1 ARTICLEX]. ARBITRATION

2	Section1. Conditions Arbitration of Grievances.
3 4	If the grievance brought under Article [x] on Grievances is not resolved at Step 3, the President's level, only the Association may submit the matter to arbitration.
5	Section2. TimeFrame
6 7 8 9 10 11	A formal written Notice of Intent to Arbitrate form, found in Appendix [x], must be filed by OT-AAUP with the President and General Counsel of the Oregon Tech OIT and the General Counsel of the institution OIT within twenty-one (2120) business days of the date of the written response from the President or President's designeedate of issuance of Step 43 decision. Failure to file a the written Notice of Intent to Arbitrate form within this the time limit shall be deemed a waiver of the right to arbitrate and a withdrawal of the underlying Grievance without the ability to refile. with prejudice.
13	Section32. Mediation
14 15 16	Within ten (10) business days of filing the Notice of Intent to Arbitrate, the parties may mutually agree in writing to submit the issue to mediation and request from the Oregon Employment Relations Board ("ERB") that a mediator be assigned.
17	
18 19 20	If mediation is not mutually agreed upon within the timeframe above, the Association shall have ten (10) business days (i.e., twenty (20) total business days from the date of filing the Notice of Intent to Arbitrate) to then submit its request to the ERB for a list of ten (10) arbitrators.
21	
22 23 24 25	If mediation is chosen and fails to resolve the issue, the Association will then have five (5) business days of either party declaring in writing to the other party that mediation has failed to resolve the issue to then submit its request to the ERB for a list of ten (10) arbitrators. The cost of the mediator shall be split equally between the parties.
26	
27 28	Upon filing the Notice of Intent to Arbitrate, the Parties shall have three (3) business days to mutually agree to mediation.
29 30 31 32 33 34	Upon mutual agreement to mediation, either Party shall submit the issue for mediation to the Oregon Employment Relations Board (ERB), unless one party is unwilling to mediate. The Association shall request a list of ten (10) mediators from ERB. Each party shall alternately strike one name from the list of ten (10); the remaining person shall be the mediator. The party initiating the arbitration shall strike the first name. Both Parties shall make a good faith effort to reach an agreement in the mediation process.

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However, if either Party decides that mediation has failed, they must declare so in writing to the 36 Ti of the Party. Within ten (10) business days of such a declaration, 675 (84.99) shall request a list of ten (10) arbitrators from ERB to pursue the issue through arbitration.

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- 74 arbitrator. The arbitrator shall render a decision on the arbitrability only within seven (7) calendar
- 75 days from receipt of the last filling (reply or sur-reply).
- 76 If the motion is filed at the beginning of the arbitration, the parties will comply with the
- 77 requirements of the arbitrator.
- 78 Upon concluding that the issue is arbitrable, the arbitrator shall normally proceed with the hearing at
- that time, or the scheduled date if the issue of arbitrability was raised with the arbitrator prior to the 79
- scheduled date; provided that either party may seek judicial review of the arbitrator's decision as to 80
- 81 jurisdiction and have the hearing on the merits delayed until such review is completed. Filing for
- such review shall occur at any time. 82
- Upon concluding that the arbitrator has no power to act, the arbitrator shall not hear the matter or 83
- make any decision or recommendation regarding the merits of the issue. 84
- Section 5. Submission Agreement 85
- At least fourteen ten (4410) calendar-business days in advance of the date of arbitration, the parties 86
- shall meet to draft a submission agreement to include the precise issue to be submitted to 87
- arbitration, which party has the burden of proof, what burden of proof will apply, a stipulation of 88
- 89 facts, joint exhibits, and any other matter designed to expedite the arbitration process. At least ten
- (10) days in advance of the scheduled hearing, the parties shall meet to 90
- draft a submission agreement. They shall attempt to agree on the precise issue to be submitted to 91
- 92 arbitration, a stipulation of facts, joint exhibits, and any other matter designed to expedite the
- arbitration process. 93 94

95 If the parties are unable to agree on the precise issue to be submitted, which party has the burden of proof, or what burden of proof will apply, each party shall submit its own version as to any of these 96

- upon which the parties cannot agree. If the parties are unable to agree on the precise issue to be 97
- submitted, each party shall submit its own version of the issue and the arbitrator shall decide the 98 99 precise issue to be arbitrated. Such decision shall be made prior to determining arbitrability.
- 100
- 101 Section 6. Arbitrability.
- 102 Once the issue to be arbitrated is decided by the arbitrator, the jurisdiction of the arbitrator shall be
- established. If the arbitrator's jurisdiction is under dispute by the two parties, the arbitrator shall hear 103
- the parties on the question of arbitrability, together with any evidence they may find relevant to 104
- 105 determine arbitrability of the issue submitted. Upon concluding the issue is arbitrable, the arbitrator
- shall proceed with the hearing at that time. 106

107 108

- If the arbitrator has no jurisdiction to act on the issue, the arbitrator shall not hear the matter or make any decision or recommendation regarding the merits of the issue, and the parties shall split
- 109
- 110 the costs of arbitration equally.

111 112

## Seelion6. Conductof the

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by Oregon Tech. The parties are also free to mutually agree to <u>any</u> one of these locations or another location.
The hearing shall be held without unreasonable delay upon the arbitrator's acceptance of the case.
If the arbitrator or either party requests that post-hearing briefs be submitted, the arbitrator shall establish a date for the submission of such briefs and the hearing will be deemed to have been closed by such date. The arbitrator shall hold the hearing in Klamath Falls, Oregon, or in Wilsonville, Oregon, Salem, Oregon, or Everett, Washington (depending on the location of the faculty on behalf of whom the arbitration is undertaken), unless otherwise agreed to in writing by both parties. The hearing shall commence at the earliest date convenient to the parties, but in no case more than forty-five (45) days from the arbitrator's acceptance of the case, notification of the arbitrator, unless an extension of time is mutually agreed to by both partiesable otherwise.
If the arbitrator or either party requests that post-hearing briefs be submitted, the arbitrator shall, within fourteen (14) days, _establish a date for the submission of such briefs and the hearing will be deemed to have been closed by such date.
Section7. Arbitrability.
Once the issue to be arbitrated is decided by the arbitrator, the jurisdiction of the arbitrator shall be established. If the arbitrator's jurisdiction is under dispute by the two parties, the arbitrator shall hear the parties on the question of arbitrability, together with any evidence they may find relevant to determine arbitrability of the issue submitted. Upon concluding the issue is arbitrable, the arbitrator shall proceed with the hearing at that time.  If the arbitrator has no jurisdiction to act on the issue, the arbitrator shall not hear the matter or make any decision or recommendation regarding the merits of the issue.

Section87. Authority of the Arbitrator å 3rc7bC

## **NOTICIDFINTENTIOARBITRATE** TheOregonTechChapterof the AmericanAssociation of UniversityProfessorsOTAAUPherebygives notice of its intent to proceedto arbitration concerning the grievance of: dated . which was not resolved satisfactorily at Step Four of the grievance procedure.

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Name of Authorized 271

10/08/2020, 10/22/2020