

ARTICLE 9

GRIEVANCE PROCEDURE

Definitions

- 9.1 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.
- 9.2 Grievant - The term "grievant as used in this Article refers to a:
- a. permanent employee(s);
 - b. probationary employee(s);
 - c. apprentice employee;
 - d. temporary employee(s) employed at least thirty (30) consecutive days immediately prior to the event giving rise to the grievance; and
 - e. limited hourly employee(s) beginning thirty (30) days after appointment who alleges in a grievance that he/she has been directly wronged by the alleged violation, misapplication, or misinterpretation of the specific term of this Agreement.
 - f. The term "grievant," as used in this Article, may refer to the Union when alleging a violation, misapplication, or misinterpretation of a specific term(s) of this Agreement. When Teamsters Local 2010 is the grievant, it shall not file grievances where the unit member has provided a written notification that they do not wish to pursue an individual grievance. This provision shall not prohibit the Union from filing grievances that allege a violation, misinterpretation or misapplication of the Agreement which impact employees who may object to the grievance. However, in such a situation, the Union will not seek a remedy for any employee who provides written notification that they do not wish to be included in the terms of any subsequent settlement or arbitration award.
- 9.3 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.
- 9.4 Representative - The term "representative" as used in this Article shall be an employee or representative of the Union who at the grievant's request may be present at Levels I through III, or appear telephonically. Representation of the employee at Level IV shall be by a Union Representative only.

- 9.5 Respond and File - The terms "respond" and "file" as used in this Agreement refer to personal delivery or deposit in the U. S. mail or transmittal by facsimile or electronic mail. The University and Teamsters Local 2010 shall endeavor to use email whenever practicable.
- a. If mail delivery is used, it shall be by certified, return receipt requested mail and the date mailed 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 either to file or respond to a grievance, the facsimile transmittal cover letter must be returned and shall include the signature of the receiving party acknowledging receipt 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. The University and Teamsters Local 2010 also will endeavor to acknowledge time-sensitive email communications whenever practicable.
 - d. A copy of all responses shall be concurrently served on the grievant's representative. If the grievant has not provided a facsimile number, the grievant may be served by U.S. mail or email.

Optional Informal Review

- 9.6
- a. Before filing a formal written grievance, the employee may attempt to resolve the problem by an informal conference with the immediate supervisor no later than fourteen (14) days after the event giving rise to the problem or no later than (14) days after the employee knew or should have known of the event giving rise to the complaint. At the employee's request, a union representative, typically a shop steward, may be present at this informal conference.
 - b. The immediate supervisor shall provide an answer to the employee no later than fourteen (14) days after the informal meeting.
 - d. A resolution of the problem at the informal level shall not be precedent setting.

Level I- Formal - Appropriate Administrator

- 9.7
- a. If the problem is not resolved at the Informal level or if the Informal step is not invoked by the grievant, the employee or Union may file a Level I grievance with the Human Resources office no later than thirty (30) days after the event giving rise to the grievance or after the grievant knew or should have known of the event giving rise to the potential grievance, or thirty (30) days after the response to the Informal meeting was issued, if one was held. The campus Human Resources Office will refer the grievance to the appropriate administrator. Notification of the designated administrator will be provided in writing to the grievant and his/her representative. The grievant shall state clearly and concisely on a grievance form provided by the CSU:

