

ARTICLE 07
GRIEVANCE AND ARBITRATION

A. GENERAL PROVISIONS

1. A grievance is a claim by an individual employee, a group of employees, or the Union, that the University has violated a specific provision of this Agreement during the term of this Agreement. A grievant may be represented at all stages of the grievance and arbitration procedures.
2. Only the Union has standing to file a grievance on the following:
 - a. A location's failure to provide employee lists in accordance with Article 32 – Union Access and Rights, and Article 33 – Union Security.
 - b. Failure to provide the necessary information to the Union as set forth in Article 33 – Union Security.
3. A grievant shall have the right to be represented at all steps of the grievance procedure up until the appeal to arbitration by the Union, another representative, be self-represented or by any person of their choice other than a University employee who has been designated as supervisory, managerial or confidential within the meaning of the Higher Education Employee-Employer Relations Act (HEERA). The grievant shall provide the University written notice of the name and contact information of their representative, if applicable. Only the Union may represent a grievant after the appeal to arbitration.
4. Grievances may be consolidated at any step of the grievance or arbitration process by written agreement of the University, and the grievant or the grievant's representative.
5. The Union and the University may mutually agree in writing that the grievance, or a portion thereof, be held in abeyance at any step of the grievance or arbitration process. Either party may, upon written notice to the other, terminate the abeyance and resume the grievance process from the point it was held in abeyance.
6. Grievance File – Materials generated as a result of the filing of a grievance including the grievance form shall be maintained by the University in a file separate from the employee's employment file.
7. Attendance at the Step meetings held pursuant to Section C are limited to the grievant, the grievant's representative, if any, and one other individual from the Union. Advanced requests for additional attendees to present directly relevant information pertaining to the grievance shall not be unreasonably denied.
8. Offers of settlement made during attempts at informal resolution or during the steps of the grievance or arbitration procedure are inadmissible at any step of the grievance or arbitration procedures.

B. FILING GRIEVANCES

1. All grievances must be filed with the location's labor relations office at the location where the alleged violation occurred and within the time frames specified in this Article.

Grievances must be filed on the form agreed to by the parties in Appendix A. The form shall be posted on the University's website within thirty (30) days of ratification of this Agreement.

2. The grievance form must be signed and dated by the employee(s) or the employee's representative upon submission to the University. Union grievances must be signed by the Union's representative.
3. Proper Filings – Initial Grievances, Responses and Appeals

Grievances, responses and appeals must be filed via email at the location's labor relations office in accordance with the procedures and timelines below:

- a. All subsequent University responses shall be sent via email to contractenforcement@uaw4811.org and the email address designated by the Grievant/Representative on the grievance form as provided in Appendix A.
- b. Deadlines that fall on a day that is not a regular business day will automatically be extended to the next regular business day.
- c. The written grievance shall contain the following information:
 - i. a specific description of the dispute, including the name(s) of the affected employee(s) or description of the group of the affected employees,
 - ii. the facts giving rise to the dispute,
 - iii. a list of all the article(s) and section(s) violated,
 - iv. a statement as to how the article(s) and section(s) were violated,
 - v. the date(s) of the violation, and
 - vi. the requested remedy or remedies.
- d. The date of filing shall be the date the grievance is received at the designated location's labor relations office. Filings received after the close of business shall be deemed filed the next business day.
- e. The timelines and meetings for the processing of grievances shall be in accordance with the steps addressed below.

C. GRIEVANCE STEPS

1. Informal Review – Before commencing the formal grievance process, the grievant, with or without their representative, may discuss the grievance with their immediate supervisor in a timely manner. Such a meeting, when requested by the employee or representative, shall be held within fifteen (15) calendar days of the request. Informal resolutions, although final, shall not be precedential nor inconsistent with this Agreement. Informal resolution of grievances at the lowest possible level is an objective shared by the University and the Union.

