

ARTICLE 6 GRIEVANCE PROCEDURE

A. GRIEVANCE PROCEDURE

1. **Exclusive Procedure:** The Grievance Procedure set out in this Article shall be exclusive and shall replace any other grievance procedure for adjustment of any disputes arising from the application and interpretation of this Agreement. Unless otherwise indicated within this Agreement, any previous grievance procedure or other procedure in existence or adopted by the University shall not apply to employees covered by this Agreement for any purposes whatsoever.
2. **Full Disclosure:** Subject to the limitations of the Grievance and Arbitration Articles, at all steps in the Grievance and Arbitration Procedure the grievant and the Association representatives shall materially expedite the resolution of the grievance by disclosing to the appropriate University representatives a full and detailed statement of the facts relied upon, the issue involved, the remedies sought, and the provision(s) of the Agreement relied upon
3. **Headings:** The headings of the sections contained in this Article are for convenience only and shall not be deemed to control or affect the meaning or construction of any provision of this agreement.

B. DEFINITIONS

1. **Generally:** A grievance is defined as, and limited to, a written complaint by an individual employee, a group of employees or the Association involving an alleged violation of a specific provision of this Agreement during the term of this Agreement.
2. **Group Grievances:** Group grievances are defined as, and limited to, those grievances which cover more than one employee, and which involve the same circumstances and facts for the grievance involved.
3. **Association Grievances:** Association grievances are grievances filed by FUPOA on behalf of an individual employee, on behalf of a group of employees or on behalf of itself. FUPOA is responsible for informing an employee that it is bringing a grievance on behalf of said employee (including an employee named in a group grievance).
4. **Consolidated Grievances:** Consolidated Grievances are grievances of two or more employees, as well as multiple grievances by or related to the same employee or which relate to the same incident, issue or course of conduct, which have been consolidated for purposes of the Grievance Procedure by mutual agreement of the University and the Association.

C. ELIGIBILITY

1. **Generally:** Except as otherwise provided in this Agreement, an individual employee, a group of employees, and FUPOA shall have the right to use the Grievance Procedure. The University shall not have the right to use the Grievance Procedure.
2. **Former Employees:** Employees who voluntarily terminate their employment, including, but not limited to, retirement from the University, shall have their pending grievances immediately withdrawn and will not benefit by any subsequent settlement or disposition of any individual or group grievance.
3. **Retention or Release of Non-Career/Probationary Employees:** The retention or release of non-career employees and probationary employees shall not be subject to Article 6 - Grievance Procedure or Article 7 - Arbitration Procedure of this Agreement. The retention or release of non-career

employees and probationary employees is at the sole discretion of the University.

4. **Improper Remedy:** Any grievance which seeks a relief or remedy which in whole or in part is not contemplated by the terms and provisions of this Agreement and/or which is not within the authority or jurisdiction of an arbitrator to award pursuant to the terms and provisions of this agreement, including but not limited to the provisions of the Arbitration Article, shall be ineligible for processing through the grievance/arbitration procedures of this Agreement.

D. GRIEVANCE REPRESENTATION

An employee or group of employees shall have the right to be represented at all steps of the Grievance Procedure by one person of the employee's or group of employees' choice. The one person chosen to provide representation may be any person of the grievant's choosing, subject to the provisions of this Article. In any event, representation is to be provided by one person. Pursuant to HEERA (3580.5), a University employee who has been designated as managerial, supervisory or confidential by the University shall not represent any employee or group of employees at any step of the Grievance Procedure or in any activity or role provided for in the Grievance Procedure.

