

ARTICLE 9

GRIEVANCE PROCEDURE

SECTION 1. PURPOSE.

The purpose of the grievance procedure contained in this Article shall be to provide an orderly system of resolving employee grievances in a timely manner consistent with the provisions of this Agreement. It is the intent of the parties that there shall be full discussion and consideration of grievances, based upon information available at the time of the grievance conference. The parties shall make a sincere and determined effort to settle meritorious grievances and keep the process free of unmeritorious grievances.

SECTION 2. GENERAL.

A grievance is a written complaint of violation of this Agreement or of any personnel policy, rule, regulation, procedure, condition of employment, or mutually accepted past practice alleged to be a violation of this Agreement, or a claim of discipline without just cause. In a grievance concerning past practice, mutuality shall be one of the issues for the Arbitrator if raised by either party.

Except as provided in Section 6 of this Article, an employee of the Bargaining Unit shall have the right to process a grievance through designated Union Representatives, or independently up through Step Two (2) provided that no discussion shall be had on the matter until the designated Union Representative has been afforded a reasonable opportunity to appear and present the Union's position at any grievance discussion. On grievances filed independently, the Union reserves the right to appeal to Step Three (3) if not satisfied with the Step Two (2) answer. Grievance settlements with unrepresented grievants shall not be inconsistent with the provisions of this Agreement.

When the Union through its designated representative accepts a written grievance settlement offer, processing the grievance shall end. No grievance settlement may be offered to a grievant unless the designated Union Representative is present. The Union may initiate a grievance alleging a violation in the application or interpretation of this Agreement.

Any resolution of a grievance prior to arbitration shall be without precedent unless otherwise agreed by the Union and the Employer. There shall be no appeal beyond Step Three (3) on initial probationary service ratings or dismissals of initial probationary employees which occur during or upon completion of the probationary period, except that grievances alleging prohibited discrimination against a probationary employee may be appealed by the Union to Step Four (4). Annual ratings are not appealable beyond Step Three (3). Counseling memoranda and reprimands are not appealable beyond Step Three (3).

The Union, the designated Union Representative(s), and the grievant(s) shall receive notice of the time and place of the mutually agreed upon grievance conferences, and shall have the right to appear and present the Union's position at such conferences (subject to limitations specified in Section 3 of this Article regarding group grievances and in Section 7 regarding the appearance of the grievant at Step Three (3)). At Step Three (3), scheduling notices shall be issued at least fourteen (14) calendar days prior to the grievance conference date. The Employer need not notify the grievant if the Union has exercised its right to waive the grievant's attendance at the Step Three (3) conference and has so notified the Employer.

A copy of any grievance filed by a member of the Bargaining Unit shall be provided to the Union before the Step One (1) conference is held. The Union shall also be provided with all decisions and appeals of grievances filed by members of the Bargaining Unit.

The term "weekday" as used in this Article shall be defined as Monday through Friday inclusive, excluding holidays.

SECTION 3. GRIEVANCE PROCESSING.

Grievances shall be presented in writing to the designated Management Representative on a mutually agreed upon form, if available, or by written memo, signed and dated by the grievant(s), indicating that it is a grievance. Receipt of such memo begins the time period for the Employer's response.

Prior to the scheduled meeting with management at each step of the grievance procedure, the grievant, if scheduled to attend the grievance conference, and his/her Union Representative, if a member of the Bargaining Unit, shall be permitted a reasonable amount of time, not to exceed one-half ($\frac{1}{2}$) hour, without loss of pay or benefits for consultation and preparation for such grievance meetings. In the UIA, nothing in this Section shall prohibit the continuation of present practices in regard to preparation for grievance conferences. Requests for time under this provision shall include the identification of the grievance for which preparation time is being requested and the estimated period of time necessary for such preparation. Overtime for participation in the grievance procedure is not authorized. The Employer is not responsible for any travel or subsistence expenses incurred by grievants, witnesses, or Stewards in participating in the grievance procedure. However, if the Employer requires a meeting location other than the grievant's scheduled work site, that location will be mutually-agreeable between the parties. No employee shall leave his/her workstation without first requesting and receiving approval of the immediate supervisor. Approval for and scheduling grievance meetings shall not be unreasonably denied.

Failure of the Employer to answer a grievance within the prescribed time limits shall result in the grievance being appealed to the next step of the grievance procedure providing the Union notifies the designated Management Representative at that next

step within fifteen (15) weekdays of the expiration of the time limits for management's response at the lower level.

Time limits for scheduling grievance conferences, issuing grievance responses, and appealing to the next step may be extended by mutual agreement.

Grievances involving like circumstances and facts affecting a group of employees within the Bargaining Unit may, at the option of the Union, be filed as a group grievance. Group grievances shall be so designated at the time of filing. The group grievances shall, insofar as possible, identify all employees and/or classifications and all work locations covered. No more than two (2) grievants may appear without loss of pay or benefits to represent the group at any step of the grievance procedure. This shall not restrict the right of the Union to have necessary witnesses appear at Step Four (4).