- a. If the grievance is not resolved through informal discussion, the grievant may seek review as set forth below.
 - b. Attempts at informal resolution (including grievances that allege violation of harassment or discrimination) do not extend the thirty (30) calendar day time limit to file at Step 1.
2. Step 1 – A grievant may file a written grievance as set forth below.
- a. A written grievance must be filed with the location's labor relations office using the grievance form agreed to by the parties (Appendix A). The grievance must be filed no later than thirty (30) calendar days from the date on which either the grievant or the representative knew or reasonably should have known of the alleged violation of the Agreement.
 - b. If no Informal Review meeting took place, at the request of either party there shall be a meeting held at Step 1 that includes the supervisor and the grievant. If an Informal Review meeting took place, such a Step 1 meeting shall only be held by mutual agreement of the parties.
 - c. The University's written Step 1 decision will be issued to the grievant and the representative, if any, within fifteen (15) calendar days after the meeting is held or, if no meeting is held, fifteen (15) calendar days after the formal grievance is filed. If the response is not issued within this time limit, or if the grievance is not resolved at Step 1, the grievance may be appealed to Step 2 and shall be processed according to Section C.3 below.
3. Step 2
- a. If the grievance is not resolved at Step 1, the grievant or the Union may proceed to Step 2 by filing a written appeal with the location's labor relations office within fifteen (15) calendar days of the date the written response is issued or within fifteen (15) calendar days of the date on which the University's response was due if no response was issued.
 - b. If the Union requested a meeting in the Step 2 appeal, or if the University requests a meeting, the location's labor relations office shall convene a meeting with the grievant(s) and the grievant's representative, if any, to attempt to resolve the grievance. The meeting shall be convened no later than fifteen (15) calendar days following receipt of the Step 2 appeal. During the Step 2 meeting, the parties shall discuss information and contentions relative to the grievance.
 - c. A written decision shall be issued within fifteen (15) calendar days following the Step 2 meeting, or receipt of the Step 2 grievance filing if it is agreed that no meeting will be held. If the University fails to issue a decision within fifteen (15) calendar days, the Union may appeal the grievance to Step 3.
 - d. If a grievance that alleges a violation of Article 04 – Discipline and Dismissal only is not satisfactorily resolved at Step 2, the Union may appeal directly to arbitration in accordance with this Article.

4. Step 3 – Review (Office of the President)

- a. If the grievance has not been resolved at Step 2, the grievant and/or the grievant's representative may file an appeal in writing to the Office of the President. Such appeal must be received by the Office of the President no later than fifteen (15) calendar days after the issuance of the University's Step 2 response, or the date on which the Step 2 response would have been due if no response was issued.
- b. An appeal to Step 3 shall be accomplished as follows:
 - i. Email to AppealAGrievance@ucop.edu:
 - a) Email submissions must include PDFs of all documents, information, and signatures necessary to be in compliance with the Grievance Procedure provisions of this Agreement.
 - b) The date of filing for emailed appeals to Step 3 shall be the date received on the Office of the President server, provided that the appeal is received during business hours. If a Step 3 appeal is received outside of normal business hours, the first following business day will be deemed the filing date of the appeal to Step 3.
 - c) The Office of the President shall acknowledge the Union's appeal to Step 3 through a computer-generated, automatic email response. If the Union does not receive a confirmation email within thirty (30) minutes of the time of submission, the date of filing shall be the sent time and date.
 - ii. The subject of the grievance as stated in Step 2 shall constitute the entire subject matter of the appeal to Step 3.
 - iii. The University must assert any and all known arbitrability issues no later than the date the Step 3 decision is issued. If arbitrability issues arise after the Step 3 response is issued, the University may raise them in accordance with Section H, below.
 - iv. The Office of the President official or the Office of the President's official's designee shall issue the University's Step 3 written decision within thirty (30) calendar days of the receipt of the appeal. The Step 3 decision shall be served upon the grievant, and the grievant's representative, and the Union at contractenforcement@uaw4811.org. If the Step 3 decision is not issued within thirty (30) calendar days, the Union may appeal the grievance to arbitration.
 - v. The Office of the President official or the Office of the President official's designee shall have the authority to settle grievances appealed to Step 3.