E. GENERAL PROCEDURES AND REQUIREMENTS

1. **Failure to Adhere to Procedures and Requirements:** Any grievance or appeal which is not received within the time limits established by this Article and/or which does not comply with procedures and requirements of this Article shall be considered waived and withdrawn by the employee and/or the Association.
2. **Non-Business Days:** Deadlines which fall on a day which is not a campus business day will automatically be extended to the next business day.
3. **Extension of Time Limits:** The parties may mutually agree in writing to extend the time limits in any step of the Grievance Procedure. Such written extension by mutual agreement must be accomplished in advance of the expiration of the time limit being waived.
4. **Waiver of Grievance Steps:** Each of the steps in the Grievance Procedure may be waived by mutual agreement of the parties. Such waiver must be in writing and must be signed by the representatives of the respective parties who are responsible for the Grievance Procedure at the step succeeding the step being waived. A grievant who is appealing a termination or suspension may, at Grievant's sole option, waive Step 1 of the Grievance Procedure.
5. **Remand to Previous Step:** Where appropriate, the parties at any step of the Grievance Procedure may, upon mutual agreement, remand the grievance to a previous step for resolution.
6. **Grievances Not Appealed:** Grievances not appealed within the designated time limits in any step of the Grievance Procedure will be considered resolved on the basis of the last preceding University answer.
7. **Grievances Not Answered by University:** Grievances not answered by the University within the designated time limits of any step of the Grievance Procedure may be appealed to the next step of the Grievance Procedure by giving written notice of the appeal within 15 calendar days of the expiration of the designated time limits to the campus official responsible for the next step of the Grievance Procedure.

F. EMPLOYEE WITHDRAWAL

In the event an employee named on a group or individual grievance which has been submitted to the University wishes to withdraw from the grievance, he/she

shall so notify the University and FUPOA in writing and upon such written request the named employee shall be withdrawn as a party to the grievance. Failure to notify FUPOA shall not preclude the withdrawal. The University shall promptly notify FUPOA of any such notice.

G. GRIEVANCES AND APPEALS – METHOD OF FILING

1. **Generally:** All grievances and appeals must be in writing and submitted to the appropriate official/office on the approved form contained in Appendix E. Grievances may be hand-delivered or emailed to the appropriate campus labor relations office (See Appendix E) but will not be accepted by mail or fax.
2. **Hand-Delivered Grievances/Appeals:** Hand delivered grievances/appeals must be received by the appropriate office designated to receive the grievance/appeal and are considered timely if received at or prior to 5:00 pm of the last day of the filing/appeal period. Hand delivered grievances/appeals received after 5:00 pm shall be considered received on the following business day.
3. **Acknowledgment of Hand-Delivered Grievances/Appeals:** Hand-delivered grievances/appeals must receive mutual acknowledgment from the person delivering the document(s) and the person accepting delivery of document(s) by either (1) affixing the date stamp of the receiving office, and each of them retaining one of the stamped document(s); or (2) the person accepting delivery of document(s) signing and dating the document(s), and each of them retaining one of the signed, dated document(s).
4. **Grievances/Appeals Filed by Email:** Emailed grievances/appeals must be received by the appropriate office designated to receive the grievance/appeal and are considered timely if received at or prior to 5:00 pm of the last day of the filing/appeal period. Emailed grievances/appeals received after 5:00 pm shall be considered received on the following business day.
5. **Acknowledgment of Grievances/Appeals Filed by Email:** Email addresses designated by the University to receive grievance/appeal filings shall acknowledge the filing of a grievance or appeal with a computer-generated automatic email response.
6. **University Designation of Email Addresses:** Within thirty (30) calendar days of the ratification of this Agreement, each campus/location receiving grievances or appeals pursuant to this contract shall establish an email address designated to accept grievances and grievance appeals, if no such email address already exists. For all appeals designated to be filed with the University of California, Office of the President, such emails shall be directed to AppealAGrievance@ucop.edu.

H. INFORMAL GRIEVANCE STEP

1. **Generally:** Employees are encouraged to informally discuss alleged violations of this Agreement with their immediate supervisor in order to resolve an issue which may become a grievance. Resolutions of items which are potential grievances through such informal discussions are final but shall not be precedent setting.
2. **Representation:** Employees may request and, if such a request is made, have present a FUPOA representative during Informal Grievance Step discussions with their supervisor. FUPOA representatives may also discuss with designated campus officials matters which may become an Association grievance in an attempt to resolve the matter.
3. **No Impact on Time Limits:** With the exception of the initial grievance filing, attempts to informally resolve a potential grievance, whether satisfactory or unsatisfactory to the grievant, or the lack of such informal attempts, shall not in any way constitute a waiver to or interruption of any or all time limits

governing the Grievance Procedure unless agreed by the parties. Involvement or non-involvement of the parties in efforts to informally resolve potential grievances shall not constitute in any way an extension of time limits unless agreed by the parties.

