

- 9.4 During the life of this Agreement, the CSU shall not lock out faculty unit employees.

ARTICLE 10 Exhibit 1.3

GRIEVANCE PROCEDURES

- 10.1 The purpose of this Article is to provide a prompt and effective procedure for the resolution of disputes. The procedures hereinafter set forth shall, except for matters of discipline as set forth in Article 19 herein, be the sole and exclusive method for the resolution of disputes arising out of issues covered by this Agreement.

10.2 Definitions

As used herein:

- a. The term "grievance" or "contract interpretation grievance" shall mean an allegation concerning a claimed violation, misapplication, or misinterpretation of a specific term or provision of this Agreement.
- b. The term "grievant" shall mean an employee or group of employees alleging that they have been directly wronged by a violation, misapplication, or misinterpretation of a term or provision of this Agreement that confers rights upon them individually or as a group. The term "grievant" shall also mean the CFA when alleging a grievance on behalf of itself, or on behalf of a unit member or a group of unit members. The CFA shall not grieve on behalf of unit members who do not wish to pursue individual grievances.
- c. The term "employee" in this Article shall mean a member of the bargaining unit. The term "employee" shall also mean the CFA when alleging a faculty status dispute on behalf a unit member or a group of unit members. The CFA shall not allege a faculty status dispute on behalf of unit members who do not wish to pursue such a matter.
- d. The term "appropriate administrator" as used in this Article shall mean the individual who has been designated by the President to act pursuant to the procedures set forth in this Article.
- e. The terms "respond" and "file" as used in this Article shall mean either personal delivery or delivery through the U.S. mail, certified mail, return receipt requested. If personal delivery is used, the grievant or appropriate administrator shall provide a

written receipt. If certified mail is used, the return receipt shall establish the date of delivery. The terms "respond" and "file" as used in regards to Level II of this Article shall also mean transmittal by telefax. If telefax transmittal is used either to file or to respond at Level II, the telefax 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 at Level II shall not be considered accomplished in the absence of such date and signature on the cover letter.

- f. The term "faculty status matter" or "faculty status dispute" as used in this Article shall mean a dispute involving solely a decision not to reappoint, promote, or tenure.

10.3 Grievance Forms

- a. All grievances, requests for review, or appeals shall be submitted in writing on the form attached to this Agreement as Appendix E, and shall be signed by the grievant(s). Except for the initial filing of a grievance, if there is difficulty in meeting any time limit, a CFA representative may sign the grievance form for the grievant.
- b. The appropriate administrator may refuse consideration of a grievance not filed on a grievance form required by this Article. In the event the potential grievant does not file on the prescribed form, the appropriate administrator shall provide the potential grievant with a copy of the appropriate form. Subsequent refiling utilizing the appropriate form shall take place within seven (7) days of receipt of the appropriate form.

Contract Interpretation Grievance Procedure

10.4 Level I – Campus Level Review

- a. A grievant eligible to grieve pursuant to provision 10.2 of this Article may file a Level I grievance with the President no later than forty-two (42) days after the event giving rise to the grievance, or no later than forty-two (42) days after the grievant knew or reasonably should have known of the event giving rise to the grievance. The grievant shall state clearly and concisely on a grievance form:
 - 1) the term(s) of the Agreement alleged to have been violated, misinterpreted, or misapplied;

- 2) a description of the grounds of the grievance including names, dates, places, times, necessary for complete understanding;
 - 3) a proposed remedy;
 - 4) the name, department or equivalent unit, address at which the grievant shall receive all correspondence relating to the grievance, position/classification of the grievant and his/her signature;
 - 5) the name and address of the grievant's representative, if any; and
 - 6) the date of submission.
 - 7) If the grievance derives from an action or decision by the Chancellor's Office, the President and the CFA may agree that the grievance may be filed directly with the Chancellor's Office, at Level II.
- b. The grievant may, in the written grievance, request the postponement of any action in processing the grievance formally for a period of up to twenty-five (25) days, during which period the grievant may pursue efforts to resolve the grievance informally and shall be entitled to a good faith review of the issue(s) presented. The initial postponement request shall be granted, and upon the grievant's further written request, additional twenty-five (25) day extensions shall be liberally granted unless to do so would seriously impede resolution of the grievance.
- 1) Upon request of the grievant during the postponement period(s), ~~the President shall arrange an informal conference between the appropriate administrator and the grievant.~~
 - 2) The grievant may at any time terminate the postponement period by giving written notice to the President that the grievant wishes to proceed with the Step 1 meeting provided for below. If the postponement period, or any extension thereof, expires without the filing of a request for a further postponement the grievance shall proceed to formal Step 1.
 - 3) The grievant shall have the right to representation by CFA during attempts at informal resolution of the grievance.