A grievance shall state the issue involved, the relief sought, the date the incident or violation took place, and the Section(s) of the Agreement involved.

Only related subject matters shall be covered in any one grievance. A grievance may be amended at any time up to the conclusion of the Step Three (3) conference on the basis of facts previously unknown.

If a grievance appeal or response is mailed, it shall be considered as within the time limits if it is postmarked within the time limits.

At Step Two (2) and Step Three (3), up to two Union Representatives may appear at any conference or hearing, without loss of pay or benefits, to represent the grievant.

SECTION 4. WITNESSES AND DOCUMENTS.

At least ten (10) calendar days before a scheduled arbitration, the parties shall exchange the names of witnesses each plans to call to testify.

The Employer agrees to release witnesses necessary for arbitration without loss of pay or benefits. Whenever possible, witnesses shall be placed on call and return to work upon completion of their testimony, in order to minimize time lost from work.

Upon request, the parties shall receive documents or records which the other intends to present at the arbitration.

Upon written request, the Union shall within a reasonable time receive specific documents or records available from the Employer not prohibited by law, and pertinent to the grievance at hand. Discretion permitted under the Freedom of Information Act shall not be impaired by this Section.

SECTION 5. RETROACTIVITY OF GRIEVANCE AWARDS.

Settlement of grievances may or may not be retroactive as the equities of the particular case may demand as determined by the Arbitrator. In any case where it is determined that the award should be applied retroactively, except for administrative errors relating to the payment of wages, the maximum period of retroactivity allowed shall be a date not earlier than one hundred and eighty (180) calendar days prior to the initiation of the written grievance.

SECTION 6. EXCLUSIVE PROCEDURE.

The grievance procedure set out in this Article shall only apply to and be exclusive for all grievances permitted under Civil Service Rules and Regulations. The grievance procedure set out above shall not be used for the adjustment of any dispute for which the Civil Service Rules or Regulations require the exclusive use of a Civil Service forum or procedure.

SECTION 7. GRIEVANCE STEPS.

In work locations where no Steward or Chief Steward is selected because the small number or scattered distribution of Bargaining Unit employees in that location does not warrant such selection, employees have the option of waiving Step One (1) and Step Two (2) and may file grievances directly at Step Three (3). In such cases, a Chief Steward, Steward, or Alternate Steward in the jurisdictional area where the conference is to be held shall be released without loss of pay or benefits to represent the grievant at Steps One (1), Two (2), or Three (3).

Subject to the objection of the other party, a grievance may be filed at any step of the grievance procedure if the issue is not capable of being settled at a preliminary step. Grievances involving involuntary demotions, suspensions, discharges, seniority, or layoff and recall actions, including recall of UI Examiners to temporary appointments or expiration of said temporary appointments pursuant to Article 13, Section 14 shall be filed directly at Step Three (3) of the grievance procedure, except that grievances involving recall of UI Examiners to temporary appointments or expiration of said temporary appointments pursuant to Article 13, Section 14, shall be filed directly at Step Two (2). Grievances involving scheduling and the return to furlough of permanent-intermittent employees pursuant to Article 19, Section 3, shall also be filed directly at Step Two (2).

Informal discussion of complaints between employees and/or Stewards and supervisors is encouraged prior to filing of written grievances.

Step One: All grievances shall be presented within ten (10) weekdays of the time the employee or the Union first became aware or, by the exercise of reasonable diligence, should have become aware of the cause of such grievance. The designated Management Representative shall meet with the grievant(s) and his/her Union Representative and attempt to resolve the grievance, and return a written response to

the grievant(s) and his/her Union Representative within ten (10) weekdays of receipt of the written grievance from the grievant(s) or his/her Union Representative.

Step Two: If not satisfied with the Step One (1) answer, the grievance, to be considered timely, must be appealed to the designated Management Representative within ten weekdays from receipt of the answer to Step One (1). The designated Management Representative shall hold a grievance conference to discuss and attempt to resolve the grievance and return a written response within ten (10) weekdays of receipt of the written appeal from Step One (1). The grievant and authorized Union Representative(s) may participate in such conferences.

Step Three: If not satisfied with the Step Two (2) answer, the grievance, to be considered timely, must be appealed to the Departmental Appointing Authority or its designee within twenty-five (25) weekdays from receipt of the answer to Step Two (2). The designated Management Representative shall hold a grievance conference to discuss and attempt to resolve the grievance, and return a written response within twenty-five (25) weekdays of receipt of the written appeal from Step Two (2). The grievant and authorized Union Representative(s) may participate in such conferences. The Union, at its discretion, may waive the presence of the grievant at the Step Three (3) grievance conference.

Step Four: If not satisfied with the Employer's answer in Step Three (3), only the Union may appeal the grievance to binding arbitration, within thirty-five (35) weekdays of receipt of the Step Three (3) answer.