I. GRIEVANCE MEETING ATTENDEES

1. **Named Grievants:** If the University convenes a meeting involving the parties to a grievance for the purposes of resolving the grievance and/or completing the steps of the Grievance Procedure enumerated below, bargaining unit employees who are named in the grievance, and are otherwise eligible to attend such a meeting pursuant to this Article shall be in a without-loss-of-straight-time-pay status during the meeting provided:
 - a. Such meeting occurs during the regularly scheduled hours of work of the named grievant:
 - b. Advance request is made in writing to and approval is received from the employee's immediate supervisor and the University representative conducting the meeting. Approval to attend shall be made on an operational needs basis and shall not be unreasonably denied; and
 - c. The employee is at his/her work station as assigned and scheduled immediately prior to and immediately after the period of time during which the employee participates in such a grievance meeting, provided such meeting commences after the beginning of the employee's normally-scheduled hours of work or ends prior to the end of the employee's normally-scheduled hours of work.
2. **Grievance Witnesses:** Members of the bargaining unit who have direct knowledge of circumstances relating to the grievance may appear at a Step 2 grievance meeting. Witnesses shall only be in a without-loss-of-straight-time pay status if they meet the requirements of Article 6.I.1.a-c above. The absence of any or all witnesses shall not require the meeting to be recessed or postponed.
3. **Expenses:** The University is not responsible for any travel or lodging expenses or any other expenses incurred by the employee and/or the Association or its representatives and/or witnesses which are related to participation in meetings convened by the University for the purpose of grievance resolution.

J. FORMAL GRIEVANCE STEPS

1. **Step 1**
 - a. **Time to File:** All grievances must be presented in accordance with this Article and no later than 30 calendar days from the date the grievant first became aware of, or should have become aware of with the exercise of reasonable diligence, the alleged violation of the Agreement.
 - 1) The failure of an employee to file a grievance within the 30 day period does not provide an opportunity for the Association to later file a grievance by invoking a new 30 day time limit.
 - 2) Grievances not presented within this 30 calendar day period shall be considered untimely and ineligible for processing through the Grievance Procedure.
 - b. **Content of Grievance:** Each grievance, regardless of whether hand-delivered or electronically filed must be submitted to the designated campus grievance official on the approved form contained in Appendix F. In addition:

- 1) Only one subject matter shall be covered in any one grievance.
- 2) A grievance shall contain a clear and concise statement of the grievance by indicating the issue involved, the specific relief sought, the date the incident or violation took place; the specific section or sections of the Agreement involved; and the grievance form must be signed and dated by the grievant(s) and/or the grievant's representative.
 - a) **Group Grievances:** Grievances which are group grievances must be so designated on the grievance form at Step 1, and all employees covered by the grievance must be identified on the grievance form at Step 1.
 - b) **Association Grievances:** Grievances which are Association grievances must be so designated on the grievance form at Step 1 and contain sufficient information for the University to conduct research and investigate the grievance. All Association grievances shall be signed by the President of FUPOA or his/her designee.
- 3) The grievance shall contain an email address to which the grievance response will be emailed.
 - a) **Step 1 Review:** The immediate supervisor, or the University's designee, shall review the grievance and at his/her discretion, may meet with the grievant and/or the grievant's representative, if any, to discuss the grievance.
 - b) **Step 1 Response:** The University's written response will be issued to the grievant and the representative, if any, within 15 calendar days after the meeting is held or, if no meeting is held, 15 days after the formal grievance is filed. The written response will be emailed to the address on the grievance form with a copy simultaneously emailed to FUPOA at grievance@fupoa.org.
 - c) **Step 1 Resolution:** Any resolution of the grievance at Step 1, although final, shall not be precedent setting.