- c. Within fourteen (14) days after the Level I filing, the President shall hold a meeting with the grievant and the grievant's representative, if any, at a mutually acceptable time and location. The President shall respond in writing to the grievant, no later than fourteen (14) days after the Level I meeting. Such response shall include a statement of reasons for any denial of the grievance.

10.5 Level II – System Level Review

- a. In the event the grievance is not settled to the grievant's satisfaction at Level I, the grievant may file a Level II grievance with the Office of the Chancellor no later than twenty-one (21) days after the Level I response. The grievant shall attach a copy of the previous grievance response together with any documents presented at that level.
- b. A designated individual in the Office of the Chancellor and the representative of the grievant shall schedule a conference at the Office of the Chancellor for the purpose of reviewing the matter within fourteen (14) days of the Level II filing. The designated individual in the Office of the Chancellor shall respond no later than fourteen (14) days after the conference.
- c. If the grievance has not been settled at Level II, then within forty-two (42) days after receipt of the decision at the previous level or the expiration of the time limits for making such decision, the CFA, upon the request of the grievant, may request arbitration by giving notice to that effect, by certified mail, return receipt requested, directed to the Office of Employee Relations. The CFA may also request arbitration by transmittal by telefax. If telefax transmittal is used the cover letter must be returned and shall include the signature of the receiving party acknowledging receipt, as well as the date of receipt. A telefax transmittal request for arbitration shall not be considered accomplished in the absence of such date and signature on the cover letter. Representation at arbitration shall be by CFA only.

10.6 Arbitration

Unless the specific language of the Agreement is in conflict, the arbitration procedure shall be conducted in accordance with the rules of the AAA, subject to the provisions below:

- a. The parties shall meet within thirty (30) days of the execution of this Agreement to select a panel of ten (10) members to serve as arbitrators for contract grievances arising under this Agreement. Within thirty (30) days of the execution of this Agreement, the Office of General Counsel and CFA shall meet to select a panel

of ten (10) members to serve as arbitrators in faculty status grievances arising under this Agreement. If no agreement is reached on either panel prior to or within sixty (60) days after the execution of this Agreement, the parties shall designate the arbitrators for that category of grievances in accordance with the AAA Voluntary Labor Arbitration Rules until agreement on a panel is reached. The panel members shall be designated to serve in alphabetical rotation, provided the next panel member reached has an available hearing date within one hundred and twenty (120) days of notification, or any mutually agreed upon extension thereto. The parties may add or delete panel members by mutual notification.

- b. Either party to the Agreement may preemptorily challenge one member on each panel at any time during the term of this Agreement and such panel member shall be removed from the panel and replaced with a new mutually acceptable replacement. Once a party has notified the other party of its intention to remove an arbitrator, no new cases shall be heard by that arbitrator, and that arbitrator shall not be notified of his/her removal prior to the receipt by the parties of any of his/her pending awards.
- c. Contract interpretation 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.
- d. Any grievance or faculty status dispute, except those involving the denial of promotion, 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. Faculty status disputes involving the denial of promotion shall be considered withdrawn if the parties have not, within eighteen (18) 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. In each 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. For faculty status disputes filed prior to the effective date of this Agreement, the twelve (12) and eighteen (18) month limitations shall commence upon the effective date of the Agreement.

- e. No later than ten (10) days prior to the date of an arbitration hearing the parties shall confirm any arbitrability issue(s) to be raised, attempt to 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. This provision shall not preclude either party from calling witnesses or entering documentary evidence not identified during this discussion. Scheduled hearings shall not be delayed or postponed due to the failure to complete this discussion.
- f. 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.
- g. The arbitrator shall have no authority to add to, subtract from, modify, or amend the provisions of this Agreement.
- h. The authority of an arbitrator with respect to granting appointment, reappointment, promotion, or tenure shall be as follows:

In cases involving appointment, reappointment, promotion, or tenure, the arbitrator shall recognize the importance of the decision not only to the individual in terms of his/her livelihood, but also the importance of the decision to the institution involved.

