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SANTA BARBARA • SANTA CRUZ

OFFICE OF THE SENIOR VICE PRESIDENT —
BUSINESS AND FINANCE

OFFICE OF THE PRESIDENT
300 Lakeside Drive
Oakland, California 94612-3550
June 25, 2007

Mr. Christian Hertzog
CUE Representative
814 Morena Blvd., Suite 206
San Diego, CA 92110

Appeal of Grievance to Step 3: UC San Diego, CUE Union Grievance (Representation in Step 1 Meeting),
Systemwide Number SD-CU-2617-07, Campus Number 06/07-79

Dear Mr. Hertzog:

Office of the President Labor Relations has discussed the above-referenced grievance with management representatives at the University of California, San Diego and reviewed the grievance and narrative statement of the grievance in the Step 3 appeal. The grievance, filed on or about April 8, 2007, alleges that the University violated the labor agreement Article 2 – Agreement Section A, Article 7 – Grievance Procedure Section F.1.c and Article 15 – Management Rights Section D when it failed to convene a Step 1 grievance meeting that included the employee's supervisor, as requested. The requested remedies are to conduct Step 1 grievance meetings with the participation of the grievant's immediate supervisor when requested, and to "cease and desist interfering with the grievance process." There was no Step 1 or Step 2 response to this grievance by UCSD and it was appealed to the Office of the President at Step 3 following the expiration of the period for a Step 2 response.

The Union has not provided any information or evidence as to how Article 2 (Agreement) Section A or Section D of Management Rights (Article 15) were violated in this case, and no violations of those provisions can be readily inferred. Therefore, to the extent that the grievance asserts violations of the Agreement and Management Rights articles, the grievance is denied.

However, Article 7 – Grievance Procedure Section F.1.c states:

Resolution of grievances at the lowest possible level is an objective shared by the University and CUE. If no Informal Review meeting took place, and either party requests it, there shall be a meeting held at Step 1 that includes the supervisor and the grievant.

Discussions with UC San Diego Labor Relations officials have confirmed that there was no informal review in this case, the Union requested a Step 1 meeting and requested the attendance of the supervisor. The University did not accede to the latter request, and UC San Diego has not presented any information to justify or mitigate its failure to abide by Article 7.F.1.c in this case.

UC San Diego Labor Relations officials have also confirmed that this provision will be observed in future Step 1 meetings (if there was no informal review and if requested). Accordingly, to the extent that your grievance asserts a violation of Article 7.F.1.c, the grievance is granted and the University will comply in future (your remedy #1). However, even accepting that the University did not arrange for the participation of a supervisor at a Step 1 meeting in this case, such an act does not rise to the level of "interfering with the grievance process." Therefore, your requested remedy #2 is denied.

Sincerely,

A handwritten signature in black ink, appearing to read "Rus Ritter", written over a circular stamp or seal.

Rus Ritter
University Advocate

Enclosures: Grievance Form
Proof of Service

cc: Assistant Director Chester
Labor Relations Director Melman
Labor Relations Advocate Hein
CUE Statewide Office (attn: Jennifer Carrington)
File

