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## Academic Freedom

5 **Preamble.** United Academics and the Employer affirm that the university exists to serve the public good  
6 through teaching, research, and engagement, not to further the interests of individual bargaining unit  
7 members or the institution as a whole.

8 United Academics and the Employer agree that academic freedom is essential to the mission of the  
9 university, because serving the public good depends upon the free search for truth and its free  
10 exposition. United Academics and the Employer jointly accept the responsibility for maintaining an  
11 atmosphere in which scholars may freely teach, conduct research, publish, engage in other scholarly  
12 activities, **and participate in established shared governance.** ~~speaking on all matters of university~~  
13 ~~governance. United Academics and the Employer agree to protect bargaining unit members against~~  
14 ~~influences from within or without the university would restrict the bargaining unit member in the~~  
15 ~~exercise of their academic freedom.~~

16 The bargaining unit members and administration of Oregon State University accept a responsibility to  
17 protect the right of each employee to express their personal opinion in a manner that complies with  
18 University policy, state and federal law, and professionalism. At the same time, each member of the  
19 university community is expected to respect the right of free inquiry of fellow members, show due  
20 respect for the rights of others to hold and express their opinions in a professional and appropriate  
21 manner, and be objective in the judgment of the professional capabilities and performance of their  
22 colleagues.

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24 **Section 1. Scholarly Work.** Bargaining unit members are entitled to freedom in their scholarly or  
25 creative work, subject to the provisions of their position description, and they have the right to  
26 disseminate the results of that work to students, the public, and others in the academy.

27 As scholars in academic disciplines, bargaining unit members ~~to~~ seek and state the truth as they see it,  
28 continually develop their scholarly competence and expertise, practice intellectual honesty, contribute  
29 to the development of their discipline, and exercise self-discipline and judgement in using, extending,  
30 and transmitting knowledge to diverse audiences on- and off-campus.

31 **Section 2. Teaching.** Bargaining unit members have the freedom to teach and engage, both in and  
32 outside of the classroom, including the examination of controversial issues when such issues are  
33 germane to the subject matter of the course they are teaching or the educational activity in which they  
34 are engaged. This freedom includes the selection of instructional materials and course content, and the  
35 assessment of student performance, subject to established faculty oversight of curriculum and  
36 instructional materials, university policy, state law and federal law.

37 As teachers, bargaining unit members will exemplify high scholarly standards, respect students as  
38 individuals while adhering to their proper role as intellectual guides, foster honest academic conduct  
39 and fair evaluation of students, and protect the academic freedom of students and their rights of access  
40 to the university. Bargaining unit members and the administration of Oregon State University jointly  
41 accept responsibility for maintaining an atmosphere in which scholars may freely teach and engage in  
42 scholarly activities.

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~~The grade a faculty member determines for a student's performance shall not be changed without the faculty member's consent, except when a Dean or equivalent establishes:~~

- ~~a. There was discrimination against a student in determining the grade or the grade was imposed without proper authority;~~
- ~~b. The grade was given arbitrarily and capriciously; or~~
- ~~c. The faculty member's assessment of the student's performance is not supported by an accepted pedagogical practice or was substantially inconsistent with the basis for evaluation that the faculty member specified for the course.~~

**Section 3. Extramural Expression.** The Employer shall not attempt to control the personal opinion of, nor the public expression of that opinion, by any bargaining unit member. When speaking in their personal capacity, bargaining unit members have the right to the same freedoms of expression as other individuals regarding political rights and privileges, without fear of institutional censorship, reprisal, or discipline.

When bargaining unit members speak or write in their personal capacity, they may identify their university affiliation so long as no university sponsorship or endorsement is stated or implied.

When supporting or opposing ballot measures, referenda, or candidates for public elected or appointed office, bargaining unit members who identify university affiliation will do so with the disclaimer that they are doing so for identification purposes only.

The Parties mutually acknowledge that the Agreement is not the appropriate method for resolving disputes involving academic freedom.

~~**Section 4. Shared Governance.** Bargaining unit members shall have the freedom to participate in the system of shared governance and seek to contribute to the functioning of their academic unit and the university. This freedom includes the right to discuss and critique academic policy, university governance, or other matters pertaining to the health of the university.~~

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## Arbitration

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6 **Section 1. Arbitration of Grievances.** If a grievance is not resolved at Step 3, United Academics may  
7 submit a written Notice of Intent to Arbitrate with the Provost and ~~the~~ General Counsel of Oregon State  
8 University. Notice must be filed within twenty-one days of the written response from the Provost ~~at~~  
9 ~~Step 3 level~~. Failure to file the written Notice of Intent within the time limit shall be deemed a waiver of  
10 the right to arbitrate.

11 **Section 2. Mediation.** Upon the filing of the Notice of Intent, the Parties may mutually agree in writing  
12 to submit the issue to mediation through the Oregon Employment Relations Board (ERB). If mediation is  
13 mutually agreed upon, United Academics will submit a request for a list of mediators to the ERB. Within  
14 ten days of either party declaring in writing to the other that mediation has failed to resolve the issue,  
15 ~~the Employer~~ **United Academics** will submit a request for a list of five arbitrators to the ERB.