~~The arbitrator shall not find that an error in procedure will overturn an appointment, reappointment, promotion, or tenure decision on the basis that proper procedure has not been followed unless:~~

- 1) there is clear and convincing evidence of a procedural error; and
- 2) that such error was prejudicial to the decision with respect to the grievant.

The normal remedy for such a procedural error will be to remand the case to the decision level where the error occurred for reevaluation, with the arbitrator having authority in his/her judgment to retain jurisdiction.

An arbitrator shall not grant appointment, reappointment, promotion or tenure except in extreme cases where it is found that:

- 1) the final campus decision was not based on reasoned judgment;
- 2) but for that, it can be stated with certainty that appointment, reappointment, promotion, or tenure would have been granted; and
- 3) no other alternative except that remedy has been demonstrated by the evidence as a practicable remedy available to resolve the issue.

The arbitrator shall make specific findings in his/her decision as to the foregoing.

In the event the CSU seeks to vacate an arbitration award in the manner prescribed by the California Code of Civil Procedure, the court may, among the other matters it considers, determine whether or not the arbitrator has exceeded his/her authority with respect to the foregoing.

- i. 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 CFA, the CSU, and the employee(s) affected thereby.
 - j. The cost of the arbitration, excluding advocate, unilateral withdrawal, postponement, or cancellation fees, shall be borne equally by the parties. Expenses for witnesses, shall be borne by the party who calls them.
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- k. 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 Los Angeles CFA office for grievances agreed upon by the parties to be systemwide issues. The parties may mutually agree to schedule such cases at other locations.
 - l. The standard of review for the arbitrator in other than faculty status cases is whether the CSU violated, misapplied, or misinterpreted a specific term(s) of this Agreement.
 - m. The CFA and the CSU may mutually agree to invoke the "Streamlined Labor Arbitration Rules" of the AAA for the hearing of a case.

- 1) Within ten (10) days from the date the hearing is closed, the arbitrator shall issue to the parties a written award stating his/her decision on the issue(s) submitted. Copies of the award shall be provided to the parties. The award shall be final and binding on the CFA, the CSU, and the employee(s) affected thereby.
 - 2) At the request of either party, the arbitrator shall provide a complete written rationale for his/her award including findings, reasons, and conclusions on the issue(s) submitted no later than thirty (30) days after the award is issued. Copies of this rationale for the award shall be provided to the parties.
 - 3) The written rationale for the award shall be considered part of the award for the purpose of appeal and the statutory period for appeal shall be considered to commence upon receipt of the rationale from the arbitrator.
- n. 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.
 - o. 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.

Faculty Status Dispute Procedure

- 10.7 A faculty unit employee who has a dispute pertaining to a faculty status matter as defined by provision 10.2f shall notify the President in writing of the dispute within twenty-one (21) days from the receipt of the negative decision.
- 10.8 The employer and the employee shall pursue efforts to resolve the dispute informally and the employee shall be entitled to a good faith review of the issue(s) presented. This effort at informal resolution shall be mandatory for all faculty status matters as defined in Article 10.2f and shall occur within thirty (30) days after serving notice of dispute. The employer and the employee may continue to pursue informal resolution of the dispute beyond the mandatory period.
- 10.9 If a dispute pertaining to a faculty status matter is not resolved to the employee's satisfaction through informal efforts, the employee may request peer review or request of the CFA that the faculty status dispute be submitted to arbitration. Such a request shall be made no

later than forty-five (45) days after serving notice of a dispute pursuant to provision 10.7.

10.10 If the dispute presented pursuant to provision 10.7 above is not resolved and is a faculty status matter as defined in provision 10.2f, the employee may elect either peer review of his/her complaint as described in provision 10.9, or arbitration as described in provision 10.6 of this Article.

