

ARTICLE XXV
GRIEVANCE PROCEDURE

- 25.1 Definition: A grievance is an allegation or complaint by a member or members of the bargaining unit or the Union that there has been a violation, misinterpretation or improper application (including, notwithstanding any provision of Article III, Affirmative Action, to the contrary, individual complaints of discrimination rising out of personnel actions and based on race, color, religion, creed, sex, age, marital status, national origin, sexual preference, mental or physical handicap or political beliefs or affiliation) of the terms and conditions of this Agreement by an administrative official.
- 25.2 Intent: It is the declared objective of the Employer/University Administration and the Union to encourage the prompt resolution of grievances either by informal or formal procedures in the interest of maintaining harmony within the campus environment. Although the following procedure shall be used for the resolution of grievances, this procedure shall in no way impair or limit the right of any bargaining unit member, or the parties mentioned herein, to utilize any other remedy or proceeding established and existing under federal or state law. In the event that the grievant(s) and/or the Union elect to seek redress through any other remedy or proceeding established and existing under federal or state law (other than complaints before the Massachusetts Labor Relations Commission, the Massachusetts Commission Against Discrimination or the Equal Employment Opportunity Commission, brought to meet agency timelines but not to be simultaneously litigated), the Employer/University Administration shall have no obligation to process or continue processing a grievance or arbitration pursuant to this Article. The parties agree to make available one to the other all known relevant facts regarding the grievance in order to facilitate the earliest possible settlement of grievances prior to arbitration. The Union may present a policy grievance (one that affects more than one person) at any step of the grievance procedure prior to arbitration. In order to facilitate the prompt resolution of grievances, administrative officials identified in the grievance procedure may, upon notice to the Union, name a designee when necessary to fulfill their responsibilities as set forth herein. Any person designated by an administrative official identified herein to hear a grievance shall hear the grievance and render a decision.
- 25.3 Informal Procedure: When a potential grievance arises, the bargaining unit member(s) and/or the Union shall meet with the representative(s) of the Employer/University Administration (chairperson/head, dean/director of libraries or provost) closest to and best able to discuss the matter, and possessing the authority to resolve the dispute. Informal efforts at settlement shall not extend beyond twenty (20) days without the written agreement of each of the parties. The Employer/University Administration and the Union agree that informal resolutions of grievances do not set precedents.
- 25.4 Time Limits for Personnel Actions Grievances: For grievance(s) arising out of personnel actions, the Union and/or the bargaining unit member shall not file a grievance until the final appropriate academic administrative official on the campus has made his/her decision in writing on the personnel action under consideration.

25.5 Formal Procedure: To initiate a grievance the grievant(s) and/or the Union shall complete the Grievance Form, which provides a statement of the facts surrounding the grievance, the specific provision(s) of this Agreement allegedly violated and the remedy requested.

(a) LEVEL ONE: Chancellor

The grievant(s) and/or the Union shall file the grievance with the chancellor within sixty (60) calendar days of the occurrence giving rise to the grievance or within sixty (60) calendar days of the date on which the grievant(s) and/or the Union learned or should have learned of such occurrence, whichever is later, but in no case longer than a year from the occurrence. If the alleged violation occurs while a bargaining unit member is on an approved leave, the bargaining unit member shall file the grievance within sixty (60) calendar days from the date of expiration of said leave or sixty (60) calendar days from the date the bargaining unit member learned or should have learned of the occurrence giving rise to the grievance, whichever is later, but in no event later than fourteen (14) calendar months from the date of the occurrence. The grievant(s) and/or the Union and the chancellor shall meet and discuss the grievance within ten (10) calendar days after such filing. The chancellor shall then consider the grievance and render a decision together with the reasons in writing to the grievant(s) and the Union within twenty-one (21) calendar days from the date on which the grievance was filed with the chancellor.

(b) LEVEL TWO: President

A grievance may be submitted to the President in cases where the grievant(s) and/or the Union are not satisfied with the decision at Level One, or where the grievance is of a University-wide nature, or where the grievance is based on a presidential decision. If the grievant(s) and/or the Union is not satisfied with the decision at Level One, the grievant(s) and/or the Union may file an appeal in writing to the President within ten (10) calendar days after the written decision of the chancellor is received, or is due; grievances presented initially to the President must be filed by the grievant(s) and/or the Union within sixty (60) calendar days of the occurrence giving rise to the grievance or within sixty (60) calendar days of the date on which the grievant(s) and/or the Union learned or should have learned of such occurrence, whichever is later. If a bargaining unit member is on approved leave at the time of the alleged violation or at the time he/she would otherwise have learned of such occurrence, then the bargaining unit member and/or the Union shall file the grievance within sixty (60) calendar days from the date of expiration of said leave or sixty (60) calendar days from the day he/she learned, or should have learned, of such occurrence, whichever is later, but in no event later than fourteen (14) calendar months from the date of the occurrence.

The grievant(s) and/or the Union and the President shall meet and discuss the grievance within ten (10) calendar days after such filing. The President shall then consider the grievance and render a decision together with the reasons in writing to the grievant(s) and the Union within twenty-eight (28) calendar days from the date on which the grievance was filed with the President.

