



OFFICE OF THE SENIOR VICE PRESIDENT —
BUSINESS AND FINANCE

OFFICE OF THE PRESIDENT
300 Lakeside Drive
Oakland, California 94612-3550
June 22, 2007

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

Appeals of Grievances to Step 3: UC San Diego, Paula Schacht Grievances, Consolidated Systemwide Number SD-CU-2615-07, Campus Numbers 06/07-56 – 06/07-62 and 06/07-65 – 06/07-73 (16 grievances)

Dear Mr. Hertzog:

Office of the President Labor Relations has discussed the above-referenced grievances with management representatives at the University of California, San Diego. There are 16 grievances (which variously describe unwelcome, disruptive and/or hostile interactions and treatment allegedly directed toward Ms. Paula Schacht by her lead worker, Administrative Specialist Ms. Mary Carpenter). In each case, the grievance describes an alleged incident ranging from rude statements or disrespectful treatment (e.g., grievances 06/07-57, 58, 60, 62, 65, 66, 70), to "behaving violently" (e.g., grievances 06/07-67, 68, 73), attacking the employee in the workplace (06/07-56), throwing sharpened pencils at the employee (06/07-54), "trying to punch" the employee (06/07-61), and ripping the employee's calendar off the wall and calendar book from her hands (06/07-72 and 06/07-71, respectively). Each of the various grievances alleges that this behavior violated Article 33 – Respectful, Fair Treatment, Article 15 Section A – Management Rights Sections D, B.11&12, Article 43 University Policies. The grievances alleging physical acts against the employee (such as 06/07-61) include the additional alleged violation of Article 8 – Health and Safety Section B.2. The requested remedies are to cease disrespectful treatment, enforce the zero tolerance policy on workplace violence and (in the case of several of the grievances) remove Ms. Carpenter, the offending lead worker, from the workplace via reassignment or termination.

Separately and as a whole, the grievances clearly describe a harsh and possibly hopeless interpersonal conflict between two University employees. There were no Step 2 responses.

Preliminarily, it must be noted that to the extent the grievances allege a violation of Article 33 – Respectful/Fair Treatment, such allegations are not reviewable at Step 3 (see Article 33 Section C), and will not be addressed further here. Please be advised, if the union elects to appeal such alleged violations of Article 33 to arbitration the University will insist on an arbitrability hearing prior to and separate from a hearing, if any, on the merits.

As for the allegations that the University has violated its own management rights (Article 15 Sections D and B11&12), the union has not explained how the University has violated this provision in any of the grievances or materials it has provided (including the letter of appeal to Step 3) relating to these grievances. Accordingly, these elements of your grievances are denied.

Regarding the remaining allegations of violent and/or threatening behavior (alleged to be violations of Articles 8 – Health and Safety, and 43 University policies), the record reflects that the incidents were the subject of an inquiry conducted by departmental Human Resources officials and found to be without merit. They either were made up (throwing sharp pencils, attempting to punch the employee) or greatly exaggerated (“ripping” a calendar off the wall). In any case, there has been no evidence presented beyond the bare allegations contained in the 16 grievances that there has been any violation of the Health and Safety and/or University Policies articles in these grievances. In fact, the University took steps to separate the employees so that they no longer work together and this appears to have alleviated the problematic interpersonal relationship between Ms. Schacht and Carpenter. In any case, there is no appropriate remedy that goes beyond the action that has already been taken to relieve the problem,¹ and this would form the basis of an additional procedural objection if the grievance were appealed to arbitration.

Accordingly, the grievances and requested remedies are denied.

Sincerely,



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

¹ To the extent the various grievances also request the removal or discipline of the lead worker, punishing another person is not a legitimate remedy for a grievance.