16 **Section 3. Selection of an Arbitrator.** If the Parties do not agree to attempt mediation as outlined in  
17 Section 2 or if mediation fails to resolve the issue, the Parties shall attempt to agree on an arbitrator. If  
18 the Parties are unable to agree upon an arbitrator, United Academics shall request the ERB to submit a  
19 list of five arbitrators, none of whom shall be an employee of Oregon State University or United  
20 Academics unless both Parties agree otherwise in writing. The arbitrator shall be or shall have been a  
21 practicing attorney. Each Party shall alternately strike a total of two names from the list of five; the  
22 remaining person shall be selected as the arbitrator. The Party with the burden of proof shall strike the  
23 first name. If the arbitrator selected cannot hold the hearing within ninety days and either Party does  
24 not agree to an extension, a new list of five names shall be requested from the ERB and the selection  
25 procedure shall be repeated.

26 **Section 4. Conduct of the Hearing.** The arbitrator shall hold the hearing at or near the work location of  
27 the original grievant, unless otherwise agreed to by the Parties. At least ten days in advance of the  
28 scheduled hearing, the Parties shall meet to attempt to draft a submission agreement. They shall  
29 attempt to agree on the precise issue to be submitted to arbitration, a stipulation of facts, joint  
30 exhibits, and any other matter designed to expedite the arbitration process. If the Parties are unable  
31 to agree on the precise issue to be submitted, each Party shall submit its own version of the issue and  
32 the arbitrator shall decide the precise issue to be arbitrated.

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34 Except as modified by the provisions of this Agreement, arbitration provisions shall be conducted in  
35 accordance with the prevailing Labor Arbitration Rules of the American Arbitration Association. If the  
36 arbitrator or either Party requests that post-hearing briefs be submitted, the arbitrator shall establish a  
37 date for the submission of such briefs and the hearing will be deemed to have been closed by such  
38 date.

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1 **Section 5. Arbitrability.** In any proceeding under this Article, the first thing to be decided is the  
2 arbitrator’s jurisdiction to act. If **procedural** arbitrability is in dispute between the Parties, the arbitrator  
3 shall decide the question of arbitrability first.

4 If the issue of **procedural** arbitrability is raised with the arbitrator at least ~~thirty~~ **fifteen** days before the  
5 date of the arbitration hearing, the arbitrator shall decide the question of **procedural** arbitrability before  
6 the scheduled date of the arbitration. Upon concluding that the issue is arbitratable, the arbitrator shall  
7 normally proceed with the scheduled date of the arbitration hearing.

8 ~~The issue of arbitrability may not be raised within thirty days of the scheduled date of the arbitration.~~

9 Either Party may seek judicial review of the arbitrator’s decision as to jurisdiction and have the hearing  
10 on the merits delayed until such review is completed. Filing for such review shall occur before the  
11 scheduled date of the arbitration hearing.

12 Upon concluding that the arbitrator has no power to act, the arbitrator shall not hear the matter or  
13 make any decision or recommendation regarding the merits of the issue.

14 **Section 6. Authority of the Arbitrator.** The arbitrator derives authority wholly and exclusively from the  
15 express terms of this Agreement. The arbitrator shall neither add to, subtract from, nor modify the  
16 terms of this Agreement. The arbitrator shall confine the decision solely to the application and/or  
17 interpretation of this Agreement. The arbitrator shall refrain from issuing any statements of opinion or  
18 conclusions not necessary to the determination of the issue submitted.

19 The arbitrator shall have no authority to hear or decide any issue or grievance contesting an “academic  
20 judgment.” Under no circumstances may an arbitrator direct that a faculty member be awarded tenure  
21 or promotion. If the arbitrator determines that procedural steps have not been followed, where an  
22 exercise of “academic judgment” is involved, the arbitrator shall direct that the appropriate official  
23 reconsider the matter. **In such case, the arbitrator may not direct that a member be reappointed.**

24 The arbitrator shall have no authority to make any decision limiting or interfering in any way with the  
25 powers, duties, and responsibilities of the Employer and the Board that have not been expressly limited  
26 by this Agreement.

27 The arbitrator’s award may or may not be retroactive as each case may demand, **but in no case shall an  
28 award be retroactive to a date earlier than thirty (30) days before the date the grievance was initially  
29 filed, or the date on which the act or omission occurred, whichever is later.**

30 The arbitrator shall have no authority to award monetary damages, fines, or penalties, except for back  
31 pay and benefits, **when applicable.**  
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33 **Section 7. Arbitrator’s Decision.** The decision of the arbitrator shall be final and binding upon the  
34 Parties as to the issue submitted, provided that either Party may seek to vacate the decision in  
35 accordance with applicable law. The decision of the arbitrator shall be issued within thirty days of the  
36 close of the hearing unless the Parties have agreed to additional time. The decision of the arbitrator  
37 shall be in writing and shall set forth findings of fact, reasoning, and conclusions on the issue submitted.