The appeal to arbitration will consist of a written notice to the Office of the State Employer and the affected Department. Within ten (10) weekdays of the receipt of the Union's notice, the Office of the State Employer shall request arbitration in accordance with the procedures specified herein.

Within thirty days after approval of this Agreement the Union and the Office of the State Employer shall simultaneously exchange the names of eight (8) labor arbitrators (who are members of the National Academy of Arbitrators, or on the American Arbitration Association, the Federal Mediation and Conciliation Service or Michigan Employee Relations Commission Rolls). Each party shall then have the right to strike five names from the other party's list. The remaining names shall be the pool of arbitrators to be used for all grievances. Any arbitrator nominated by both parties shall serve on the panel. Should a selected arbitrator decline to serve on the panel, the party proposing the name may submit another name of an arbitrator to be considered by the other party.

Once the panel is established the names will be listed in alphabetical order. Assignments shall be in a rotational order.

The Office of the State Employer shall provide copies of the request for arbitration to the affected Department and the Union. Each request for arbitration shall require that

the Arbitrator schedule and hold the hearing within sixty (60) calendar days of receipt of the request for arbitration. The parties shall set aside normal business in order to schedule and hold the hearing within this time frame. By mutual written agreement, the parties may waive the sixty (60) calendar day time limit. Upon receipt of notice from the Arbitrator that the sixty (60) calendar day time limit cannot be met, the Office of the State Employer shall send a second request for arbitration to the next Arbitrator on the list.

The Arbitrator will conduct the hearing in accordance with the Commercial Arbitration Rules and Mediation Procedures of the Rules of the American Arbitration Association (AAA), except as otherwise provided for in this Agreement

The Arbitrator's authority will be confined to the specific written provisions of this Agreement. The Arbitrator shall have no authority to add to, subtract from, modify, ignore, or otherwise amend any term of this Agreement and Civil Service Rules or Regulations. The authority of the Arbitrator shall remain subject to and subordinate to the limitations and restrictions on subject matters and personal jurisdiction in the Civil Service Rules and Regulations.

Employees who can provide relevant and material testimony shall be subject to subpoena by the Arbitrator.

Except as provided in the Civil Service Rules and Regulations, the Arbitrator's ruling will be binding on both parties.

During January of each year the Union has the right to remove one Arbitrator from the panel and the Office of the State Employer has the right to remove one Arbitrator from the panel. The Union and the Office of the State Employer will mutually agree upon the replacement Arbitrator(s).

Expedited Arbitration.

- a. An expedited arbitration system shall be used for all appeals to arbitration that involve the involuntary separation of an employee from state employment.
- b. The Arbitrator selected shall be requested to hear the case within forty-five (45) calendar days of being assigned the case. By mutual written agreement, the parties may waive the forty-five (45) calendar day time limit. Upon receipt of notice from the Arbitrator that the forty-five (45) day time limit cannot be met, the Office of the State Employer shall send a second request for arbitration to the next Arbitrator on the list.
- c. Briefs, if any, shall be filed simultaneously by the parties within fourteen (14) calendar days of the last day of the arbitration hearing.

- d. The decision of the Arbitrator shall be rendered within fourteen (14) calendar days of the closing of the record. By mutual agreement, the Arbitrator may issue a bench decision.

At the request of either party, including the State Employer, prior to a scheduled arbitration hearing, the parties shall convene a pre-arbitration conference. Such a conference will be for the purpose of clarifying and stipulating the issue(s) to be arbitrated, if possible; attempting to resolve the grievance; or for any other purpose mutually agreed to. Either party may propose a settlement of the disputed issue(s). If a settlement proposal is made, it shall be discussed and considered, but shall not be admissible at arbitration. The designated State Employer Representative, at his/her discretion, may participate in the conference. The party requesting a pre-arbitration conference shall make the request at least ten (10) weekdays prior to the scheduled hearing, unless mutually agreed otherwise in writing.

The expenses and fees of the Arbitrator and the cost of the hearings room, if any, excluding a court reporter if requested by only one of the parties, will be shared equally by the parties. If one party provides a copy of the transcript for the Arbitrator, they shall also provide a copy for the other party. Each party shall be responsible for the costs of its own representatives and witnesses. Any cancellation or rescheduling fees shall be the responsibility of the requesting party. In the event that both parties mutually request a cancellation or rescheduling, any associated costs shall be borne equally.

Upon mutual agreement of the parties, the services of a private umpire, arbitrator, the Federal Mediation and Conciliation Service, or the Michigan Employment Relations Commission may be used to resolve grievances at this step.

SECTION 8. ATTENDANCE AT GRIEVANCE CONFERENCES.

Attendance at and reasonable travel time to grievance conferences and arbitration by grievants and Union Representatives authorized by this Agreement shall be without loss of pay or benefits. Union Representatives outside classified employment may attend grievance conferences and hearings at the Union's discretion. Where more than one (1) Union Representative is present, the Union shall designate a chief spokesperson.