1. the specific terms(s) of the Agreement alleged to have been violated;
 2. a description of the grounds of the grievance including names, dates, places, and times necessary for an understanding of the facts of the grievance;
 3. the remedy sought;
 4. the name and classification of the grievant(s). Where the identities of all grievants for whom a remedy is being sought is not known, and/or cannot be reasonably ascertained at the date of the initial filing, the union shall provide information to the CSU no later than the date of the Level III hearing sufficient to allow the CSU to identify, through further inquiry if necessary, the individual grievants for whom a remedy is being sought by name. The grievance form shall be signed by the grievant(s), or by their representative with the grievant's consent.
 5. the name and address of the campus representative, if any; and
 6. the date of submission.
- b. Provided the grievance form is complete, containing the information specified in 9.7(a) 1-6, the appropriate administrator shall hold a meeting with the grievant at a mutually acceptable time and location within twenty-one (21) days of receipt of the grievance. Such a meeting shall not be held where the appropriate administrator for the Level I meeting would be the same person who conducted an informal review pursuant to Article 9.6 unless the parties agree otherwise. The appropriate administrator shall respond in writing to the grievant within fourteen (14) days of the Level I meeting, or within twenty one (21) days of the grievance being filed where a Level I meeting is not required under the terms of this provision. Such response shall address the grounds of the grievance cited in 9.7(a)(2) and include the reason(s) for the University's decision.
 - c. All Formal grievances received by Human Resources shall be given a grievance number and subsequent communications will reflect that number.
 - d. The Office of the Chancellor will notify Teamsters Local 2010 by email of Unit 6 grievance numbers when grievances are initially filed. After notification Teamsters Local 2010 shall indicate this number on all subsequent communications.
 - e. Every attempt shall be made by both parties on the campus to resolve grievances at the lowest possible level.

Level II– Campus President

- 9.8 a. Since time is frequently of the essence in rendering a remedy that is meaningful for both the grievant and the CSU, the President and the grievant may mutually agree to forego the Level II meeting based on the CSU Level I response and the grievance shall automatically be elevated to Level III, Office of the Chancellor.

- b. In the event the grievance is not settled at Level I, the grievant may file a Level II with the President no later than fourteen (14) days after the receipt of the Level I-response.
- c. Should either party elect to have a Level II meeting and response, the following procedures and timeframes apply:
 - 1. The grievant shall include in the grievance a written statement indicating the reason that the proposed settlement at Level I was unsatisfactory.
 - 2. The President shall, within twenty-one (21) days of the receipt of a Level II-appeal, hold a meeting with the grievant at a mutually acceptable time.
 - 3. The President shall respond to the grievant no later than fourteen (14) days after the Level II meeting. Such response shall include the reason(s) for the University's decision.

Level III – Office of the Chancellor

- 9.9
- a. In the event the grievance is not settled at Level I or II, the grievant may file a written request for review with the Office of the Chancellor no later than fourteen (14) days after receipt of the Level I or II response, whichever is applicable.
 - b. A designated individual in the Office of the Chancellor and the representative of the grievant shall schedule a conference at the Office of the Chancellor for the purpose of reviewing the matter within twenty-one (21) days of the receipt of the Level III appeal.
 - 1. Conference shall be defined as either an in-person meeting or telephone /video conference call.
 - 2. The Office of the Chancellor shall have twenty-one (21) days to resolve the grievance or issue a Level III response following the Level III meeting.
 - c. In accordance with 9.9 of this Article, Teamsters Local 2010 and the CSU agree to the following internal procedures at the Office of the Chancellor:
 - 1. Teamsters Local 2010 Level I (or Level II if applicable) appeals to Level III shall be filed only by the Teamsters Local 2010 Chief Campus Steward or by a Teamsters Local 2010 Officer or Designated Representative. All Level III filings shall be submitted to the Office of the Chancellor.
 - 2. The Level I (or Level II if applicable) grievances should include the cover appeal letter, grievance number and as much initial information as to enable the Chancellor's Office to understand and resolve the grievance filed by Teamsters Local 2010.
 - 3. Extensions at Level III will be in writing, either by e-mail, facsimile, or United States mail in accordance with 9.5 of this Article.

- d. After the Level III meeting and response, in lieu of a Level IV Arbitration, upon mutual agreement the parties may agree to schedule a "Med-Arb" hearing as described in provisions 9.17-9.19 below.

