

UNIVERSITY COUNTER PROPOSAL TO USW

March 13, 2023

Grievance and Arbitration

Grievance Procedure

1. A "grievance" is an allegation by the Union or Employer that there has been a violation of an Article(s) and Section(s) of the Agreement. The Union and all bargaining unit faculty members agree this Article is the exclusive procedure applicable to alleged violations of this Agreement, including disciplinary action taken with respect to bargaining unit faculty, and waive the right to any alternative procedure unless expressly provided for herein.
2. For purposes of computing time under this Article, dates on which the Employer is closed or in recess for faculty (as listed in the Academic Calendar) shall be excluded.

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Union and Faculty Member Grievance

STEP ONE Within thirty (30) calendar days of the occurrence giving rise to the grievance, the Union or bargaining unit faculty member shall present a grievance orally to their department or unit head. The department or unit head or their designee will investigate the grievance as they shall deem appropriate and respond to the Union and/or the grievant within twenty (20) calendar days. The Employer and the Union may agree in writing to additional time to resolve grievances at Step One. Unless agreed otherwise, settlements at this step shall be made without precedential effect.

STEP TWO If the grievance has not been resolved at Step One, the grievant or the Union shall reduce the grievance to writing, stating the facts and listing the Articles and Sections of the Agreement upon which the grievance is based and submit the written grievance to department or unit head, or their designee within twenty (20) calendar days of receipt of the Employer's Step One response. The department or unit head or their designee will have twenty (20) calendar days following the receipt of the written grievance to investigate the matter as they deem appropriate, discuss the matter with the grievant or Union and, where appropriate, submit a written response to the grievant or Union. The Union may appeal the grievance to the next step within twenty (20) calendar days of the Employer's denial.

STEP THREE If the grievance has not been resolved at Step Two, the Provost, or their designee, will meet with the International Staff Representative of the Union to attempt to resolve the grievance within twenty (20) calendar days of the appeal to this step. If the parties are unable to resolve the grievance, the Employer shall, within twenty (20) calendar days

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of the meeting, present the Union with a written response.

Should the Employer fail to respond at any step within the timeframes contained in this provision, the grievance will be deemed denied and the Union may proceed to the next step in the procedure.

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Employer Grievance

Employer grievances will be presented at Step Three.

Tenure Revocation Grievance

The parties acknowledge that Chapter II, Section 4.8 of the University Bylaws contains an appeal process applicable to the revocation of a bargaining unit faculty member's tenure status and agree that the process set forth therein shall be the only appeal and/or grievance process available to bargaining unit faculty members. Revocation of a bargaining unit faculty member's tenure status pursuant to the procedures set forth in Chapter II, Section 4.8 of the University Bylaws shall not be subject to the grievance and arbitration procedure contained in this Article.

Mediation

In the event that the parties cannot resolve the grievance at Step Three, before the grievance has been appealed to arbitration, the Union and the Employer may, by mutual consent, contact the Pennsylvania Bureau of Mediation or Federal Mediation and Conciliation Service ("FMCS") for grievance mediation. All time limits shall be suspended while mediation is pending.

Arbitration

1. If the grievance has not been resolved at Step Three, the Union, but not the individual bargaining unit faculty member(s), has the sole right to refer a grievance to arbitration and to conduct the proceeding as a party, and shall within thirty (30) calendar days of the receipt of the written response from Step Three submit a written notice to the department or unit head, or their designee, of its intent to submit the grievance to binding arbitration. Failure by the Union to request arbitration within thirty (30) days of a denial will result in the grievance being denied and the right to arbitration is deemed waived.
2. The parties shall have the right to mutually agree upon the arbitrator, but in the event they cannot so agree within twenty (20) calendar days of receipt of the above notice, the parties shall notify the Federal Mediation and Conciliation Service ("FMCS") of their intent to arbitrate a grievance. FMCS shall submit a panel of arbitrators to each Party, and the

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arbitrator shall then be chosen in accordance with FMCS's then applicable rules. Each party shall alternately strike a name until one remains. The Employer shall strike the first name. The person remaining shall be the arbitrator. The arbitration shall be conducted in accordance with FMCS's then applicable rules of procedure.

3. All decisions of the selected arbitrator shall be final and binding on the Employer, the Union, and all relevant members of the bargaining unit.
4. The arbitrator shall have no authority to add to, subtract from, or modify this Agreement and no authority to modify deadlines contained herein. Each case shall be considered on its merits and the Agreement shall constitute the sole basis upon which the decision shall be rendered. If there is a question as to whether the arbitrator has jurisdiction to hear a case, this question must be heard and an immediate bench ruling issued by the arbitrator prior to their hearing and deciding the merits of the case.
5. The arbitrator shall confine themselves to the precise issue the parties have agreed to submit for arbitration and shall have no authority to determine any other issues not so submitted to them.
6. The arbitrator shall have no jurisdiction or authority to issue an award that changes, modifies or restricts any action taken by the University with respect to the exercise of management rights under Article ____ of this Agreement.
7. The arbitrator shall have no authority to substitute their judgment for that of the Employer in cases involving any Employer decision regarding academic matters.
8. The arbitrator shall be requested to issue their decision within thirty (30) calendar days after the hearing or receipt of the transcript of the hearing.
9. The cost of the arbitration shall be borne equally by the parties, including the arbitrator's fees and expenses and the cost of the hearing room. Each party shall pay its own individual expenses, including transcripts and the fees and reimbursement of its representatives and witnesses.
10. The parties agree to promptly give notice to one another of any subpoenas issued by the arbitrator.
11. No recordings may be made of the hearing, except as needed by the preparer of a transcript.

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