D. GRIEVANCES FILED DIRECTLY TO THE OFFICE OF THE PRESIDENT

- 1. In the event the Union alleges a contract violation as a direct result of Office of the President action, the grievance shall be filed directly at Step 3 with the Office of the President within thirty (30) calendar days from the date on which either the grievant or their representative knew or should have known of the alleged violation of the Agreement.

At the time of filing, the Union must provide specific evidence that the violation is occurring at multiple locations.

2. The Office of the President official or the Office of the President official's designee shall issue the University's decision within thirty (30) calendar days of the receipt of the filing. The University's decision shall be served upon the grievant and/or the grievant's representative, and the Union at contractenforcement@uaw4811.org.

E. EXTENSION OF TIME LIMITS

With the exception of the thirty (30) day Step 1 grievance filing deadline, the time limits set forth in this Article may be extended only by written agreement of the parties. Except that, each party shall be entitled to one (1) seven (7) calendar day extension upon notice in advance of the deadline at either Step 1 (after timely grievance filing), Step 2, or Step 3.

F. APPEAL TO ARBITRATION

1. Content

An appeal to arbitration may be made only by the Union and only after the timely exhaustion of the grievance procedure. The written appeal to arbitration must be received by the Office of the President, with a copy to the location's labor relations office of origin, within forty-five (45) calendar days of the date of issuance of the final University decision to the Union or within forty-five (45) calendar days of the final date on which the University's response was due if no response was issued. The written appeal must be signed by an authorized representative of the Union and must include:

- a. The name and email address of the Union representative who is responsible for the appeal to arbitration and to whom all correspondence relating to the arbitration is to be sent;
- b. a copy of the completed grievance form; and a statement setting forth the unresolved issue(s), the articles and sections of the agreement alleged to have been violated, and the remedy requested.
- c. If a grievance is not appealed to arbitration, the grievance shall be considered closed.

2. Procedure

An appeal to arbitration shall be made in the following way:

- a. Email to AppealAGrievance@ucop.edu:
 - i. Email submissions must include PDFs of all documents, information and signatures necessary to be in compliance with the arbitration provisions of this Agreement.
 - ii. The 'date of filing' for emailed appeals to arbitration shall be the date the appeal is received on the University server, provided that the appeal is received during business hours. If an appeal to arbitration is received outside of normal business

hours, the following business day will be deemed the filing date of the appeal to arbitration.

- iii. The University shall acknowledge receipt of the Union's appeal to arbitration through a computer-generated, automatic email response.

3. Remand/Retain Notice

- a. Within fifteen (15) days of receipt of the appeal, the Office of the President shall notify the Union whether the Office of the President shall remand the case to the location or retain the case at the Office of the President. Such notice shall include the contact information for the designated University official, per Section G.1 below.

