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ARTICLE 8

COMPLAINT PROCEDURE

8.X A complainant shall have the right to present a complaint and to have that complaint considered in good faith. An effective complaint process is one that facilitates the resolution of the complaint in a timely manner.

Definitions

8.1 Complaint - The term "complaint" as used in this Article refers to a specific stated allegation by a complainant that there has been a violation, misapplication, or misinterpretation of a specific CSU policy governing working conditions or CSU work rule.

8.2 Complainant- The term "complainant" as used in this Article refers to a CSUEU-represented employee who is a:

- a. permanent employee(s); or
- b. probationary employee(s); or
- c. temporary employee(s) employed for more than ninety (90) consecutive days immediately prior to the event giving rise to the complaint; or
- d. intermittent employee(s); and

who allege(s) in a complaint that he/she/they has/have been directly wronged by a violation, misapplication, or misinterpretation of a specific term(s) of a CSU policy governing working conditions or CSU work rules.

The term "complainant," as used in this Article, may refer to the Union when alleging a violation, misapplication, or misinterpretation of a specific term(s) of a CSU policy governing working conditions or CSU work rules.

8.3 Representative - The term "representative" as used in this Article shall be a Union Representative or an employee who, at the complainant's request, may be present at all levels through Level III.

8.4 Respond and File - The terms "respond" and "file" as used in this Article refer to personal delivery or deposit in the U.S. mail or transmittal by facsimile or e-mail. **The Union and the CSU shall endeavor to use email whenever practicable.**

- a. If mail delivery is used, it shall include a proof of service by mail which 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 complaint, 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. If e-mail is used, the receiving party must respond acknowledging receipt and date of receipt of the e-mail transmission.
- d. A copy of all responses shall be concurrently served on the complainant's grievant's representative. If the complainant grievant has not provided an email or facsimile number, the complainant grievant may be served by U.S. mail.

8.5 Complaints alleging violations, misapplications, or misinterpretations of system-wide policies governing wages, hours working conditions, or CSU work rules may be initiated at Level III.

Informal Level (Optional)

8.6 ~~A complainant shall have the right to present a complaint and to have that complaint considered in good faith.~~

8.8 ~~If an informal meeting is requested, it shall be held within twenty-one (21) fourteen (14) days of the request.~~

8.7 The complainant and one representative, if any, may discuss the complaint with the immediate non-bargaining unit supervisor no later than thirty (30) days after the event giving rise to the potential complaint, or no later than thirty (30) days after the complainant knew or reasonably should have known of the event giving rise to the complaint. The complainant or his/her representative must identify the meeting as an Informal Complaint meeting. If the employee chooses to have an additional representative present during this informal discussion, then the immediate non-bargaining unit supervisor may also have an additional University administrator present during the discussions.

8.8 ~~If an informal meeting is requested, it shall be held within twenty-one (21) days of the request.~~

8.9 The complainant ~~and one representative, if any,~~ may attempt to resolve the complaint informally with the immediate non-bargaining unit supervisor. The immediate non-bargaining unit supervisor shall provide a ~~verbal~~ **written** response to the complainant as soon as possible within fourteen (14) days after the informal meeting. The immediate non-bargaining unit supervisor who conducted the informal meeting shall not serve as the designated administrator for any subsequent levels or render any subsequent level decisions.

8.10 A resolution of a complaint at the informal level shall not be precedent setting.

Level I – Appropriate Administrator

8.11 If the complaint is not resolved at the Informal Level or if the informal step is not invoked by the complainant, the complainant may file a Level I complaint with the ~~appropriate administrator~~ **Human Resources Office** no later than thirty (30) days after the event giving rise to the complaint or after the complainant knew or reasonably should have known of the event giving rise to the potential complaint or twenty-one (21) days after the Informal meeting, if one was held. **The Human Resources Office will refer the complaint to the appropriate administrator. Notification of the designated administrator will be provided in writing to the complainant and his/her representative. The complaint shall state on a complaint form agreed to by the parties and provided by CSUEU:**

- a. the specific term(s) of the CSU policy governing working conditions or CSU work rule alleged to have been violated;
- b. a detailed description of the grounds of the complaint including names, dates, places, and times;
- c. a proposed remedy;
- d. the name, classification, mailing address, and signature of the complainant;
- 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. the date of submission; and
- h. facsimile and/or e-mail addresses, if any, of the grievant and/or representative.

