

ARTICLE 7

GRIEVANCE PROCEDURE

Definitions

7.1 Complaint - The term "complaint" as used in this Article shall refer to a concern of an employee which arises from the application of a term of this Agreement.

7.2 Grievance - The term "grievance" as used in this Article refers to a written allegation by an employee that there has been a violation, misapplication, or misinterpretation of a specific term(s) of this Agreement.

7.3 Grievant - The term "grievant" as used in this Article refers to a:

- a. permanent employee(s);
- b. probationary employee(s); and
- c. temporary employee(s) employed at least thirty (30) consecutive days immediately prior to the event giving rise to the grievance

who allege(s) in a grievance a violation misapplication, or misinterpretation of a specific term(s) of this Agreement. The term "grievant" as used in this Article may refer to the Association when alleging a violation of Article 5, Association Rights, as provided for in this Agreement.

SUPA may submit a "systemwide grievance" directly to the Chancellor's Office, with a copy provided to the campuses alleged to be involved in the systemwide grievance. "Systemwide grievances" are grievances which potentially affect wages, hours or other conditions of employment of employees on more than one campus. Such grievances must comply with all the requirements of provision 7.11.

7.4 Immediate Supervisor - The term "immediate supervisor" as used in this Article refers to the appropriate non-bargaining unit supervisory or management person to whom the employee is accountable.

- 7.5 Representative - The term "representative" as used in this Article shall be an employee or representative of the Association, who at the grievant's request may be present at Levels I through IV. Representation of the employee at Level V shall be by an "Association Representative."
- 7.6 Respond and File - The terms "respond" and "file" as used in this Agreement refer to personal delivery or deposit in the U.S. mail, postage prepaid or transmittal by facsimile or electronic mail.
- 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. If personal delivery is used, the calendar date of delivery shall establish the date of response or filing.
 - b. If facsimile transmittal is used, it shall be by certified returned and shall include the signature of the receiving party acknowledging receipts as well as the date of receipt. A response or filing shall not be considered accomplished in the absence of such date and signature on the cover letter.
 - c. If electronic mail is used, the receiving party must respond acknowledging receipt and date of receipt of the electronic mail transmission.

Level I - Informal Review

- 7.7 An employee shall have the right to present a complaint and to have the complaint considered in good faith. The employee shall discuss the complaint with the immediate supervisor no later than twenty-one (21) days after the event giving rise to the complaint, or no later than twenty-one (21) days after the employee knew or reasonably should have known of the event giving rise to the complaint. At the time of the discussion, both the employee and the immediate supervisor shall sign a document verifying the date the informal discussion took place.
- 7.8 The employee, whenever possible, shall attempt to resolve the complaint informally with the immediate supervisor.

7.9 The immediate supervisor shall provide an answer to the employee no later than fourteen (14) days after the Level I meeting.

7.10 A resolution of the complaint at the Informal Level shall not be precedent setting.

Level II - Formal

7.11 If the complaint is not resolved through Level I informal discussions, the employee may file a Level II grievance with the Chief of Police no later than twenty-one (21) days after the response of the immediate supervisor at Level I. The grievant shall state clearly and concisely on a grievance form provided by the CSU:

- a. the specific term(s) of the Agreement alleged to have been violated;
- b. the action grieved, including names, dates, places and times and how it violated a specific term(s) of this Agreement;
- c. the remedy sought;
- d. the name and classification of the grievant and his/her signature;
- e. the name of the representative, if any; and
- f. the date of submission.

7.12 The Chief of Police shall hold a meeting with the grievant at a mutually acceptable time and location no later than fourteen (14) days after the receipt of the grievance. The Chief of Police shall respond in writing to the grievant within twenty-one (21) days of the Level II meeting and shall provide a copy to the grievant's representative, if any.

Level III

7.13 In the event the grievance is not settled at Level II, the grievant may file the Level III grievance with the President no later than twenty-one (21) days after the Level II response. The grievant shall include in the grievance a written statement indicating the reason that the proposed settlement at Level II was unsatisfactory. The President may hold a meeting with the grievant at a

mutually acceptable time and location. The President shall respond to the grievant no later than twenty-one (21) days after the receipt of the Level III grievance; or twenty-one (21) days after the Level III meeting, if a meeting is held.

- 7.14 The grievant or the grievant's representative, if any, shall present at Level III all issues and written evidence known or which could have been reasonably known. No additional issues may be presented by the grievant after Level III.
- 7.15 Amendments and/or modifications to the grievance shall not be made by the grievant after the Level III filing date, except by mutual agreement.
- 7.16 Prior to the Level III response date, the parties may, by mutual agreement, waive all procedures at Level III and expedite the grievance to Level IV. Level IV time limits shall commence on the date the agreement to expedite was reached.

