

## ARTICLE 8

### GRIEVANCE PROCEDURE

#### Definitions

- 8.1 Grievance - The term "grievance" as used in this Article refers to a written allegation by an employee(s) that there has been a violation of a specific term of this Agreement.
- 8.2 Grievant - The term "grievant" as used in this Article refers to:
- a. a permanent employee;
  - b. a probationary employee; and
  - c. a temporary employee who has been appointed for more than sixty (60) days who alleges in a grievance that they have been adversely affected by a violation of a specific term of this Agreement. The term "grievant" as used in this definition may also refer to the Union when the Union alleges a violation of union rights, as provided for anywhere in this Agreement.
- 8.3 Representative - The term "representative" as used in this Article shall be a bargaining unit employee or representative, who, at the grievant's request and expense, may be present at Levels I through III.
- 8.4 Respond and File - The terms "respond" and "file" as used in this Agreement refer to personal delivery, deposit in the U.S. mail, or transmittal by email. The Union and the CSU shall endeavor to use email whenever practicable.
- a. If mail delivery is used, it shall be by certified, return receipt requested mail and the certified receipt date shall establish the date of response or filing.
  - b. If personal delivery is used, the calendar date of delivery shall establish the date of response or filing.
  - c. If an email is used, the receiving party must respond acknowledging receipt and date of receipt of the email transmission. The calendar date the email is sent to the correct email address shall establish the date of response or filing.
  - d. A copy of all responses shall be concurrently served on the grievant's representative. If the grievant has not provided an email, the grievant may be served by U.S. mail.
- 8.5 The employee, whenever possible, shall attempt to resolve a concern informally with the immediate supervisor. The immediate supervisor shall provide a verbal response as soon as possible. A resolution at the informal stage shall not be precedent setting.

## Level I – Formal with the Appropriate Administrator

- 8.6 If not resolved informally, an employee shall have the right to file a Level I grievance and to have the grievance considered in good faith. The employee shall file the grievance with the Labor Relations Office at the campus and the Student Health Center Director no later than thirty (30) days after the event giving rise to the grievance or no later than twenty-one (21) days after the grievant knew or reasonably should have known of the event giving rise to the grievance
- 8.7 The grievant shall state clearly and concisely on a grievance form provided by the CSU:
- a. the specific term of the Agreement alleged to have been violated;
  - b. a detailed description of the specific grounds of the grievance including names, dates, places, and times necessary for complete understanding;
  - c. the remedy sought;
  - d. the name and classification of the grievant and their signature;
  - e. the name of the Union Representative and union steward, if appropriate; and
  - f. the date of submission.
- 8.8 The appropriate administrator shall hold a meeting with the grievant at a mutually acceptable time and location no later than twenty-one (21) days after the receipt of the grievance. The appropriate administrator shall respond in writing to the grievant within twenty-one (21) days of the Level I meeting.

## Level II-Formal with President of University

- 8.9 In the event the grievance is not settled at Level I, the grievant may file the Level II grievance with the Labor Relations Office of the campus no later than fourteen (14) days after the Level I response. The grievant shall include in the grievance a written statement indicating the reason the Level I response was unsatisfactory. Within twenty-one (21) days after receipt of the Level II filing, the President shall hold a meeting with the grievant at a mutually acceptable time and location. The President shall respond in writing to the grievant no later than twenty-one (21) days after the Level II meeting.
- 8.10 The grievant shall present at Level II all issues and evidence known, or which could have been reasonably known, related to the grievance. No additional issues, amendments and/or modification to the grievance may be presented or made by the grievant after the Level II filing date.

- 8.11 Prior to the Level II response date, the parties may waive by mutual agreement all procedures at Level II and expedite the grievance to Level III. Level III time limits shall commence on the date the agreement to expedite was reached.

#### Level III Formal with Chancellor's Office

- 8.12 In the event the grievance is not settled at Level II, the grievant may file a written request for review Level III grievance with the Office of the Chancellor no later than twenty-one (21) days after the receipt of the Level III response.
- 8.13 A designated individual in the Office of the Chancellor and the representative of the grievant shall schedule a meeting at a mutually acceptable time and location for the purpose of reviewing the matter. The designated individual in the Office of the Chancellor shall respond no later than twenty-one (21) days after the meeting.