G. SELECTION OF THE ARBITRATOR/PRE-ARBITRATION CONFERENCE

1. The Union representative shall contact the designated University official as per the Remand/Retain Notice within thirty (30) calendar days of the Remand/Retain Notice in order to select an arbitrator from the panels set forth in Appendix B. The arbitrator shall be selected within forty-five (45) calendar days from the date of the Remand/Retain Notice. If no Remand/Retain Notice is issued, the Office of the President shall coordinate a meeting to select an arbitrator within forty-five (45) calendar days from the date when the notice would have been due.
2. The selection of arbitrator and scheduling shall be as follows:
 - a. If the parties cannot agree to an arbitrator from the panels, the parties shall alternately strike one (1) name each from the list of statewide panel members.
 - b. Unless the parties agree otherwise, the party selecting first shall be determined by the flip of a coin. The remaining name shall be designated as the arbitrator.
 - c. Within sixty (60) calendar days from selection, the parties shall attempt to agree to a hearing date, but if they are unable to agree, the authority for scheduling a hearing date shall reside with the arbitrator.
 - d. The parties shall notify the arbitrator within thirty (30) calendar days of selection and request hearing date(s). The hearing date(s) shall be no earlier than sixty (60) calendar days from the arbitrator's agreement to hear the case.
 - e. If a selected arbitrator declines to serve, the parties will strike again from the panel.
3. Grievances retained by the Office of the President (or remanded grievances per Section G.3.e.i below) shall be discussed at the Pre-Arbitration Conference (PAC), which shall occur at least every two (2) months. During the PAC, the parties shall:
 - a. Resolve any remaining issues regarding the selection of arbitrator or arbitration dates which have not been resolved prior to the PAC.
 - b. Discuss any existing arbitrability claims raised by the University, if any, with the goal of resolution; if arbitrability is resolved, but the merits are not settled, the matter shall go forward to a merits hearing, provided the Union elects to move forward.

- c. Discuss the merits of the grievance(s), with the goal of resolution.
- d. Discuss and decide engaging in grievance mediation in accordance with Section I below.
- e. The Union shall provide a list of retained grievances (or remanded grievances per Section G.3.e.i below) to be discussed at least seven (7) calendar days prior to the scheduled PAC. If the Union does not provide the list within this timeframe, the University retains the right to reschedule or cancel the PAC.
 - i. Remanded grievances shall be discussed at the PAC by mutual agreement of the parties, or if the Union has reached out to the Location official designed in the Remand/Retain Notice, at least forty-five (45) calendar days have elapsed since such notice was issued, and selection has not occurred.
- 4. At the time the University and the Union schedule the Pre-Arbitration Conference, each party shall endeavor to identify the names of the participants.

H. ARBITRABILITY

- 1. The University shall be precluded from raising arbitrability claims if it has not done so by the Step 3 response, unless such issues arise after the Step 3 response is issued. Arbitrability claims must include facts and arguments to substantiate such claims.
- 2. Questions of arbitrability properly raised under the terms of this Article will be considered in the same hearing as the merits.

I. MEDIATION (OPTIONAL STEP)

The parties may mutually agree to engage in grievance mediation and request a state mediator or choose a different arbitrator from the panel to serve as a mediator in order to resolve cases prior to a hearing. Mediation shall occur at least four (4) weeks before the arbitrator's cancellation deadline, unless another timeline is mutually agreed to. However, if the parties agree to engage in grievance mediation, nothing in this paragraph shall supplant the grievance process timelines from continuing, unless mutually agreed by the parties. If a settlement is reached in grievance mediation, the settlement shall be in writing and signed by the parties. Such agreement shall not be precedent-setting.

J. PROCEDURAL/EVIDENTIARY ISSUES AT HEARING

- 1. Prior to the arbitration hearing, the Union and the University shall attempt to stipulate as to the issue(s) to be arbitrated and to as many facts as possible.
- 2. At least seven (7) calendar days prior to the arbitration the parties shall exchange lists of known witnesses and discuss exhibits.
- 3. During the hearing the parties shall have the opportunity to examine and cross-examine witnesses under oath and to submit relevant evidence. Issues and allegations shall not be introduced at the hearing unless they were introduced prior to or during Step 3 of the grievance procedure.

4. Upon request by either party but not upon the arbitrator's own motion, the arbitrator shall have the authority to subpoena relevant documents and/or witnesses.
5. The arbitration hearing shall be closed to anyone other than the participants in the hearing unless the parties agree otherwise in writing.
6. In all cases appealed to arbitration except for actions taken pursuant to Article 04 – Discipline and Dismissal, the Union shall have the burden of proceeding and the burden of proof. In all cases, the burden of proof is preponderance of the evidence.
7. Hearings shall be held remotely using virtual platforms, unless the parties agree to conduct the arbitration hearing in person. If there is no agreement by the parties on the modality of conducting the hearing, the decision shall be made by the arbitrator and shall be final.

