ARTICLE 15: GRIEVANCE & ARBITRATION PROCEDURE

A. Definitions

1. Grievance: A grievance is defined as a claim that the employer has violated a specific provision of this agreement during the term of this agreement.

2. Process: All grievances will be filed with the UCI Labor Relations Department located at the University Campus.

3. Eligibility: A grievance may be brought to the attention of the University through this procedure by an individual employee within the bargaining unit or by the union. A grievance may not be brought through this procedure by the University.

4. Consolidation: Grievances brought by or related to two or more bargaining unit employees, and multiple grievances by or related to the same employee, which concern the same incident, issue or course of conduct, may be consolidated for the purposes of this procedure upon mutual agreement of the University and the union, provided that the time limits described in this article shall not be shortened for any grievance because of the consolidation of that grievance with other grievances. Notwithstanding the forgoing, the union can on its own bring a “class” grievance on behalf of 2 or more bargaining unit members.

5. Representation: An employee shall have the right to be represented in all steps of the grievance and arbitration procedure by one person of the employee’s choice. A union representative shall have the right to be present at all steps of the grievance and arbitration procedure.

6. Academic Decisions & Clinical Misconduct: Decisions or judgments by the University related to all academic matters, including determinations that a resident has failed to satisfy any requirements of the UC Irvine GME training program, such as clinical competence and professional standards of conduct shall not be subject to review under the grievance and arbitration procedure set forth in this agreement. Such decisions may result in Academic and/or Administrative Actions listed in the University of California Irvine Graduate Medical Education Academic Due Process and Leave Guidelines. These decisions and academic and/or administrative actions shall only be subject to review as provided under the University of California Irvine Graduate Medical Education Academic Due Process and Leave Guidelines.

B. Procedure

1. Informal Review- Step 1: As soon as practicable, the employee and/or the union shall discuss the grievance with the immediate supervisor. All parties shall
informally attempt a resolution of the matter before a formal written grievance is filed. If the grievance is not resolved through informal discussions with the immediate supervisor, the employee may file a formal grievance as set forth below.

2. Step 2: A formal grievance must be filed in writing on a grievance form provided by UCI labor relations to the UCI Director of Labor & Employee Relations. The form may be amended by mutual agreement of the parties. The UCI Director of Labor & Employee Relations must receive the written grievance within thirty (30) calendar days after the date on which either the employee or the union knew of the event or action which gave rise to the grievance or within fifteen (15) calendar days after the date of the employee’s last day on pay status. Formal grievances must set forth:
   
   a. The specific section and provisions of the agreement alleged to have been violated;
   b. The action grieved and how it violated the above mentioned provisions;
   c. The date of the occurrence of the alleged violations;
   d. How the grieving employee was adversely affected;
   e. The name of the employee representative;
   f. The date the employee discussed the alleged violation with the supervisor; and
   g. The remedy requested.

The appropriate administrator in the UC Irvine School of Medicine shall review the grievance and meet with the employee and representative to discuss the grievance. Within fifteen (15) calendar days after receipt of the grievance, or within 15 calendar days after the meeting is held, a written response will be issued to the employee with a copy to the union representative. If the response is not issued within the established time limits or the grievance is not resolved, the grievance may be appealed to Step 3.

3. Step 3: If the grievance is not resolved at Step 2, the grievance may be appealed in writing by the employee or union representative to the Director of Labor & Employee Relations. The written appeal must be received within fifteen (15) calendar days of the date on which the written response at Step 2 was issued.

Within fifteen (15) calendar days of the receipt of the Step 3 appeal, the designated UCI Labor Relations administrator shall schedule a meeting to discuss the grievance. During the meeting the employee and union representative shall present all evidence relevant to the grievance. The Step 3 meeting may be waived by mutual agreement and confirmation in writing by either party.

Decision: The University shall render a written decision within fifteen (15) calendar days following the date of completion of the Step 3 meeting or agreement to waive the Step 3 meeting. The decision will be mailed to the employee and the union representative. A copy of the decision shall be sent by certified mail and/or read
receipt electronic mail to the union. Such decision shall not set any precedent. The union may appeal the grievance to arbitration as outlined below within thirty (30) calendar days of the date on which the decision was received by the union.

C. Time Limits

Time limits may be extended by mutual agreement of the parties in writing in advance of the expiration of the time limits, except for the Step 2 deadline for filing a formal grievance. Deadlines which fall on a university non-business day will be automatically extended to the next business day. If the grievance is not appealed to the subsequent step of the procedure within applicable time limits, and an extension has not been agreed to in advance, the grievance will be considered settled on the basis of the University’s written response. Failure by the University to reply to the employee’s grievance within the time limits specified automatically grants to the union the right to process the grievance to the next step of the grievance procedure.

D. Release time

1. Whenever the University and the union convene a meeting to mutually resolve a grievance during the scheduled work time of an employee who is a grievant or a representative, reasonable release time shall be granted to the employee(s) involved upon the union’s advance request.

