

ARTICLE 10

GRIEVANCE PROCEDURE

10.1 This grievance procedure shall be the sole and exclusive method of resolving disputes regarding allegations by employees and/or the Union that the CSU has violated this Agreement. Nothing herein precludes employees and/or the Union from pursuing allegations the CSU has violated constitutional, statutory or regulatory obligations in the appropriate forum as provided by law.

Definitions

10.2 Grievance – an allegation by a grievant that there has been a violation, misapplication, or misinterpretation of a specific term of this Agreement.

10.3 Grievant – The term “grievant” as used in this Agreement refers to:

- a. an individual employee who alleges that he/she has been directly wronged by a violation of a specific term of this Agreement; or
- b. a group of employees that alleges that it has been directly wronged by a violation of a specific term of this Agreement; or
- c. the Union when it alleges that an individual employee, a group of employees, or the Union has been directly wronged by a violation of a specific term of this Agreement.

10.4 Designated representative – an individual designated by a party to represent it at a step in the grievance procedure.

10.5 File – delivery to the designated representative at the address designated by such representative via U.S. Mail, personal service, facsimile, or, by email. The union and the CSU shall endeavor to use email whenever practicable.

Time Limits

10.6 A grievance must be filed in writing within 21 calendar days of the date on which the grievant(s) knew or could reasonably have been expected to know of the occurrence upon which the grievance is based.

- 10.7 Formal grievance meetings shall occur within 14 calendar days of the date of the request to meet.
- 10.8 Written responses shall be filed within 14 calendar days of the completion of the grievance meeting at each step of the grievance procedure. Written responses shall be filed with the grievant and the Union.
- 10.9 Written appeals of a grievance response shall be filed within 14 calendar days of the filing of a grievance response. The parties agree that grievances, responses and appeals are considered filed on the date that they are received by a party via fax, email, hand deliver, or U.S. Mail.

Informal Procedure

- 10.10 Informal Step 1 –The grievant(s) may meet and attempt to settle the grievance with their immediate supervisor (or with an individual designated by the University in the case of a Union grievance).
- 10.11 Informal Step 2 – If the grievance remains unresolved following Informal Step 1, the grievant(s) shall attempt to resolve a grievance in an Informal Step 2 meeting with an individual designated by the campus. If the designated individual is the subject of the grievance, the grievant(s) shall have the option of requesting the campus to designate another individual, who is not the subject of the grievance, to conduct the Informal Step 2 meeting. If the campus designates another individual who is not the subject of the grievance, the grievant(s) shall participate in the Informal Step 2 meeting. If the campus declines to designate another individual, the grievant(s) may pursue the grievance at Formal Step 1. Informal Step 2 meetings shall occur within 7 calendar days of the date of the request to meet.
- 10.12 The informal resolution of a grievance shall not set a precedent and must be consistent with the terms of this agreement.

Formal Procedure Step 1 – President or Designee

- 10.13 A formal written grievance shall be filed with the President or his/her designated representative within 21 calendar days of the date on which the grievant(s) knew or could reasonably have been expected to know of the occurrence upon which the grievance is based. The grievant or her/his representative shall request a meeting to be held between the grievant(s) and the President or the President's designated

representative(s) to attempt to resolve the grievance within 14 calendar days of filing the grievance. The resolution of a grievance at Step 1 shall not set a precedent and must be consistent with the terms of this agreement.

Grievance Form

10.14 All filings of written grievances at each Formal Step shall be on the form contained in Appendix B. The grievance form shall be signed by at least one grievant at the time of its initial filing at Formal Step 1. The original signatures of all grievants must be provided to the CSU prior to the Formal Step 2 meeting. If a grievant's signature is not so provided to the CSU, that grievant's claim shall be deemed null and void. The grievant shall state on the grievance form agreed to by the parties all of the following information:

- a. The specific term(s) of the Agreement alleged to have been violated;
- b. A detailed description of the grounds of the grievance including names, dates, places, and times;
- c. A proposed remedy;
- d. The grievant's name(s), classification(s), campus, department(s), mailing address(es), and original signature of at least one grievant;
- e. The name and telephone number of the representative, if any;
- f. The name and address of the Union, if the representative is acting as an agent of the Union;
- g. In the case of a Union grievance on behalf of employee(s): (1) the name(s) of the employee(s) or (2) a specific description of the group of employees, alleged to have been directly wronged by the alleged violation; and
- h. Date of submission of the grievance.

Formal Procedure Step 2 – Office of the Chancellor

10.15 If the grievance remains unresolved following Formal Step 1, the grievance may be filed at Step 2 with the designated individual in the Office of the Chancellor within 14 calendar days of the filing of a grievance response at Formal Step 1. The Union shall request a meeting be held between the Union representative and the designated individual in the Office of the Chancellor to attempt to resolve the grievance within

- 14 calendar days of filing the grievance appeal. The resolution of a grievance at Step 2 shall not set a precedent and must be consistent with the terms of this agreement.
- 10.16 Amendments and/or modifications to a grievance or to a grievance response, including new claims, issues, alleged contract violations and/or the raising of an arbitrability defense, shall not be made by the grievant or the CSU after the Formal Step 2 response, and therefore shall not be considered in arbitration, except for good cause.

