter the terms or provisions of this
65 Agreement. The arbitrator shall refrain from issuing any statement or opinion or conclusions not
66 essential to the determination of the issue submitted.

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68 The arbitrator shall have no authority to hear or decide issues or grievances which relate to
69 allegations of discrimination on the basis prohibited by state or federal law, regulation or rule,
70 except that concerning union activity.

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72 The arbitrator shall have no authority to hear or decide any issue or grievance relating to any
73 academic decision or judgment concerning the member as a student. The arbitrator may,
74 however, hear the arguments that an academic decision was arbitrary and capricious,
75 discriminatory (except as excluded in this Agreement), or based on false information, or
76 otherwise contrary to the terms of this Agreement. Upon such finding, the arbitrator shall direct
77 the University to reconsider the matter in accordance with its graduate student academic
78 grievance procedure and the arbitrator shall maintain jurisdiction over the case until the
79 University's review is completed.

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81 If discharge of a GE results from the academic decision that satisfactory progress toward a
82 degree is not being maintained, as provided in **Article 16** Error! Reference source not found.
83 (Discipline and Discharge), Section 4, the arbitrator may hear an appeal of a grievance that the
84 GE was not afforded review of the academic decision to which entitled under current graduate
85 student academic grievance procedures. Upon such finding, the arbitrator shall instruct the
86 University to reconsider the matter in accordance with relevant procedures and shall maintain
87 jurisdiction over the case until the University's review is completed. If the review results in a
88 determination that satisfactory progress has been made, the arbitrator may order reinstatement
89 and/or restitution subject to the limitations in this Article.

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91 The arbitrator shall have no authority to reinstate as a GE a person who is no longer a student, or
92 who is not qualified to retain an appointment as a GE for academic reasons. The arbitrator's

93 award may include back pay, but the time period and amount thereof shall not exceed the amount
94 and time of the unfulfilled appointment. The arbitrator shall have no authority either to award
95 reinstatement of an appointment for a period beyond the expiration date or to exceed the terms
96 and conditions of the original appointment.

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98 The arbitrator shall have no authority to make a decision which is contrary to the academic
99 policies and academic regulations of the University.

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101 The arbitrator shall have no authority to make any decision limiting or interfering in any way
102 with the powers, duties and responsibilities of the University which have not been limited by this
103 Agreement.

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105 **Section 7. Arbitrator's Decision**

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107 The arbitrator derives authority wholly and exclusively from this Agreement. The decision of the
108 arbitrator shall be final and binding upon the parties as to the issues submitted, provided that
109 either party may appeal the decision on the basis of repugnance to law, jurisdiction or that the
110 arbitrator exceeded authority granted by this Agreement.

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112 ~~The decision of the arbitrator shall be issued within thirty (30) calendar days of the close of the~~
113 ~~hearing unless the parties have agreed to additional time.~~

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115 The decision of the arbitrator shall be in writing and shall set forth findings of fact, reasoning and
116 conclusions on the issues submitted.

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118 **Section 8. Costs**

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120 All fees and expenses of the arbitrator shall be paid by the party not prevailing in the matter.

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122 Each party shall bear the cost of preparing and presenting its own case. Expenses of witnesses, if
123 any, shall be borne by the party calling the witness. The costs of any transcripts of the hearing
124 required by the arbitrator shall be divided equally between the parties and each party will be
125 furnished a copy thereof. If either party wishes a transcript of the hearing, it may have one made
126 at its own expense, but shall provide the arbitrator and the other party a copy at no charge.

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128 **Section 9. Miscellaneous Provisions**

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130 Except as modified by the provisions of this Agreement, arbitration proceedings shall be
131 conducted in accordance with the rules of the Oregon Employment Relations Board.

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133 The compensation of any GE called as a witness and/or one GE serving as the Union
134 representative in an arbitration hearing shall not be reduced for the period of time required to
135 give testimony at the hearing, or in the case of the Union representative, to represent the Union at
136 the hearing.

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138 The burden of proof in all matters except discipline and discharge shall be upon the grievant; or
139 if the issue is brought under Error! Reference source not found. (Grievances), Section 6, the
140 burden of proof shall be upon the complaining party.
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