

Article 9

GRIEVANCE PROCEDURE

- A. A grievance is a written complaint alleging a violation of a specific term or provision of this Agreement.
- B. Nothing in this Agreement shall prevent a unit employee from informally discussing a problem with the immediate supervisor prior to the filing of a written grievance as provided by the terms of this Article. All written grievances must be filed within ten (10) days of the occurrence of the alleged violation, or within ten (10) days from the date the Grievant should have known of the alleged violation.
- C. Suspensions without pay and dismissal cases may be filed at Step Two of this Article.
- D. Step One: Immediate Supervisor. A unit employee will file a written grievance with the immediate supervisor. Written grievances must be filed on a Scientific and Engineering Unit Grievance Form. If not serving as the Step One Official, the immediate Supervisor will provide the grievance to the Step One Official designated by the Employer. The Step One Official may establish a meeting with the Grievant and a Union representative, if requested by the Grievant, to discuss the matter. The immediate supervisor or other Step One Official will respond to the Grievant in writing within ten (10) days of receipt of the written grievance or within ten (10) days of the meeting with the Grievant if such meeting is held. A Step 1 grievance response, other than a denial, requires the review and final approval of the department/agency personnel office and the union staff representative.
- E. Step Two: Department/Agency Personnel Office. If the matter is not resolved at Step One, the Grievant may appeal the grievance to Step Two of the procedure by filing an appeal from Step One to the Department/Agency Personnel Office within ten (10) days from the date of the Step One answer.
 - 1. Management may establish a meeting for the Grievant and a Union representative, if requested by the Grievant or the Union, within ten (10) days following receipt of the appeal at Step Two.
 - 2. Management will provide a written response to the Grievant within ten (10) days following receipt of the Step Two appeal, or within ten (10) days of a meeting with the Grievant, if such meeting is held. Both management and the union agree to come to the Step 2 meeting fully prepared to effectively address the issues to facilitate a thorough Step 2 response within the time frame allotted. Nothing precludes the parties from holding a mutually agreed to follow up meeting as necessary.
 - 3. An initial service rating, reprimand, suspension or dismissal of an initial probationary employee (2,080 Hours) is not appealable beyond Step Two of the grievance procedure.

4. An annual rating is not appealable beyond Step Two of the grievance procedure, unless the Annual Rating results in delaying reallocation of the employee's position.

F. Step Three: Arbitration.

1. Conventional Arbitration. If the matter is not resolved at Step Two, the Union may within ten (10) days of receipt of the Step Two answer, appeal the grievance to arbitration by filing written notice with the Office of the State Employer and the affected Department. Within 10 days of the receipt of the Union's notice the Office of the State Employer shall request arbitration in accordance with the procedures specified herein. The Office of the State Employer shall provide copies of the request for arbitration to the affected Department and the Union. Before the arbitration hearing, the Office of the State Employer may schedule a meeting with MPES and the Department to review the grievance. An effort shall be made in such discussions to arrive at a fair and equitable grievance settlement. Any settlement shall be confirmed in writing when agreed to by the Union and the Office of the State Employer.

- a. During the negotiation of this Agreement the parties mutually agreed upon a panel of arbitrators which will hear all grievances appealed to arbitration. The Arbitrators on this panel are as specified below:

Samuel McCargo	1984
Elliott Beitner	1984
Barry Brown	1996
Michael Long	2001
Kathryn VanDagens	2001

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- b. The Arbitrators designated above shall serve on a rotating basis.
- c. 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).
- d. Each request for arbitration shall require that the Arbitrator schedule and hold the hearing within sixty (60) 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) day time limit. Upon receipt of notice from the Arbitrator that the sixty (60) 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.

- e. 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. Expenses for the Arbitrator shall be borne equally by the parties; however, 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.
- f. 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 and 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.
- g. Employees who can give relevant and material testimony, which is not duplicative, shall be subject to subpoena by the Arbitrator.
- h. Except as provided in the Civil Service Rules and Regulations, the Arbitrator's ruling will be binding on both parties.

2. 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. All provisions of section G1, above, shall apply to expedited arbitration unless modified herein. The Arbitrator selected shall be requested to hear the case within 45 calendar days of being assigned the case. By mutual written agreement, the parties may waive the forty-five (45) 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 14 calendar days of the last day of the arbitration hearing.
- d. The decision of the Arbitrator shall be rendered within 14 calendar days of the closing of the record. By mutual agreement, the Arbitrator may issue a bench decision.
- e. Transcript costs, if any, shall be paid by the party requesting the transcript unless the parties agree to share the costs and have a copy prepared for each party by the reporter.

- G. In the event that management does not respond to a grievance within specified time limits, the grievance may be advanced to the next step. Failure of the Grievant or Union to comply with the specified time limits contained herein will automatically terminate the grievance and preclude further processing.
- H. Time limits may be extended only upon mutual written agreement of the parties. The parties may mutually agree to bypass any step of this procedure for the purpose of expediting the processing of any grievance.
- I. Only the Union may advance a grievance to arbitration. No individual unit employee or group of unit employees shall have the right to advance any grievance to arbitration without the express authorization of the Union.
- J. There shall be no grievance filed which alleges a fact situation substantially similar to that alleged in any unfair labor practice charge filed by the Union against the Employer.
- K. Exclusive Procedure. The grievance procedure contained herein shall be exclusive and shall replace any other grievance procedure for the adjustment of any disputes arising out of the administration of this Agreement 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.
- L. Prohibition of "Self-Help". Unit employees will fully and faithfully perform the responsibilities of their position while pursuing redress of grievances, shall comply with all supervisory/administrative orders and/or instructions, and shall have no right to resort to "self-help" in lieu of filing and processing a grievance. The only exception to this provision shall be circumstances where compliance with a supervisory or other administrative instruction, direction, or order would, based on clearly objective criteria, immediately endanger the unit employee's health or physical safety, or where compliance would require the commission of immoral conduct or the violation of any statute.
- M. Grievance Preparation Time. Whenever possible, the Grievant and Union representative shall utilize non-work time to consult and prepare. Where such arrangement cannot be made, the Grievant and one (1) designated Union representative may utilize up to one-half (1/2) hour without loss of pay, for consultation and preparation immediately prior to any scheduled grievance meeting with management. Overtime is not authorized. The Employer is not obligated to compensate any unit employee for grievance processing outside of their regularly scheduled work hours.
- N. Grievance Committee Leave Bank. The Employer agrees to establish an administrative leave bank of two hundred (200) hours per calendar year to be used by the Union Grievance Committee. The Committee members shall be

designated to the Office of the State Employer annually. The bank shall be used for working on the resolution of grievances. The Committee member must submit a written request to his/her supervisor at least two (2) weeks in advance. The request shall indicate the number of hours being requested. When such notice cannot be given, the release of the Committee member shall be contingent upon the operational needs of the Department, but shall not unreasonably be denied.

- O. Grievance Leave Time. Unit employees who are required to participate in any grievance meeting with management, including arbitration, as Grievant or as required witnesses, shall be released from work without loss of pay for the period of time required to participate in such meeting, including travel time, during their regularly scheduled hours of employment. Upon completion of the unit employee's participation in the meeting, he/she shall return to his/her work site and resume normal assigned duties.

- P. Grievance Representation. Unit employees shall be limited in their right to grievance representation during Steps One and Two to a Union staff employee or a designated representative who is also a unit employee. This precludes the use of attorneys or any other individuals who do not satisfy the criteria contained herein. This shall not prevent the Union from retaining outside counsel or any other outside individual to represent a Grievant's claim in an arbitration hearing conducted pursuant to Step Three of the grievance procedure.