K. SCOPE OF ARBITRATOR'S AUTHORITY

1. 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.
2. If the grievance is sustained in whole or in part, the remedy shall not exceed restoring to the grievant the pay, benefits or contractual rights lost less any compensation from any source including but not limited to Workers' Compensation, Unemployment Compensation or other employment. The decision and award of the arbitrator shall be final and binding upon the parties to the contract and the employees. The University will not be liable for back wages or other monetary reimbursement, including interest, for:
 - a. any period of time during which an extension of the time limits has been granted at the request of the Union;
 - b. any period of time greater than thirty (30) calendar days prior to the date the grievance was filed pursuant to this Article, except for the correction of an error in implementation in payment of wages, or the correction of mathematical, calculation, recording or accounting errors relating to the payment of wages;
 - c. any period of time greater than three (3) years prior to the date the grievance was filed pursuant to this Article, for grievances involving the correction of an error in implementation in payment of wages, or the correction of mathematical calculation, recording, or accounting errors relating to the payment of wages.
3. The arbitrator's fees and the costs of transcripts requested by the arbitrator or both parties shall be equally borne by the parties. Costs for transcripts requested by only one party, shall be borne by the requesting party.

4. Unless the parties mutually agree otherwise, the party that cancels or postpones an arbitration will be liable for any cancellation/postponement fees charged by the arbitrator or court reporter.

L. RELEASE TIME FOR ARBITRATION FOR THE GRIEVANT AND UNION REPRESENTATIVE(S)

1. The University and the Union shall establish a reasonable schedule for the arbitration proceeding.
2. The Union shall provide the names of witnesses in accordance with Section J.2 above, in order to facilitate the University's provision of release time.
3. The grievant(s) shall be in a without-loss-of-pay-status for the entire arbitration hearing.
4. Employee witnesses will be in a without-loss-of-pay-status for travel to and from the arbitration hearing, for time actually giving testimony or waiting to give testimony, at the hearing.
5. Not more than one (1) employee representative will be released in without-loss-of-straight-time-pay status for attendance at any one (1) arbitration hearing.
6. Total release time for the grievant, employee representative and witness(es) for travel to/from the hearing and for participation in the hearing shall not exceed either their normally scheduled hours of work for the day(s) of the hearing or their actual participation in the hearing. Participants shall travel to/from the hearing via the most expeditious and cost-effective method of transportation available.
7. The University shall not be responsible for any lodging, travel expenses or other expenses incurred by a grievant, witnesses, employee or Union representatives with regard to the Union's presentation in the arbitration hearing.

M. ARBITRATOR PANEL

1. The parties agree that there will be a standing panel of nineteen (19) arbitrators, listed in Appendix B, to hear arbitration cases scheduled for hearing pursuant to the provision of this Article. If agreement cannot be reached on all nineteen (19) arbitrators, the remaining number needed to complete the panel will be selected alternately by the parties.
2. The procedure for modifying the panel shall be as follows:
 - a. Upon either party discovering that there is a vacancy on the panel, the party shall provide a written request to meet and consider a replacement, and the parties will hold such a meeting within sixty (60) calendar days.
 - b. In replacing an arbitrator who has declined to participate or who has resigned, or in adding (an) arbitrator(s) to complete the panel, the parties will exchange nominations at least thirty (30) calendar days prior to selection. The party selecting first shall be determined by the flip of a coin.

- c. The parties shall jointly send letters to arbitrators chosen for placement on the standing panel and shall request that they agree to participate and comply with the provisions of this Agreement.

N. TIME LIMITS

1. If the grievant or their representative does not comply with the time limits set forth herein shall render the grievance ineligible for further processing or appeal, and the grievance shall be considered withdrawn.
2. If the University does not comply with any timeline set forth in this Article, the grievant or their representative has the right to appeal the grievance to the next step of the grievance or arbitration procedure in accordance with the timelines provided in this Article.