(c) LEVEL THREE: Arbitration

If the grievance is not resolved to the satisfaction of the Union at Level Two, the Union may submit the grievance within thirty (30) calendar days of the receipt of the written response at Level Two or the date on which such decision was due, whichever is later, to final and binding arbitration. Notice of the appeal of the grievance to arbitration shall be sent to the Employer/University Administration. Within ten (10) calendar days of the Employer's/University Administration's receipt of such notice from the Union, the parties shall select as arbitrator the individual whose name first appears on the list of arbitrators chosen by the Union and the Employer/University Administration. In each subsequent instance, the parties shall select the individual whose name next follows the name last selected. If the individual so selected shall be unable or unwilling to serve as the arbitrator within thirty (30) calendar days of the date of his/her selection, then the parties, unless they mutually agree to waive the time limits, shall select the individual whose name next appears on said list. No individual shall be selected to serve as arbitrator for a second time until all of the remaining individuals appearing on said list shall have been selected (asked or invited) to serve in accordance with these procedures.

Upon acceptance by the selected individual of the position of arbitrator, the Employer/University Administration and Union shall promptly file with the arbitrator:

- (1) a copy of this Agreement;
- (2) a copy of the written notice, sent to the Employer/University Administration, of the Union's intention to initiate arbitration; and
- (3) a complete copy of the grievance record.

The arbitration shall be conducted in accordance with the rules and regulations of the American Arbitration Association in effect at the date of said submission. The arbitrator, unless the time limit is mutually waived by the parties, shall render a decision not later than thirty (30) calendar days from the date of the closing of the hearings. The decision and award of the arbitrator shall be final and binding on the parties and further, such decision shall be in writing, setting forth the opinion and conclusions on the issues submitted to the arbitrator. However, the arbitrator shall be without authority to add to, subtract from or modify the terms of this Agreement. The costs of arbitration, exclusive of those incurred by each respective party in preparing and presenting its case, shall be borne equally by the parties.

25.6 Union Representation and Rights:

- (a) The administrative official with whom the written grievance is filed shall forward a copy of said grievance to the Union's designated campus grievance representative within five (5) calendar days of receipt of said grievance.
- (b) The representative(s) of the Union shall be permitted to be present at any meeting required under the grievance procedure and especially at any meeting at which a settlement of the grievance is made or discussed; provided further that the Union representative(s) shall be permitted to present the Union's point of view regarding the grievance at such meeting(s).
- (c) Any bargaining unit member may request Union representation at any step of the grievance procedure; however, a bargaining unit member shall not be prevented from processing a grievance on his/her own behalf prior to arbitration.

(d) Copies of all documents and correspondence filed with respect to the grievance shall be sent to the Union at the time of filing or as nearly thereafter as possible. The grievant(s) may specifically prohibit access to supporting documents and correspondence filed by the grievant(s) with respect to the grievance. The Union shall incur the cost for the reproduction of said documents and correspondence.

25.7 Implementation: Upon resolution of the grievance, the parties shall implement the remedy within ten (10) calendar days unless otherwise provided by the award of the arbitrator, or by mutual agreement of the parties. In the event that the Employer/University Administration does not have enough available funds to pay an arbitration award, the Employer/University Administration shall meet with and provide to the grievant(s) and the Union a clear and convincing explanation as to the Employer's/University Administration's inability to comply with the arbitration award. The Employer/University Administration shall also set forth the appropriate procedure to obtain the needed funding to implement the arbitration award subject to the approval of all parties concerned as follows:

(a) When available state-appropriated funds are insufficient to implement an arbitration award(s), the matter shall be submitted to the Legislature by the Employer/University Administration for funding with the support of the Union; provided, however, that nothing contained herein shall be construed to prevent and/or restrict the implementation of the nonmonetary aspect(s) of the arbitration award(s).

(b) When available trust monies are insufficient to implement an arbitration award(s), the award shall be included in the next budget request prepared following the award; provided, however, that nothing contained herein shall be construed to prevent and/or restrict the implementation of the nonmonetary aspect(s) of the arbitration award(s).

(c) When available grant or contract monies are insufficient to implement an arbitration award(s), the matter will be submitted to the contracting or granting agency for its approval of the necessary fund transfers within the provisions of the contract or grant or to secure the needed additional monies to fully implement said arbitration award(s), as the case may be; provided, however, that nothing contained herein shall be construed to prevent and/or restrict the implementation of the nonmonetary aspect(s) of the arbitration award(s).

25.8 No Reprisal -- Witnesses: No reprisal of any kind shall be taken against any bargaining unit member because of the filing of a grievance and/or participation in any of the grievance proceedings. All documents generated during the grievance process shall be kept separate from the personnel file and basic file of any individual involved in any grievance. Necessary witnesses or participants in grievance procedures shall be released from their assignments without penalty when necessary.

25.9 Time Limits: All days referred to in this Article shall mean calendar days. Time limits provided herein may be extended or delimited by mutual agreement. Failure of the Employer/University Administration to respond to any grievance within the specified time limits of this Article shall mean that the grievant(s) and/or the Union may take said grievance to the next level of the grievance procedure. Failure of the grievant(s) to abide

by the time limits set forth in this Article shall result in the grievance being deemed settled on the basis of the last written decision made during the grievance procedure by the Employer/University Administration.

- 25.10 Adjustment of Time Limits: Any grievance that was filed prior to the end of the academic year and has not been resolved to the satisfaction of the grievant(s) and/or the Union prior to the conclusion of the academic year shall continue to be processed in accordance with the provisions of this Article; except that the time limits of this Article may be mutually adjusted so as to ensure the availability of all necessary parties to the dispute. Such mutual agreement shall not be used by either party to delay unnecessarily the processing of any grievance not settled prior to the end of the academic year. If mutual agreement is not reached on adjustment of the time limits; the provisions of this Article shall remain whole.