

1 UNITED ACADEMICS PROPOSAL

2
3 ARBITRATION
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5 **Section 1. Arbitration of Grievances.** If a grievance is not resolved at Step 3, United
6 Academics may submit a written Notice of Intent to Arbitrate with the Provost and the General
7 Counsel of Oregon State University. Notice must be filed within twenty-one days of the written
8 response from the Provost at Step 3. Failure to file the written Notice of Intent within the time
9 limit shall be deemed a waiver of the right to arbitrate.

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

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

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

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

3 If arbitrability is in dispute, the arbitrator shall hear the Parties on the question and may take
4 whatever evidence they find relevant and necessary before determining arbitrability. Upon
5 concluding that the issue is arbitrable, the arbiter will proceed with the case. Upon concluding
6 that the arbitrator has no power to act, the arbitrator shall not hear the matter or make any
7 decision or recommendation regarding the merits of the issue.

8 Either Party may seek judicial review of the arbitrator’s decision as to jurisdiction.

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

14 The arbitrator shall have no authority to hear or decide any issue or grievance contesting an
15 “academic judgment.” Under no circumstances may an arbitrator direct that a faculty member be
16 awarded tenure or promotion. If the arbitrator determines that procedural steps have not been
17 followed, where an exercise of “academic judgment” is directly implicated, the arbitrator shall
18 direct that the appropriate official reconsider the matter. In such case, the arbitrator may not
19 direct that a bargaining unit member be reappointed.

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

23 The arbitrator shall have no authority to award monetary damages, fines, or penalties, except for
24 back pay and benefits, when applicable.

25 **Section 7. Arbitrator’s Decision.** The decision of the arbitrator shall be final and binding upon
26 the Parties as to the issue submitted, provided that either Party may seek to vacate the decision in
27 accordance with applicable law. The decision of the arbitrator shall be issued within thirty days
28 of the close of the hearing unless the Parties have agreed to additional time. The decision of the
29 arbitrator shall be in writing and shall set forth findings of fact, reasoning, and conclusions on the
30 issue submitted.

31 **Section 8. Costs.** All fees and expenses of the arbitrator shall be borne by the Party not
32 prevailing in the arbitration. Where an award clearly finds each Party culpable, costs will be
33 shared equally. Should a grievance be withdrawn after selection of an arbitrator, all charges by
34 the arbitrator shall be paid by the withdrawing Party. If the grievance is withdrawn pursuant to a
35 settlement of the grievance, costs will be shared equally if not otherwise stipulated in the
36 settlement. Each Party shall bear the cost of preparing and presenting its own case. Expenses of
37 witnesses, if any, shall be borne by the Party calling the witness. The cost of any transcripts
38 required by the arbitrator shall be divided equally between the Parties and each party shall be

- 1 furnished a copy thereof. If either Party wishes a transcript of the hearing, it may have one made
- 2 at its own expense, but shall provide the arbitrator and the other Party a copy at no charge.
- 3 **Section 9. Precedent.** No complaint informally resolved at any stage shall constitute a
- 4 precedent for any purpose.