- a. If the employee desires to elect arbitration he/she may request of the CFA that the faculty status matter be submitted to arbitration. Such a request shall be made no later than forty-five (45) days after serving notice of dispute. No later than ninety (90) days after the notice of dispute is served, the CFA may by written notice to the Office of the Chancellor submit the grievance to arbitration. In the event CFA subsequently withdraws or does not submit a demand for arbitration, the employee may request peer review no later than seven (7) days from receipt of the CFA decision denying arbitration.
- b. If the employee initially desires to elect peer review he/she may request peer review no later than forty-five (45) days after serving notice of a dispute pursuant to provision 10.7.

10.11 Peer Review

- a. The President shall establish a panel consisting of all full-time tenured employees who have served on committees that made recommendations on matters of appointment, reappointment, promotion or tenure and who have attained the rank of full professor or equivalent. No employee may be eligible for this panel if he/she has been directly involved with or a party to matters related to a complaint submitted by the employee to peer-review.
- b. The membership of the Peer Panel to review a specific faculty status matter shall be selected by lot from the panel established pursuant to provision 10.11a and consist of three (3) members and one (1) alternate.
- c. The Peer Panel shall begin to review the faculty status matter within twenty-one (21) days of its selection by lot. The panel's review shall be limited to a consideration of the complainant's Personnel Action File; all written recommendations, rebuttals, and responses related to the faculty status matter; any written statement by the affected employee as to why his/her original review was inappropriate; and the Employer's written response to any allegations made by the affected employee. Except for presentations of the complainant and the administrator, if the

administrator chooses, the peer review will be made from the documents set forth in this section.

- d. The proceeding set forth in 10.11c above shall not be open to the public and shall not be a hearing.
- e. No later than forty (40) days after its selection, the Peer Panel shall submit to the President and the complainant a written report of its findings and recommendations. All written materials considered by the Peer Panel shall be forwarded to the President. When the panel has complied with this section, it shall be discharged of its duties.
- f. The President shall consider the Peer Panel's recommendations and all forwarded materials and, no later than fourteen (14) days after receipt of the Peer Panel's report, notify the affected employee and the Peer Panel of his/her final decision, including the reasons therefor. Notification to the employee of the President's decision concludes the peer review procedure and such decision shall not be reviewable in any forum.

Mediation

10.12 Formal contract interpretation grievances and faculty status disputes may be subject to mediation in accordance with the following:

- a. The party requesting mediation shall request mediation within thirty (30) calendar days after the Union has filed a request for arbitration. This time period may be waived upon the mutual agreement of both parties.
- b. Grievances shall not proceed to mediation except by the mutual agreement of both parties.
- c. The timelines and order of the scheduling of grievances for arbitration pursuant to this Article shall not be affected by the parties' desire to invoke mediation.
- d. The parties shall establish a panel of three (3) mediators by mutual agreement, who shall serve in alphabetical rotation. Members of the arbitration panel established pursuant to this Article shall not be eligible to serve on this mediation panel.
- e. The procedures set forth in California Evidence Code Section 1152.5 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. If the parties agree to accept the mediator's recommendation, the decision shall be reduced to writing and signed by both parties. Neither party shall enter into evidence at a subsequent arbitration hearing any recommendation(s) of the mediator.

General Provisions

- 10.13 Wherever a time limit is provided by this Article, the participants at that level may extend the period by mutual consent in writing. However, the time limit for filing the initial grievance at Level I may only be extended by the Office of the Chancellor. It is understood that the purpose of the procedure is to resolve grievances promptly and that extensions shall be sought only for good cause.
- 10.14 When meetings, conferences, or arbitration hearings are held under this Article, employees who are entitled to attend or who are called as witnesses by a party, shall be excused for that purpose from other duties without penalty, provided that arrangements are made for coverage of the employee's duties.
- 10.15 No reprisals shall be taken against any employee for the filing and processing of any grievances.
- 10.16 Except for good cause shown, only those events, issues, and sections of this Agreement cited in the initial filing at Level I may be considered at subsequent levels.
- 10.17 A failure to grant promotion due to a lack of available funds shall not be grievable.
- 10.18 After the grievance has been filed at Level I, a representative and the grievant shall be provided reasonable release time for the purpose of preparation and presentation of the grievance at Levels I and II, provided that such release time shall not conflict with any scheduled classes and office hours.
- 10.19 Upon failure of the Employer or its representatives to provide a decision within the time limits provided in this Article, the grievant or CFA, where appropriate, may appeal to the next step. Upon the failure of the grievant or CFA, where appropriate, to file an appeal within the time limits provided in this Article, the grievance shall be deemed to have been resolved by the decision at the prior step.
- 10.20 In cases where it is necessary for the grievant or his/her representative to have information for the purpose of investigating a grievance, the grievant or his/her representative shall make a written request for reasonably specific information to the appropriate