38 **Section 8. Costs.** All fees and expenses of the arbitrator shall be borne by the Party not prevailing in the  
39 arbitration. Where an award clearly finds each Party culpable, costs will be shared equally. Should a

1 grievance be withdrawn after selection of an arbitrator, all charges by the arbitrator shall be paid by the  
2 withdrawing Party. If the grievance is withdrawn pursuant to a settlement of the grievance, costs will be  
3 shared equally if not otherwise stipulated in the settlement. Each Party shall bear the cost of preparing  
4 and presenting its own case. Expenses of witnesses, if any, shall be borne by the Party calling the  
5 witness. The cost of any transcripts required by the arbitrator shall be divided equally between the  
6 Parties and each party shall be furnished a copy thereof. If either Party wishes a transcript of the  
7 hearing, it may have one made at its own expense, but shall provide the arbitrator and the other Party a  
8 copy at no charge.

9 **Section 9. Precedent.** No complaint informally resolved at any stage shall constitute a precedent for  
10 any purpose.

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## Discipline and Termination

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### 6 Section 1. Cause.

7 The Employer recognizes the importance of the principle of just cause when considering the need to  
8 discipline bargaining unit members. No bargaining unit member will be subject to discipline without just  
9 cause. The Employer shall adhere to the principles of progressive discipline and sanctions, except when  
10 the severity of the alleged offense warrants more severe action.

11 **Section 2. Exceptions.** This Article shall apply to all situations which may require disciplinary action or  
12 sanctions, except to the extent there is a conflict with applicable law. For discipline due to a bargaining  
13 unit member's misconduct involving a student, the Parties acknowledge that specific legal rights of  
14 confidentiality for students must be honored. Some allegations against bargaining unit members must  
15 be investigated in accordance with applicable laws and guidelines, and in those cases, the procedures of  
16 this Article will be preempted by those laws. These include but are not limited to discrimination and  
17 harassment as proscribed by Title VII of the Civil Rights Act of 1964, sexual assault, sexual discrimination  
18 or harassment as proscribed in Title IX of Education Amendments of 1972, and mandatory reporting of  
19 abuse of minors (ORS 419 B.010).

20 When warranted, the Employer may reassign a bargaining unit member during an investigation or while  
21 imposition of discipline is being considered.

22 **Section 3. Progressive Discipline and Sanctions.** When sanctions are warranted, possible sanctions shall  
23 include written reprimand, ~~reduction in pay~~, suspension with or without pay, demotion and  
24 accompanying reduction in pay removal from an assigned post and demotion, and or termination. While  
25 progressive discipline and sanctions are a core philosophy, the actions above need not be sequential.  
26 The parties recognize that some offenses are so serious that suspension or termination may be  
27 warranted on the first occurrence, even though the bargaining unit member has no prior record of  
28 having been disciplined.

29 **Informal.** Verbal counseling, verbal reprimands, remediation training, or coaching evaluations shall not  
30 be considered disciplinary. However, failure by the bargaining unit member to address concerns raised  
31 by the informal efforts or any follow-up letter of instruction may form the basis of a subsequent  
32 sanction.

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34 **Formal Written Reprimand.** Written reprimand may be imposed as discipline when the Employer  
35 believes a preponderance of the evidence supports the sanction. The written reprimand will outline the  
36 behavior or performance that has been found to be unacceptable or unsatisfactory and will identify  
37 corrective steps the bargaining unit member should take.

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39 **More Severe Formal Sanctions.** If the Employer believes that a sanction more severe than a written  
40 reprimand is warranted, a notice of intent to impose severe sanction shall contain a description of the  
41 alleged act(s) or omission(s), a summary of the investigatory findings, if any, and reference to the

1 specific university policy(ies) or Agreement provision(s) violated, if any. Prior to imposing discipline  
2 involving suspension without pay or termination, the Employer will provide the bargaining unit member  
3 with written notice and at least seven days to respond.  
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5 **Opportunity to have a Representative.** A bargaining unit member has the right to be accompanied by a  
6 union representative in a meeting that may result in discipline and will be advised of their right to  
7 representation with a minimum of one day's notice prior to the meeting.  
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9 **Section 4. Job Abandonment.** If a bargaining unit member abrogates their duties for twenty-one  
10 consecutive days during the term of their appointment, the bargaining unit member may be considered  
11 to have abandoned their position and voluntarily resigned from employment with Oregon State  
12 University. Before terminating the bargaining unit member's employment, the Employer shall attempt  
13 to contact the bargaining unit member by phone and at their university email address, and shall provide  
14 the bargaining unit member with at least seven days to respond. The Employer's attempt to contact the  
15 bargaining unit member may occur during or after the twenty-one day absence. Nothing in this Article  
16 shall prohibit the Employer from reinstating a bargaining unit member to their position.