8.X **Failure to provide the required information in items 8.11 (a) through (h) will be grounds for the return of the complaint to the complainant. A copy of the complaint shall also be sent to the union representative handling the case and to CSUEU Headquarters. If the complaint is not amended and returned within twenty-one (21) days, the complaint will be deemed withdrawn.**

8.12 The appropriate administrator shall hold a meeting with the complainant and the complainant's representative, if any, at a mutually acceptable time and location within twenty-one (21) days after receipt of the complaint. The complainant may bring additional representative(s) to the meeting by advising the appropriate administrator in advance. If the complainant(s) has/have additional representatives, the appropriate administrator may have an equivalent number of additional representatives of management present at the meeting. If there are multiple complainants, the appropriate administrator may have an additional representative. The appropriate administrator shall respond to the complainant no later than twenty-one (21) days after the Level I meeting.

Level II – Campus President or Designee

8.13 In the event the complaint is not settled at Level I, the complainant may file the Level II complaint with the President or designee no later than twenty-one (21) days after the Level I response. If a settlement is proposed at Level I, the complainant should include a written statement relevant to the settlement proposal.

8.X Within twenty-one (21) days ~~after receipt~~ of the Level II filing, the President or designee shall hold a meeting with the complainant and the complainant's representative, if any, at a mutually acceptable time and location. The complainant may bring additional representatives to the meeting by advising the appropriate administrator in advance. If the complainant(s) has/have additional representatives, the appropriate administrator may have an equivalent number of additional representatives present at the meeting. The President shall respond to the complainant no later than twenty-one (21) days after the Level II meeting. If there are multiple complainants, the appropriate administrator may have an additional representative. The Level II response shall be a final decision when alleging a violation of a campus policy/rule.

8.14 The complainant shall present at each level all issues and evidence related to the complaint. Additional issues and/or evidence which become known after the Level II meeting shall be allowed to be presented and may be the cause for the complaint to be reviewed again at Level II only upon mutual agreement of the parties. Such issues and/or evidence must be made known before filing the complaint at Level III when alleging a violation of a systemwide policy/rule.

8.15 Amendments and/or modifications to the complaint shall not be made by the complainant after the Level III filing date except by mutual agreement.

8.16 Prior to the Level II response date, the parties may, by mutual agreement between the system-wide representatives, expedite the complaint to Level III when there has been an allegation of a violation of a systemwide policy/rule. Level III time limits shall commence on the date the agreement to expedite was reached.

8.17 An allegation of a violation of a campus policy/rule shall not be filed beyond Level II.

8.18 A complaint concerning health and safety issues may be filed at Level II.

Level III – Office of the Chancellor

8.19 In the event the complaint alleging a violation of a systemwide policy/rule is not settled at Level II, the complainant may file a written request for review with the Office of the Chancellor no later than twenty-one (21) days after the Level II response. The complainant shall attach a copy of the Level I and Level II responses together with any documents presented at those levels.

- 8.20 Within twenty-one (21) days of the Level III filing, the representative of the complainant shall schedule a conference at a mutually acceptable date, time and location with a designated individual in the Office of the Chancellor for the purpose of reviewing the matter. If there is no mutually acceptable location, then the conference shall take place via a telephonic or teleconference meeting. The designated individual in the Office of the Chancellor shall respond no later than twenty-one (21) days after the conference. The Level III response shall be a final decision. The original Level III response from the Office of the Chancellor shall be sent to the Union representative handling the case at Level III. A copy of the Level III response shall be sent to the complainant as long as the complainant provides an address on the complaint form. A copy of the response shall be sent to CSUEU Headquarters. If the complainant has not provided an address, the complainant's copy shall be sent to CSUEU Headquarters and CSUEU will deliver it to the complainant.

Mediation

- 8.21 The parties may agree to participate in mediation for the purpose of compromising, settling, or resolving a complaint. **Mediation may be invoked at any stage of the complaint process, including the informal level.** Complaints may be subject to mediation in accordance with the following:

~~a. The party requesting mediation of campus policies shall request mediation within thirty (30) calendar days after the Union has filed a complaint at Level II.~~

~~b. The party requesting mediation of systemwide policies shall request mediation within thirty (30) calendar days after the Union has filed a complaint at Level III.~~

c. Complaints shall not proceed to mediation except by the mutual agreement of both parties.

d. The mediator shall be selected through the mutual agreement of the parties. The mediator may be a member of the panel established in (c) below, or it may be a person identified by the parties as someone who it is believed could assist the parties in facilitating a resolution of the complaint, and who is willing to serve in that role.