Level IV – Arbitration

- 9.10 If the grievance has not yet been resolved, the parties have not agreed to schedule a “Med-Arb” as per provisions 9.9.d. above and 9.17 – 9.19 below or the Union alone may, no later than fourteen (14) days after receipt of the Level III response, file a request for arbitration with the Office of the Chancellor.
- 9.11 The arbitration procedure shall be conducted in accordance with the rules of the AAA, subject to the provisions below:
 - a. The parties hereby designate (*list of arbitrators to be negotiated*) as members of the Arbitration Panel under this Agreement. The panel members shall be designated to serve in the order of rotation noted above, provided the panel member next in order has an available day within ninety (90) days of request. The initial rotational order of arbitrators on the list shall be determined by a drawing of names.
 - b. The process to schedule a grievance for an arbitration hearing shall be initiated by a written request from the union representative to the designated individual at the Office of the Chancellor (Email is acceptable for this purpose). Grievances shall be assigned to arbitrators in the rotational order determined in Article 9.11(a).
 - c. Grievances with continuing financial back pay liability, and grievances alleging an unsafe work environment, shall be scheduled for arbitration in the chronological order of their appeal to arbitration prior to other cases.
 - d. The parties recognize that from time to time it may be in the interest of both parties by mutual agreement to schedule cases for arbitration in other than chronological order. Absent such mutual agreement, arbitration hearings shall be scheduled in the same chronological order in which each case was appealed to arbitration.
 - e. The parties shall accept the first date offered pursuant to by the arbitrator. Either party may request within twenty-one (21) days that date be rescheduled based on witness availability or other issues that require rescheduling. No objection may be made to any such request made within the twenty-one (21) day period. Requests to re-schedule outside of the twenty-one (21) day period that are not agreed to by the parties shall be submitted to the arbitrator who will then decide whether or not to grant the request.

Either party to the Agreement may 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 mutually acceptable replacement. Absent a mutually acceptable replacement for such removed arbitrator, the parties agree to strike from a screened list of experienced arbitrators supplied by the American Arbitration Association. Once a

party has notified the other party of its intention to remove an arbitrator, no new cases shall be heard by that arbitrator and that arbitrator shall not be notified of his/her removal prior to the receipt by the parties of any of his/her pending awards.

- 9.12 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), provided that such issues are arbitrable under the terms of this Agreement, after the parties' opening statements and prior to the taking of evidence or testimony.
- 9.13 If an arbitrability question exists, the arbitrator shall determine the arbitrability question prior to hearing the merits of the grievance. When the grievance is found not arbitrable, the grievance shall be denied and the arbitrator shall not hear the merits of the grievance. When the grievance is found arbitrable, the arbitrator shall hear the merits of the grievance. This provision 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.
- 9.14 It shall be the function of the arbitrator to rule on the specific grievance. The arbitrator shall be subject to the following limitations:
- a. In no event shall the arbitrator have the authority to add to, subtract from, modify, or amend any provision of this Agreement.
 - b. Either party to the Agreement may 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 mutually acceptable replacement.
 - c. Any grievance filed into arbitration shall be considered withdrawn by the Union if it has not been scheduled for an arbitration hearing within six (6) months of the filing to arbitration from Level III. For grievances filed prior to the effective date of this Agreement, the six (6) month limitation shall commence upon the effective date of the Agreement.
- 9.15 A final decision or award of the arbitrator shall be made within sixty (60) calendar days after the close of the hearing. Such decision or award shall be binding upon the Union, the CSU, and the employees affected thereby.
- 9.16 The cost of arbitration, excluding advocate, unilateral withdrawal, postponement, or cancellation fees, shall be born equally by the parties. Expenses for witnesses, however, shall be borne by the party who calls them.