#### Level IV- Arbitration

- 8.14 In the event the grievance is not settled at Level III, no later than twenty-one (21) days after receipt of the Level II response, the Union may submit the grievance to arbitration by giving written notice to that effect by certified mail, return receipt requested, directed to the Office of the Chancellor. The Union and the Office of the Chancellor shall either agree on a mutually agreeable arbitrator or shall jointly request the American Arbitration Association to supply a list of names pursuant to its rules.
- 8.15 Upon receipt of the names of proposed arbitrators, the parties shall alternately strike names from the list until one (1) name is ultimately designated as the arbitrator. The decision as to which party strikes first shall be determined by alternating between the parties.
- 8.16 Contract interpretation grievances with continuing financial back pay liability, and grievances alleging an unsafe work environment, shall be scheduled for hearing in arbitration in the chronological order of their appeal to arbitration. Such cases shall be scheduled for arbitration prior to the scheduling of any grievances with no continuing financial back pay liability, or any grievances which do not allege an unsafe work environment.
- 8.17 The Voluntary Labor Arbitration Rules of the American Arbitration Association shall apply at Level IV
- 8.18 If an arbitrability question exists, the arbitrator shall determine the arbitrability question prior to hearing the merits of the grievance. The arbitrator may proceed to hear the merits of the grievance prior to meeting the requirements of provision 8.20 (h) below.
- a. When the grievance is found not arbitrable, the grievance shall be concluded.

- b. When the grievance is found arbitrable, the arbitrator shall hear the merits of the grievance.
- c. Provision b. above shall not prohibit the parties from mutually agreeing to a second arbitration hearing on the merits of the grievance or from mutually agreeing to select a second arbitrator to hear the merits of the grievance.

8.19 It shall be the function of the arbitrator to rule on the specific grievance. The arbitrator shall be subject to the following limitations:

- a. The arbitrator's award shall be based solely upon the evidence and arguments appropriately presented in the hearing and upon any post-hearing briefs.
- b. The arbitrator shall have no power to alter, add to, detract from or amend the provisions of this Agreement.
- c. The arbitrator shall not consider any issues not raised by the parties prior to the date of the Level III response. The arbitrator shall not consider any evidence which was known or reasonably should have been known and was not raised by the parties prior to this date.
- d. An arbitrator shall not make an award which will supersede the President's judgment on subjective business decisions.
- e. The award of the arbitrator may or may not include back pay less any compensation that the employee received, including unemployment compensation. Under no circumstances may interest be included in an award.
- f. Under no circumstances may an arbitrator make a recommendation which either expressly or in effect recommends promotion or permanent status for an employee.
- g. The standard of review for the arbitrator is whether the CSU violated, misinterpreted or misapplied a specific term of this Agreement.
- h. The arbitrator's award shall be in writing and shall set forth their findings, reasoning and conclusion on the issues submitted.

8.20 The arbitrator's award shall be final and binding upon both parties.

8.21 Each party shall bear the expenses of preparing and presenting its own case. Expenses, wages and other compensation of any witnesses called before the arbitrator shall be borne by the party calling such witnesses. The cost for the services of the arbitrator shall be borne equally by both parties.

8.22 Any grievance filed into arbitration shall be considered withdrawn by the Union if the Union has not requested that it be scheduled for an arbitration hearing within ninety (90) days of the filing to arbitration from Level III.

## General Provisions

The General Provisions of this Article shall be included on the Grievance Form filed at Level I.

- 8.23 Failure of the grievant to comply with the time limitations of this Article shall render the grievance null and void and bar subsequent filing of this grievance. Failure by the appropriate administrator, President or designated individual in the Office of the Chancellor to timely respond under this Article shall permit the grievance to be filed at the next level.
- 8.24 Time limits set forth in this Article may be extended by mutual agreement.
- 8.25 In cases where it is necessary for the grievant or their representative to have access to information for the purpose of investigating a grievance, the grievant or their representative shall make a written request for such information to the appropriate administrator.
- 8.26 The processing of grievances filed and unresolved prior to the effective date of this Agreement shall proceed under the provisions of the grievance procedure as amended by this Agreement.
- 8.27 A decision by the Union to submit a grievance to arbitration shall automatically be a waiver of all other remedies except as provided otherwise by statute.
- 8.28 A grievance settled prior to arbitration shall not be precedent setting.
- 8.29 A grievant may withdraw a grievance at any time. The grievant shall not file any subsequent grievance on the same alleged incident.
- 8.30 The parties, by mutual agreement, may consolidate grievances on similar issues at any level.
- 8.31 Prior to filing a grievance, the potential grievant and representative, if any, shall each be provided with a reasonable amount of release time (normally one (1) hour) for grievance preparation, and reasonable time for grievance presentation at each Level.
- 8.32 After the grievance has been filed, a representative and the grievant shall be provided reasonable release time for the purpose of preparation and presentation of the grievance.
- 8.33 Both parties agree that all grievance files shall be confidential. Both parties agree that specific statements made and records used in grievance meetings shall be confidential.
- 8.34 An employee may present grievances and have such grievances adjusted without the intervention of the Union as long as adjustment is reached prior to Level IV; provided such adjustment is not inconsistent with the terms of this Agreement; and provided that the Employer will not agree to a resolution of the grievance until the Union has received

a copy of the grievance and the proposed resolution, and has been given the opportunity to file a response.

8.35 A grievance may be initially filed at a level higher than Level I by mutual agreement of the grievant and the CSU.