2. Bargaining unit members called to participate at such meetings may be released from work with reasonable advance request and grant leave with pay for reasonable time spent in meetings.

E. Resolution

Informal resolution may be agreed upon at any stage of the grievance process. Prior to the resolution of any formal grievance in this bargaining unit, the union shall be notified.

F. Arbitration:

1. Request for Arbitration: A request for arbitration may be made only by the union and only after exhaustion of the grievance procedure. The request for arbitration must be received by the UCI Director of Labor & Employee Relations within twenty (20) calendar days of the receipt of the step 3 grievance decision by the union from the University. Proof of service must accompany these mailings.

2. Selection of Arbitrators: Within fourteen (14) calendar days of a request for arbitration, the parties shall meet and attempt to mutually agree to the selection of any qualified and available person to serve as an arbitrator. Should the parties fail to select the arbitrator, they shall use the list of arbitrators herein by randomly
drawing three names. The first arbitrator’s name drawn shall be contacted. If the arbitrators first available date is more than sixty (60) calendar days from the date of the request for arbitration, the parties may agree to contact the next arbitrator’s name drawn. If neither the second nor the third arbitrator is available within (60) calendar days, the selection process shall be repeated until an arbitrator is selected.

3. Arbitration Process:

a. The arbitration proceeding shall provide an opportunity for the union and the University to examine and cross-examine witnesses under oath and to submit relevant evidence. Relevant materials and the names of all witnesses who are to be called shall be identified by the parties prior to the hearing. To the extent possible, witnesses and materials should be identified at least seven (7) calendar days prior to the hearing.

b. The arbitrator may not admit settlement offers as evidence at the arbitration hearing.

c. Prior to the arbitration, the union and the University shall attempt to stipulate as to the issue(s) to be arbitrated and to as many facts as possible.

d. Settlement proposals may be offered at any stage prior to or during arbitration.

e. The arbitration hearing shall be closed to the public, unless the parties otherwise agree in writing.

f. The arbitrator, following the close of the record of the hearing, shall consider the evidence presented and render a written decision. The written decision shall include a brief description of each issue under submission, the position of the parties, the findings of fact, the arbitrator’s conclusion(s) as to the violation of the agreement, if any, and, where appropriate, a remedy.

g. The arbitrator’s fees shall be borne equally by the parties. Expenses for stenographic or other services or facilities shall be borne by the party requesting such services or faculties, unless the parties agree otherwise in advance.

4. Scope of Arbitrator’s Authority

The arbitrator shall consider the evidence presented and render a written decision within thirty (30) calendar days of the close of the record of the hearing. The arbitrator’s decision will set forth the findings of fact, reasoning, and conclusions on issues submitted by the parties. The arbitrator’s authority shall be limited to determining whether the University has violated arbitrable provisions of this contract and to ordering corresponding remedies. The arbitrator shall not have
jurisdiction or authority to add to, amend, modify, nullify, or ignore in any way the provisions of this contract nor shall the arbitrator have the authority to review any academic judgment. To the extent that the University's action is based upon academic judgment, the arbitrator shall have no authority or jurisdiction to substitute his/her judgment for that of the University and its agents.

5. Decision and Remedy

a. If the grievance is sustained in whole or in part, and subject to the limitations set forth herein, the remedy shall not exceed restoring to the employee the pay, benefits or rights lost as a result of a violation of this agreement, less any compensation and benefits received from any source, including, but not limited to, worker’s compensation and unemployment insurance benefits. The decision of the arbitrator, within the limits described herein, shall be final and binding and distributed to the parties within thirty (30) calendar days of the close of the record of the hearing, unless the arbitrator notifies the parties that the time frame cannot be met.

b. The arbitrator shall have no authority to award back wages or other monetary reimbursement, nor shall the University be liable on a grievance claiming back wages or other monetary reimbursements for:

1) Any period of time during which an extension of time limits has been granted by the employer at the request of the union; or

2) Any period of time between the first date the arbitrator is available for an arbitration hearing and the date of the hearing, when the first date of the hearing, when the first date is rejected by the union; or

3) Any period of time greater than sixty (60) calendar days prior to the date of the informal review, step 1 of the grievance procedure.

6. Release Time and Pay Status:

a. Whenever an arbitration hearing or a meeting convened to resolve the arbitration is scheduled during the regular work time of an employee who is a grievant or a representative, reasonable release time with pay shall be granted to such employee(s) involved so long as a written request for release time is received at least 24 hours in advance. Employees so released shall be granted leave with pay.

b. When arbitrations or meetings occur outside an employees scheduled work time, no employee release time shall be granted. Employees called as witnesses may be released from work for reasonable time spent in meetings convened to
resolve the arbitration and for the arbitration hearing. Time spent in
investigating and preparation for arbitration shall not be on pay status.

7. List of Arbitrators
   a. Lou Zigman
   b. Anthony Miller
   c. Fred Horowitz
   d. Bob Bergeson