Mediation/Arbitration ("Med/Arb")

- 9.17 "Med/Arb" is a process under which the mediator begins the hearing by attempting to mediate a settlement. If unable to settle the grievance, the mediator assumes the role of arbitrator and the hearing changes from a mediation to an expedited arbitration process, with no court reporter, no hearing briefs, in which a final and binding decision is rendered on a non-precedent setting basis.
- 9.18 Grievances may be subject to "Med/Arb" for the purpose of compromising, settling, or resolving a grievance in accordance with the following guidelines:
- a. Either party may request "Med/Arb" at any time following the Level III-conference and prior to the grievance being scheduled for arbitration.
 - b. Both parties must agree to use the "Med/Arb" procedure.
 - c. Should a settlement not be reached during the mediation portion of the "Med-Arb" hearing, the award of the mediator/arbitrator from the arbitration portion of the "Med-Arb" shall be final and binding on both parties and is not subject to arbitration under Level IV of the Grievance Procedure.
 - d. The parties shall establish a panel of three (3) mediators/arbitrators by mutual agreement, to serve in alphabetical rotation. The panel shall consist of (names to be negotiated).
 - e. All costs of "Med/Arb" shall be borne equally by both parties.
 - f. At least forty (40) days prior to the "Med/Arb" hearing, the parties shall conduct a Pre-Hearing Conference to try to reach agreement on an issue statement, stipulations, exhibits, and witnesses.
 - g. At or after the "Pre-Hearing Conference" but prior to incurring a cancellation fee, should either party determine it did not wish to participate in a "Med/Arb" hearing, the "Med/Arb" shall be cancelled, a Level III response issued (if one had not been previously issued under provision 9.10), and the Union may pursue their appeal in accordance with provision 9.10.
- 9.19 "Med/Arb" hearings shall be conducted in accordance with the following procedure:
- a. The parties shall submit to the arbitrator any joint stipulations and exhibits agreed upon. Each side may also submit its own exhibits.
 - b. The parties shall make opening statements during which they will describe the facts and evidence they intend to submit should the hearing become an arbitration.

- c. The mediator/arbitrator will then assist the parties pursue a resolution. If the mediator/arbitrator concurs, witnesses may be called during the mediation phase of the hearing.
- d. If the parties are unable to reach agreement, the mediator/arbitrator shall end the mediation phase of the hearing and begin the arbitration phase of the hearing.
- e. During the arbitration phase, both sides may call witnesses and enter evidence into the record.
- f. Each side is limited to no more than three (3) witnesses, unless they mutually agree to additional witnesses.
- g. At the conclusion of the hearing the parties shall present oral arguments. Unless the parties mutually agree or the mediator/ arbitrator so requests, the parties will not submit written briefs.
- h. The provisions of 9.14 and 9.16 apply to "Med/Arb" hearings.
- i. The arbitrator shall issue a decision without any supporting opinion or analysis within thirty (30) calendar days of the "Med/Arb" hearing.

General Provisions

9.20 Wherever a time limit is provided by this Article, the parties may extend the period only by mutual consent.

It is understood that the purpose of the procedure is to resolve grievances quickly and that extensions shall be sought only for good cause.

Extensions as needed by either party should be encouraged if the need exists to: (a) provide the necessary information identified above, and/or to (b) allow time for either party to investigate further and/or to (c) explore resolutions.

Where a grievance is advanced to Level III pursuant to Article 9.33 (failure to respond within a designated time limit), the campus shall still have the obligation to provide a written Level II response prior to seven (7) days before the scheduled date of the Level III hearing.

Where a grievance is advanced to Level IV pursuant to Article 9.33 (failure to respond within a designated time limit), the Chancellor's Office shall still have the obligation to provide a written Level III response prior to 60 days before the scheduled arbitration hearing.

9.21 When hearings or meetings are held under this Article on CSU time, unit members who are entitled to attend hearings, or who are called as witnesses by a party, shall be excused for that

purpose from other duties without loss or penalty. The parties shall not call witnesses to give testimony that has already been given at the same hearing or meeting. This shall not preclude the grievant from presenting new documentary and/or testimonial evidence necessary to resolve the grievance.

