

DISTRICT COUNTER PROPOSAL TO AFT - May 21, 2008

ARTICLE 17: GRIEVANCE PROCEDURE

- 17.1** **DEFINITIONS:** The following definitions shall apply to the grievance procedure:
- 17.1.1** A “grievance” is defined as an alleged violation of a specific article or section of this Agreement that personally and adversely affects the grievant.
- 17.1.2** A “working day” is any day of service in the calendar year.
- 17.1.3** A “grievant” may be an employee, group of employees, or the Union. The Union may file grievances over alleged violations of the contract.
- 17.1.4** A “party in interest” is a person or persons making a claim of grievance or any person who might be required to take action or against whom action might be taken in order to resolve the grievance.
- 17.1.5** A “complaint” is an allegation that there has been a misinterpretation, misapplication, inequitable application, or violation of any policy of the District to the extent that the individual believes to have been adversely affected. Complaint issues relating to District Rules and Regulations or District Policy are not subject to grievance and are heard through standard administrative channels.
- 17.2** **PURPOSE:** The purpose of this grievance procedure is to provide for the processing of a claim of grievance, and to secure, at the lowest possible level, solutions to problems that arise under this Agreement.
- 17.2.1** This grievance procedure is intended to supplement but not supplant normal and usual procedures for solving personnel problems. Problems involving matters other than alleged violations of a specific article or section of this Agreement are to be resolved through standard administrative channels.
- 17.3** **LEVEL I:** A grievance will first be discussed orally with the grievant’s immediate supervisor with the objective of resolving the matter informally. In the event the grievant is not satisfied with the attempted or suggested resolution by informal means, the grievant may submit a formal grievance in writing to the College President with a copy to the immediate supervisor. The date of receipt by the College President of the written grievance will be considered the “filing date.”
- 17.3.1** No grievance shall be recognized unless it shall have been presented at Level I within **thirty (30)** working days after the grievant knew or, with reasonable diligence, should have known of the act or condition and its aggrieving nature that forms the basis of the grievance, and if not so presented, the grievance will be considered as waived.
- 17.3.2** A written statement at Level I shall include:
1. a description of the specific grounds for the grievance, including names, dates and places necessary for a complete understanding of the grievance;
 2. a listing of the specific article or section of this Agreement alleged to have been violated; and
 3. a listing of specific actions requested of the District that will remedy the grievance.
- 17.3.3** If a formal grievance has been filed, the grievant may: (a) discuss the grievance personally, or (b) request that a representative accompany him/her. In all cases, a Level I

meeting will be scheduled within seven (7) working days of the filing date, unless a later date is mutually agreed to.

17.3.4 The College President shall, within ten (10) working days following the meeting to discuss the grievance, render his/her decision and the reasons therefore, in writing, to the grievant. A copy of the decision at this level shall be sent to the Assistant Chancellor for Human Relations and the Union.

17.4 **LEVEL II:** If the grievant is not satisfied with the disposition of the grievance at Level I, the grievant may file for a Level II hearing within ten (10) days of the receipt of the Level I decision, or within fifteen (15) days of the close of the hearing at Level I if no Level I decision has been rendered, whichever is sooner. Grievants not complying with the above time constraints for filing at Level II will be deemed to have waived their rights to a Level II hearing. A grievant filing for a Level II hearing will forward the written grievance to the Office of the Chancellor. The written statement at Level II shall include the following:

1. all of the information required for the Level I grievance statement;
2. a list of the reasons why the College President's proposed resolution of the grievance is unacceptable;
3. a listing of specific actions requested of the District which will remedy the grievance; and
4. a request for a conference with the Chancellor or designee if desired.

17.4.1 ~~The Chancellor/designee grievant and/or Union~~ may request a conference with the ~~grievant Chancellor/designee~~. ~~If either the grievant and/or the Chancellor/designee~~ **Union** requests a conference at Level II, the request shall be granted. **When a hearing has been requested at a Level II meeting, it will be scheduled within ten (10) working days of the appeal date, unless a later date is mutually agreed upon.** The ~~grievant, any party in interest, and the Chancellor/designee~~ may request the presence of a **Union** representative or representatives at any conference.