Level IV

- 7.17 In the event the grievance is not settled at Level III, the grievant may file a Level IV grievance with the Office of the Chancellor no later than twenty-one (21) days after the receipt of the Level III response.
- 7.18 A designated individual in the Office of the Chancellor may hold a meeting with the grievant and/or with the grievant's representative at a mutually acceptable time and location. If the Level IV hearing is held off campus and the Grievant participates, the Grievant may testify by phone or video-conference. If the Grievant participates in person, the Union will decide whether to request release time under provision 5.11 or whether the Grievant will participate at his/her own expense. The designated individual in the Office of the Chancellor shall respond to the grievant no later than twenty-one (21) days after the receipt of the Level IV grievance; or twenty-one (21) days after the Level IV meeting, if a meeting is held.
- 7.19 If the grievance has not been settled at Level IV, then within twenty-one (21) days after receipt of the Level IV written decision or the expiration of the time limits for making such decision, upon the request of the grievant, the Association may request arbitration by giving notice to that effect, by

certified mail, return receipt requested, directed to the Office of the Vice Chancellor for Faculty and Staff Relations

Level V

7.20 Arbitration

Unless the specific language of the Agreement is in conflict, the arbitration procedure shall be conducted in accordance with the rules of the AAA, subject to the provisions below:

- a. The parties agree to the following arbitrators: Richard Anthony, Byron Berry, Mei Bickner, Alexander Cohn, Joe Gentile, and Paul Greenberg. The panel members shall be designated to serve in alphabetical rotation, provided the next panel member reached has an available hearing date within sixty (60) days of notification. The parties may add or delete panel members by mutual agreement.
- b. For all grievances scheduled for hearing before an arbitrator, the parties shall participate (either in person or via telephone) in a mandatory settlement conference at least 30 days prior to the last day to cancel the arbitration without incurring a cancellation fee. At least five (5) days prior to the scheduled date of arbitration, the parties shall attempt to prepare a submission to arbitration signed by both parties setting forth the issue(s) and specific provision number(s) in dispute. Should the parties fail to agree upon a submission, the arbitrator shall determine the issue(s) after the parties' opening statements and prior to the taking of evidence or testimony.
- c. Either party to the Agreement may peremptorily challenge one panel member at any time during the term of this Agreement and such panel member shall be removed from the panel and replaced with a new mutually acceptable replacement.
- d. The arbitrator shall have no authority to add to, subtract from, modify, or amend the provisions of this Agreement, or make an award which either expressly or in effect recommends promotion or awards permanent status to an employee.

- e. The award of the arbitrator may or may not include back pay provided, however, that any back pay award shall not be in excess of six (6) months' salary less any amount that the employee may have received during that period, including unemployment compensation. Under no circumstances may interest be included in an award.
- f. A final decision or award of the arbitrator shall be made within thirty (30) calendar days after the close of the hearing. Such decision or award shall be binding upon the SUPA, the CSU, and the employee(s) affected thereby.
- g. The cost of the arbitration, excluding advocate, unilateral withdrawal, postponement, or cancellation fees, shall be borne equally by both parties. Expenses for witnesses, however, shall be borne by the party who calls them.
- h. The standard of review for the arbitrator is whether the CSU violated, misapplied or misinterpreted a specific term(s) of this Agreement.
- i. If an arbitrability question exists, the arbitrator shall determine the arbitrability question prior to hearing the formal presentations of the parties on the merits of the grievance.
- j. Any grievance filed into arbitration shall be considered withdrawn by the Association if it has not been scheduled for an arbitration hearing within six (6) months of the filing to arbitration from Level IV.

General Provisions

- 7.21 Failure of the grievant to comply with the time limitations of this Article shall render the grievance null and void. Failure by the immediate supervisor, Chief of Police, 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.
- 7.22 Time limits set forth in this Article may be extended by mutual agreement. If the grievant, representative, appropriate administrator or Labor Relations Manager is on leave, vacation or holiday for five (5) days or more, the time

limits shall be extended by the length of time of such leave, vacation, or holiday.

- 7.23 The processing of grievances filed and unresolved prior to the effective date of this Agreement shall continue under the provisions of the grievance procedure as amended by this Agreement.
- 7.24 A grievance settled by a campus at Levels I, II, or III shall be non-precedential unless otherwise agreed to by the parties in the settlement agreement.
- 7.25 The parties may agree to consolidate at any level grievances on similar issues.
- 7.26 A representative who is an employee of the campus shall be provided reasonable release time solely for the purpose of representing the grievant at a grievance meeting at that campus. This shall not apply to the use of Association leave under Article 5, Provision 5.11 of the Agreement.
- 7.27 Grievance records shall be filed separately from an employee's personnel file and shall be considered confidential.
- 7.28 If an arbitration hearing is scheduled during the regular worktime of an employee, reasonable release time shall be granted to the employee(s) involved to appear at the arbitration hearing, provided that such release time is requested with sufficient advance notice prior to the date of the hearing. When an arbitration hearing is scheduled or continues outside an employee's scheduled worktime, the employee shall not receive release time. The provisions of this Article shall also apply to a reasonable number of witnesses at an arbitration hearing who are employees.
- 7.29 There shall be no tape recording of grievance meetings by either the CSU or the Association at any level of the grievance procedure. However, this shall not be interpreted to diminish any rights provided under the Public Safety Officers Procedural Bill of Rights (Government Code Sections 3301 et seq.).
- 7.30 The grievant's name and campus shall be included in all correspondence related to all grievances. Further, the CSU shall inform the Association of the grievance number assigned to SUPA grievances at the time that such

numbers are assigned. Thereafter, the Association shall use the CSU grievance number in all subsequent correspondence related to said grievance.