Cue 06/c- 79

<h1 style="margin: 0;">CUE</h1> <p style="margin: 5px 0;"><i>Coalition of University Employees</i></p> <p style="margin: 10px 0;">CLERICAL UNIT GRIEVANCE FORM</p>	<p>NOTICE TO CLERICAL AND ALLIED SERVICES UNIT EMPLOYEES:</p> <ul style="list-style-type: none"> A grievance is a written employee complaint that the University has violated a specific provision of the UC-CUE collective bargaining contract. <u>Grievances must be filed on this form.</u> A grievance must be filed within 30 days of the date of the alleged violation -- or the date you became aware of the alleged violation. If you wish to file a grievance, you are advised to contact your local CUE union representative. For a list of CUE representatives, see: http://www.cueunion.org/contacts/local.php3 1-888 900-8989 	
<p>Allegations of a violation of the Clerical Agreement in effect between the University and CUE must be filed on this form. See your Agreement for details regarding the filing of a grievance. PLEASE PROVIDE THE INFORMATION REQUESTED IN ACCORDANCE WITH ARTICLE 6, GRIEVANCE PROCEDURE OF THE CLERICAL UNIT AGREEMENT.</p>		
<p>GRIEVANT'S NAME Coalition of University Employees</p>	<p>NAME OF GRIEVANT'S IMMEDIATE SUPERVISOR N/A</p>	
<p>CAMPUS/MEDICAL CENTER/ LABORATORY N/A</p>	<p>DEPARTMENT/DIVISION N/A</p>	<p>WORK TELEPHONE 619-296-4937</p>
<p>EMPLOYEE CLASSIFICATION TITLE N/A</p>	<p>NON-WORK ADDRESS TO WHICH CORRESPONDENCE MAY BE SENT TO GRIEVANT 814 Morena Blvd. Ste. 206 San Diego, CA 92110</p>	
<p>EMPLOYEE EMPLOYMENT STATUS</p> <p> <input type="checkbox"/> Career/Regular <input type="checkbox"/> Probationary <input type="checkbox"/> Full time <input type="checkbox"/> Casual/Temporary <input type="checkbox"/> Per Diem <input type="checkbox"/> Part Time </p>		<p>GRIEVANT'S NORMAL HOURS OF WORK</p>
<p>IF REPRESENTED IN THIS GRIEVANCE, PROVIDE THE FOLLOWING:</p>		
<p>REPRESENTATIVE'S NAME Christian Hertzog</p>	<p>REPRESENTATIVE'S ORGANIZATION Coalition of University Employees</p>	<p>REPRESENTATIVE'S TELEPHONE NUMBER 619-957-6790</p>
<p>REPRESENTATIVE'S NON-WORK ADDRESS, CITY, STATE, ZIP</p> <p>814 Morena Blvd., Suite. 206 San Diego, CA 92110-2632</p>		
<p>TYPE OF GRIEVANCE:</p> <p> <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> GROUP (LIST ALL GRIEVANTS) <input checked="" type="checkbox"/> UNION (MUST BE SIGNED BY THE PRESIDENT OR DESIGNEE) </p>	<p>SPECIFIC ARTICLE(S) & SECTION(S) OF THE CONTRACT ALLEGED TO BE VIOLATED: Grievance Procedure F.1.c. Agreement A. Management Rights D.</p>	
<p>DATE OF ACTION CAUSING GRIEVANCE _3/21/07_</p>	<p>DATE OF INFORMAL DISCUSSION WITH SUPERVISOR ___/___/___</p>	<p>DATE OF INFORMAL RESPONSE ___/___/___</p>
<p>ALLEGED VIOLATION(S) OF AGREEMENT</p> <ol style="list-style-type: none"> 1. Labor Relations refused to convene a Step 1 meeting for 7 consolidated grievances with the grievant's supervisor present at the meeting, insisting that a higher-level HR official would suffice. 2. By interfering with the grievance process, UCSD is violating HEERA. 3. By asserting Labor Relations has the right to conduct Step 1 meetings without the supervisor present, Labor Relations is violating the contract. 4. University failed to attempt to resolve the grievance at the lowest possible level. 		
<p>REMEDY REQUESTED</p> <ol style="list-style-type: none"> 1. When requested, University to conduct all Step 1 meetings with the grievant's immediate supervisor. 2. University to cease and desist interfering with the grievance process. 		
<p>GRIEVANT'S AND/OR REPRESENTATIVE'S SIGNATURE </p>		<p>DATE 4/9/07</p>

GRIEVANCE REVIEW -- STEP 1

DATE STEP 1 GRIEVANCE RECEIVED BY UC:		DATE OF UC RESPONSE	
STEP 1 DECISION			
SIGNATURE OF STEP 1 REVIEWER	PRINTED NAME AND TITLE OF STEP 1 REVIEWER		TELEPHONE NUMBER
<input type="checkbox"/> I DO NOT ACCEPT AND APPEAL THIS GRIEVANCE TO THE SECOND STEP (STATE SUBJECT BELOW)		GRIEVANT'S AND/OR REPRESENTATIVES SIGNATURE	DATE
SUBJECT OF GRIEVANCE AT STEP 2, IF DIFFERENT THAN SUBJECT OF GRIEVANCE AT STEP 1.			

GRIEVANCE REVIEW -- STEP 2

DATE STEP 2 APPEAL POSTMARKED/ HAND-DELIVERED	DATE STEP 2 APPEAL RECEIVED BY UC	DATE OF UC RESPONSE	DECISION ATTACHED <input type="radio"/> YES <input type="radio"/> NO
SIGNATURE OF STEP 2 REVIEWER		PRINTED NAME AND TITLE OF STEP 2 REVIEWER	
<input type="radio"/> I DO NOT ACCEPT AND APPEAL THIS GRIEVANCE TO THE THIRD STEP (STATE SUBJECT BELOW)		GRIEVANT'S AND/OR REPRESENTATIVE'S SIGNATURE	DATE
SUBJECT OF GRIEVANCE AT STEP 3, IF ANY ISSUE(S) OF GRIEVANCE AT STEP 2 HAVE BEEN RESOLVED.			

GRIEVANCE REVIEW -- STEP 3

DATE STEP 3 APPEAL POSTMARKED/HAND-DELIVERED	DATE STEP 3 APPEAL RECEIVED BY UC	DATE OF UC RESPONSE	DECISION ATTACHED <input checked="" type="radio"/> YES <input type="radio"/> NO
<i>5/23/07</i>	<i>5/25/07</i>	<i>6/25/07</i>	
SIGNATURE OF STEP 3 REVIEWER <i>Sharon Adams</i> <i>for Russ Ritter</i>		PRINTED NAME AND TITLE OF STEP 3 REVIEWER <i>Russ Ritter</i> <i>Adjudication Unit Manager</i>	