d. The parties shall establish a panel of ~~three (3)~~ mediators by mutual agreement, to serve in the north and in the south and who shall serve in alphabetical rotation. The panel shall consist of ~~Louis Zigman, Ken Cloke and Kathy Kelly~~. Members of the arbitration panel established pursuant to Article 7 shall not be eligible to serve on this mediation panel. ~~The parties may add to this panel at any time by mutual agreement, including one-time use of a mediator.~~ **The parties may also agree to use a mediator from the State Mediation and Conciliation Service (SMCS).**

- e. The procedures set forth in California Evidence Code Section ~~1152.5~~ **1119**, or any substitute or successor provision of that code section, shall be applicable to mediation conducted pursuant to this Agreement.
- f. All costs of mediation shall be borne equally by both parties.
- g. The recommendations of a mediator, if any, shall be advisory only and shall not be binding upon the parties.

General Provisions

- 8.22 Failure of the complainant to comply with the time limitations of this Article shall render the complaint null and void and bar subsequent filing of this complaint. Failure by the appropriate administrator or President to timely respond under this Article shall permit the complaint to be filed at the next level.
- 8.23 Time limits set forth in this Article may be extended by mutual agreement. If the complainant, complainant's representative, if any, or appropriate administrator is on a leave, vacation or holiday for five (5) days or more, but less than one year, the time limits shall be extended by the length of time of such leave, vacation, or holiday. The parties must give advance notice of the need to extend time limits, whenever possible.
- 8.24 In cases where it is necessary for the complainant or his/her representative to have access to information for the purpose of investigating a complaint, the complainant or his/her representative shall make a written request for such information to the appropriate administrator. The complainant or his/her representative shall have access to all necessary and relevant information within the policies and procedures defining confidentiality which would assist in adjusting the complaint.
- 8.25 The processing of complaints filed and unresolved prior to the effective date of the Agreement may continue under the complaint procedure in effect at the time of the initial filing.
- 8.26 A complainant may withdraw a complaint at any time. The complainant shall not file any subsequent complaint on the same alleged incident.
- 8.27 The parties, by mutual agreement, may consolidate complaints on similar issues at any level.
- 8.28 By mutual agreement, a complaint may be filed at the level at which the authority to resolve the complaint resides.
- 8.29 To ensure the integrity of the complaint process, at every level a different administrator shall hear and respond to the complainant.

- 8.30 Prior to filing a complaint, the potential complainant and representative, if any, shall each be provided with one (1) hour release time for complaint preparation and reasonable time for complaint presentation at the Informal Level.
- 8.31 For training purposes, the Union may have a steward-in-training attend a complaint meeting at all levels of the Complaint Procedure, provided the steward-in-training is on his/her own time or on 5.11 (d) time and provided the steward-in-training does not participate in the meeting. The Union shall submit to the campus Human Resources Department a list of new stewards who are to be considered in-training under this article.
- 8.32 After the complaint has been filed, a representative and the complainant shall be provided reasonable release time for the purpose of preparation and presentation of the complaint.
- 8.33 The procedures for securing release time for complaint processing shall be:
- a. Representatives and potential complainants shall notify the appropriate administrator or their designee if release time is required to prepare and present a complaint. Such notification shall be made prior to leaving the work area whenever possible. Notification shall include, but not be limited to, personal contact, written notification, text message, or e-mail. The representative and potential grievant shall be required to cite only Provision 8.30 or 8.32 as a statement of need.
 - b. The appropriate administrator shall grant the contractually specified release time after considering the needs of the operation of the University. If the requested release time is denied for operational need, the deadline for the grievance shall be extended until such time as the release time is provided.
 - c. Requests for release time shall include: (1) at what time and location; and (2) the anticipated duration of the meeting.
- 8.34 Both parties agree that all complaint files shall be confidential. In addition, all settlements related to sexual harassment and discrimination complaints shall be confidential. Both parties agree that specific statements made and records used in complaint meetings shall be confidential.
- 8.35 An employee may present complaints and have such complaints adjusted without the intervention of the Union provided such adjustment is not inconsistent with the terms of a written agreement then in effect and provided that the Employer will not agree to a resolution of the complaint until the Union has received a copy of the complaint and the proposed resolution, and has been given the opportunity to file a response.
- 8.36 The procedure (Article 7, Grievance Procedure, or Article 8, Complaint Procedure) utilized by the employee at the Level II filing shall indicate a final and binding selection of procedures. Prior to the Level II filing, the employee may

convert to the alternative procedure without interruption of time limits or sequence of levels.

Except as provided for in the paragraph above, an employee may not utilize both Article 7, Grievance Procedure, and Article 8, Complaint Procedure, to adjust the allegations arising from a single set of circumstances.