Formal Procedure Step 3 - Arbitration

- 10.17 If the grievance remains unresolved following Formal Step 2, the grievance may be filed at Step 3 with the designated individual in the Office of the Chancellor within 42 calendar days of the filing of a grievance response at Formal Step 2. An appeal to arbitration may only be made by the Union.
- 10.18 The following arbitrator panels shall serve in rotation order unless agreed otherwise:
- | <u>Northern California Cases</u> | <u>Southern California Cases</u> |
|----------------------------------|----------------------------------|
| Anne Ellis | |
| Katherine Thomson | |
| Carol Vendrillo | |
- 10.19 Unless the specific language of the Agreement is in conflict, the arbitration procedure shall be conducted in accordance with the rules of the AAA.
- 10.20 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, prior to both the scheduling of any grievances with no continuing financial back pay liability, or any grievance which does not allege an unsafe work environment. 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.
- 10.21 The Union shall request that a grievance be scheduled for hearing in arbitration. Any grievance filed into arbitration shall be considered withdrawn if the parties have not, within twelve (12) months of the date of filing to arbitration, agreed upon a date and scheduled the case for hearing with the arbitrator assigned to the case. This provision

shall be extended for an additional thirty (30) days at a time, in cases where the Union has agreed to dates proposed by an arbitrator which are unacceptable to the CSU, or in cases where the CSU has not responded to the dates proposed by the Union.

- 10.22 No later than ten (10) days prior to the date of an arbitration hearing the parties shall attempt to confirm any issue(s) to be raised, exchange proposed issue statements, formulate a joint statement of issue, exchange the names of all anticipated witnesses, and provide (and identify as exhibits) copies of all documents anticipated to be entered into evidence. The failure to exchange the aforementioned information on proposed issues, witnesses and documents prior to the arbitration hearing shall not preclude their consideration by the arbitrator.
- 10.23 The arbitrator's award shall be based solely upon the evidence and arguments appropriately presented by the parties in the hearing and upon any post-hearing briefs.
- 10.24 The arbitrator shall have no authority to add to, subtract from, modify, or amend the provisions of this Agreement.
- 10.25 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 Union, the CSU, and the employee(s) affected thereby.
- 10.26 The cost of the arbitration, excluding unilateral withdrawal, unilateral postponement, or unilateral cancellation fees, shall be borne equally by the parties. Expenses for witnesses shall be borne by the party who calls them. Each party shall bear the cost of its advocate.
- 10.27 Arbitration hearings shall be held at the campus for grievances filed at a CSU campus, and arbitration hearings shall be held on an alternating basis between the Office of the Chancellor and the Pico Rivera Union office for grievances agreed upon by the parties to be systemwide issues. The parties may mutually agree to schedule such cases at other locations.
- 10.28 The standard of review for the arbitrator is whether the CSU violated, misapplied, or misinterpreted a specific term(s) of this Agreement.

- 10.29 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.
- 10.30 An arbitrator's award may or may not be retroactive as the equities of each case may demand, but in no case shall an award be retroactive to a date earlier than thirty (30) days prior to the date the grievance was initially filed in accordance with this Article or the date on which the act or omission occurred.

General Provisions

- 10.31 Upon the request of the Union or the CSU, the other party shall supply a current list of its designated representatives for handling grievances at a campus or by the Office of the Chancellor.
- 10.32 The University shall not retaliate against an individual for membership or non-membership in the Union or for engaging in protected Union activities, or for participation in a grievance or complaint, whether formal or informal, or for the exercise of rights guaranteed by this Agreement.
- 10.33 Failure to file a grievance within the time limits at any step of the grievance procedure shall render the grievance null and void and no new grievance may be filed or processed on the matters grieved.
- 10.34 If the Union refuses to agree to schedule or attend a required meeting at any step of the grievance procedure, then the Union may not advance the grievance to the next level.
- 10.35 If the University refuses to agree to schedule or attend a required meeting at any step of the grievance procedure, then the Union may advance the grievance to the next level.
- 10.36 The failure to file a response to, or meet about, a grievance at any step of the grievance procedure within the specified time limit shall permit the grievant to appeal the grievance to the next step of the procedure within 14 calendar days of when the response was due.

- 10.37 The parties, by mutual written agreement, may agree to extend any time limit or waive any meeting, response or requirement of the grievance procedure.
- 10.38 The settlement of a grievance shall not set a precedent unless the parties expressly provide in that settlement that they have agreed to do so.
- 10.39 Offers of settlement are inadmissible at any step of the grievance or arbitration procedures.
- 10.40 The parties, by mutual written agreement, may agree to consolidate two or more grievances.
- 10.41 Grievants have the right to Union representation at all stages of the grievance and arbitration procedure subject to the provisions of this paragraph. The Union shall have the exclusive right to represent any employee in grievances under this Agreement provided, however, that at Informal and Formal Steps 1 and 2, employees may represent themselves or be represented by another employee of their choice pursuant to HEERA section 3567. If an employee elects not to be represented by the Union, the University shall inform the Union in writing (via email, facsimile or personal service) of a written Formal Step 1 grievance within 7 days of the filing. No resolution of any individually processed grievance shall be inconsistent with the terms of this Agreement. The University 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.

Release Time

- 10.42 If it is necessary that grievance meetings take place during work time, the University shall provide release time to all Union representatives and grievants to participate fully in all aspects of the grievance process, including representation, preparation and presentation, as follows:
- a. 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 level.
 - b. 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.

10.43 Representatives and potential grievants shall contact the appropriate administrator if release time is required under this provision. The appropriate administrator shall grant the contractually specified release time after considering the needs of the operation of the University. Requests for release time shall include: (1) the time and location of the meeting; and (2) the anticipated duration of the meeting.