2. Step 2

- a. **Filing:** If the grievance is not satisfactorily resolved at Step 1, the employee or the Association may proceed to Step 2 by filing an appeal to the designated campus official (labor relations representative). The written appeal must be received by the designated campus labor relations office within 15 calendar days of the date on which the written response to Step 1 was given or due.
- b. **Step 2 Meeting:** Within 15 calendar days of receipt of the Step 2 appeal, the designated campus labor relations official shall schedule and convene a meeting with the employee and the employee's representative, if any, to attempt to resolve the grievance. During this Step 2 meeting, both parties shall have an opportunity to discuss information and contentions relevant to the grievance.
- c. **Step 2 Response:** Within 15 calendar days following the Step 2 meeting, the designated campus/Laboratory official shall issue a written decision. This decision shall be emailed to the address on the grievance form with a copy simultaneously emailed to FUPOA at grievance@fupoa.org.
- d. **Suspensions/Dismissals:** If a grievance which solely alleges that a suspension or dismissal was not for just cause is not satisfactorily resolved at Step 2, the Grievant may waive, at Grievant's sole option,

Step 3 of the Grievance Procedure and appeal the grievance directly to Arbitration subject to the terms and provisions of the Arbitration Article.

3. Step 3

- a. **Filing:** If the grievance is not satisfactorily resolved at Step 2, the employee or FUPOA may proceed to Step 3 by filing a notice of appeal with the University's Director of Labor Relations, Office of the President, received within 15 calendar days of the date the Step 2 answer was given or due. In order for a grievance to be considered at Step 3, such written notice must identify the grievance being appealed and be signed and dated by the President of FUPOA or designee.
- b. **Scope of Step 3 Appeal:** The subject of the grievance and remedy sought as stated in Step 2 shall constitute the sole and entire subject matter of the appeal to Step 3.
- c. **Step 3 Response:** The University's written answer to a grievance appealed to Step 3 shall be issued by the University's Director of Labor Relations, Office of the President, or designee within 45 calendar days of the receipt of the appeal to Step 3. This decision shall be emailed to FUPOA at grievance@fupoa.org.
- d. **Appeal to Arbitration:** If a grievance which is not satisfactorily resolved at Step 3, FUPOA (or employee if appealing disciplinary action) may appeal the grievance directly to the Arbitration Procedure of this Agreement subject to the terms and provisions of the Arbitration Article unless otherwise provided by this Agreement.
- e. **Grievances Not Appealed to Arbitration:** If the University's Step 3 decision is not properly appealed to arbitration or heard in an arbitration hearing as provided in Article 7 - Arbitration Procedure, the grievance shall be considered settled on the basis of the Step 3 decision and shall not be eligible for further appeal.

K. SETTLEMENT

1. **Settlement Offers Not Evidence:** Settlement offers made during attempts at informal resolution or during the steps of the Grievance Procedure shall not be introduced as evidence in subsequent steps of the Grievance or Arbitration Procedures.
2. **Settlement of Grievances Processed Beyond Step 2:** Settlements of grievances processed beyond Step 2 of the Grievance Procedure must be signed by University's Director of Labor Relations, Office of the President, and the President of FUPOA or designee(s). The University's Director of Labor Relations, Office of the President, or designee shall have authority to settle grievances appealed to Step 3. In the case of a grievance with FUPOA representation, the President of FUPOA or designee shall have authority to settle or withdraw the grievance or appeal the grievance to arbitration.
3. **Retroactivity of Settlement:** Settlement of grievances may or may not be retroactive as the equities of a particular case may demand. In any case where it is determined that the settlement shall be applied retroactively, except for the correction of mathematical, calculation, recording or accounting errors relating to the payment of wages, the maximum period of retroactivity allowed shall not commence on a date earlier than 30 calendar days prior to the initiation of the written grievance in Step 1.
4. **Other Limitations:** No settlement shall provide for the payment of interest, damages, mental consideration, punitive damage, taxes or any other form or payment not related to the employee(s) direct rate of University pay and associated University benefits.