- 9.22 No reprisals of any kind shall be taken against any unit member for the filing and processing of any grievance.
- 9.23 In cases where it is necessary for the grievant or his/her representative to have access to information for the purpose of investigating a grievance, the grievant or his/her representative shall make a written request for such information to the appropriate administrator a reasonable amount of time before such information is needed. The appropriate administrator shall provide such information to the requesting party within a reasonable amount of time after the request for the information is made.
- 9.24 A grievance settlement shall not set a precedent, except as otherwise mutually agreed in writing by the CSU and Teamsters Local 2010, unless the sole purpose of referencing the grievance settlement is to prove a practice of enforcing its interpretation of disputed contract terms where this fact is an issue in dispute between the parties.
- 9.25 By mutual agreement, the parties may consolidate grievances on similar issues at any level of the grievance procedure.
- 9.26 The parties shall present at Level III all evidence known or which could have been reasonably known and related to the grievance.
- 9.27 There shall be no modification of issues presented or alleged violations made after the completion of the Level III procedures.
- 9.28 A grievance may be filed at the step at which the authority to resolve the grievance resides. By mutual agreement, the parties may waive either Level I or Level II of the grievance procedure and expedite the grievance to the next higher level of the grievance procedure.
- 9.29 Prior to filing a grievance, the potential grievant and representative, if any, shall each be provided with one (1) hour release time for grievance preparation and reasonable time for grievance presentation at the Informal Review.
- 9.30 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. CSU will not pay for the release time of employees to go to or be at another campus to represent employees in a grievance hearing unless the CSU has requested the employee to participate in the grievance procedure and/or hearing or the employee has been requested by the Chief Steward at another campus to represent that Chief Steward on a grievance where the Chief Steward is the Grievant.

It is understood by both CSU and Teamsters Local 2010 that the amount of release time requested by Teamsters Local 2010 shall be reasonable based on the issues and number of grievant(s) involved in the grievance. Should there be an issue with Teamsters Local 2010's

request for release time, the parties shall first attempt to resolve the issue before Teamsters Local 2010 files a grievance regarding denials.

- 9.31 The procedures for securing release time for grievance processing shall be:
- a. Representatives and / or potential grievant shall contact the Appropriate Administrator or designee if release time is required to prepare and present a Level I grievance. The Representative or potential grievant shall be required to cite only provision 9.29 as a basis for his/her request.
 - b. Release time requested pursuant to provision 9.30 shall require the citation of only provision 9.30 as a statement of need.
 - c. In either case, the Appropriate Administrator or designee shall grant the contractually specified release time after considering the needs of the operation of the University.
 - d. Requests for release time shall include: (1) who the Representative or potential grievant desires to see; (2) at what time and location; and (3) the estimated duration of the meeting.
- 9.32 A grievant may withdraw a grievance at any time. The grievant shall not file any subsequent grievance on the same incident.
- 9.33 If the Employer fails to respond within the designated time limits, the grievance may be appealed to the next step of this grievance procedure. If the grievance is not appealed within the applicable time limits, the grievance shall be considered settled on the basis of the Employer's last answer and shall not be subject to further review.
- 9.34 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.
- 9.35 Grievance records shall be filed separately from an employee's personnel file and shall be considered confidential.
- 9.36 An employee may present grievances and have such grievances adjusted without union representation as long as adjustment is not inconsistent with the terms of a written agreement then in effect; and provided that the Employer will not agree to resolution of the grievance until the Union has received a copy of the grievance and the proposed resolution.
- 9.37 During release time granted for grievance preparation pursuant to provisions 9.29 and 9.30 above, the Union representative and the grievant shall be permitted to use campus telephones provided that the use of such telephones does not interfere with University business nor result in any expense to the University. The CSU has the right to refuse the use of campus telephones if abuses occur.