administrator. The grievant or his/her representative shall have the right to receive, within thirty (30) days, such information not defined as confidential or personal pursuant to the Information Practices Act of 1977 or HEERA, which would assist in adjusting the grievance. The CSU shall notify the CFA whenever the information cannot be provided within this thirty (30) day period.

- 10.21 A decision to submit a grievance to arbitration shall be a waiver of all other remedies except as provided otherwise by statute.
- 10.22 A grievance settled prior to the issuance of an arbitrator's award shall not set a precedent.
- 10.23 A grievance may be withdrawn at any time. The grievant shall not file any subsequent grievance on the basis of the same event.
- 10.24 The CSU and CFA may mutually agree to consolidate grievances on similar issues at any level.
- 10.25 CFA shall have the exclusive right to represent any employee in grievances filed hereunder provided, however, that at Levels I and II, employees may represent themselves or be represented by an individual of their choice. If an employee elects not to be represented by CFA, the appropriate administrator shall inform CFA in writing of the grievance in a timely manner. No resolution of any individually processed grievance shall be inconsistent with the terms of this Agreement. The CSU will not agree to a resolution of the grievance until the CFA has received a copy of the grievance and the proposed resolution and has been given the opportunity to file a response.
- 10.26 The parties agree that all grievance files and/or the content of grievance meetings shall be confidential. Grievance records shall be kept in a file separate from the grievant's Personnel Action File.
- 10.27 Time limits shall be considered tolled where personnel are unavailable due to illness, vacations, or professional reasons.

Grievance Administration

- 10.28 From time to time, the CFA Central Office and the Office of the Chancellor shall compare grievance records for the purpose of developing and maintaining a common systemwide grievance docket.
- 10.29 Grievance rights pursuant to this Article shall not be curtailed on the last date of employment if said grievance rights are exercised in accord with provision 10.4 of this Article and such other filing requirements as may apply.

- 10.30 If a grievance derives from an action of the Chancellor's Office, the President and the grievant may agree to file the grievance directly at Level II.

ARTICLE 11

PERSONNEL FILES

- 11.1 The Personnel Action File shall be defined as the one (1) official personnel file for employment information and information that may be relevant to personnel recommendations or personnel actions regarding a faculty unit employee. For each faculty unit employee, the President shall designate an office in which the Personnel Action File shall be maintained and shall designate a custodian for the Personnel Action File. It is the intent of the CSU to maintain accurate and relevant Personnel Action Files. There may be copies of material contained in the official file in other working files for the convenience of the Employer. Only the official Personnel File may be used as the basis of personnel actions.
- 11.2 A faculty unit employee shall have the right to submit material to his/her Personnel Action File. A faculty unit employee shall also have the right to submit a written rebuttal to any material in his/her Personnel Action File, or scheduled for placement in his/her Personnel Action File after notification of such placement pursuant to provision 11.4 of this Article.
- 11.3 Any material identified by source may be placed in the Personnel Action File. Identification shall indicate the author, the committee, the campus office, or the name of the officially authorized body generating the material.
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- 11.4 The faculty unit employee shall be notified of the placement of any material in his/her Personnel Action File, and shall be provided with a copy of any material to be placed in the Personnel Action File at least five (5) days prior to such placement. This provision shall not apply to material referenced in the Temporary Suspension or Disciplinary Action Procedure Articles of this Agreement.
- 11.5 Upon request, a faculty member shall be provided the opportunity to meet with the appropriate administrator regarding material to be placed in the file to which the faculty member objects. The request to meet shall be made within five (5) days of the receipt of the notification. The meeting shall take place within ten (10) days of the request made by the faculty member.