17.4.2 The Chancellor/designee shall render a written decision to the grievant within ten (10) working days after the conference at Level II if one has been requested, or within (10) working days after receipt of the grievance if no conference is held. Information copies of the decision shall be sent by the Chancellor/designee to the grievant's immediate supervisor, the College President, the Union, and to any representative designated by the grievant.

17.5 **LEVEL III:** If the grievant is not satisfied with the disposition of the grievance at Level II, the grievant may request, through the Union, that the grievance be arbitrated. Such written request shall be filed in the office of the Assistant Chancellor for Human Relations within ten (10) working days after receipt of the written decision at Level II. The Union shall retain the right to determine which grievances may proceed to arbitration.

17.5.1 A Certified Shorthand Reporter shall be employed to record verbatim the entire arbitration hearing if requested by either the Union or the District. In any case in which a shorthand reporter is involved, the parties shall share equally the cost of such reporter including per diem, mileage, and other out-of-pocket expenses. If the arbitrator requests a shorthand reporter, the parties shall likewise share equally the cost of such reporter. The cost of transcripts shall be borne by the party ordering such transcripts. All other expenses shall be borne by the party causing them to be incurred.

- 17.5.2 When arbitration has been requested, the parties shall contact the California State Conciliation Service for a list of arbitrators. The Union and the Assistant Chancellor for Human Relations, or his/her designee, shall alternately strike names from such list until only one (1) name remains. This person shall be designated as the arbitrator, and shall proceed to hear the grievance.
- 17.5.3 The function of the arbitrator shall be:
- a) To hold a hearing concerning the grievance, and
 - b) To render an advisory award within thirty (30) days after the close of the hearing.
- 17.5.4 Once the arbitrator has been selected, hearings shall commence and be held at the convenience of the arbitrator. However, hearings shall be confined to working days.
- 17.5.5 **Unless mutually agreed to by both parties, neither the District nor the Union shall be permitted to assert any grounds or evidence before the arbitrator that was not previously disclosed to the other party. The arbitrator shall consider only those issues that have been properly carried through prior steps as required by the provisions of this grievance procedure.**
- 17.5.6 The arbitrator shall not render any award that conflicts with or alters this Agreement or **violates State and/or Federal external law**. It is understood, however, that the arbitrator shall interpret the Agreement in accordance with acceptable rules of contract construction.
- 17.5.7 The arbitrator is empowered to include in any award such financial reimbursements or other remedies as judged to be proper and fix the effective date of any such award or finding.
- 17.5.8 Each party shall bear the full costs for its representation in the arbitration. The arbitrator's fees and charges shall be divided equally between the Union and the District.
- 17.6 **LEVEL IV:** Either the grievant or the responding party may appeal the advisory award of the arbitrator to the Board of Trustees within ten (10) working days after the receipt of such advisory award.
- 17.6.1 The Board of Trustees shall render its decision within twenty (20) working days after receipt of the appeal at this level, or twenty (20) working days after receipt of the transcript of the arbitration hearing, whichever comes later. The decision of the Board of Trustees shall be final and binding on all parties, except that no rights of the grievant to further legal action shall be abrogated.
- 17.7 **GENERAL PROVISIONS:** The following general provisions shall apply:
- 17.7.1 A decision rendered at any level shall be considered final unless an appeal is registered within the time limits specified.
- 17.7.2 Time allowances set forth at each level may be extended by mutual consent of the grievant and the responding party and extensions will be made based upon vacation schedules if so requested by either the Union or the District.
- 17.7.3 Should the hearing of any grievance require that an employee be released from his/her regular assignment, he/she shall be released without loss of pay or benefits.

- 17.7.4** No reprisals of any kind shall be taken by or against any participant in the grievance procedure by reason of such participation.
- 17.7.5** All documents, communications, and records dealing with the processing of a grievance shall be filed separately from the personnel files of the participants.
- 17.7.6** All parties to the grievance shall make available to other parties involved all pertinent information not privileged under the law in its possession or control that is relevant to the issues raised by the grievance.
- 17.7.7** Any grievance that arose prior to the effective date of this Agreement shall not be processed according to these procedures.