

**House Officers Association
Grievance #21-11014**

RESPONSE TO ASSOCIATION GRIEVANCE

I. Introduction

On November 8, 2021, the University of Michigan (“University” or “Employer”) received House Officers Association (“HOA” or “Union”) Grievance #21-11014, on behalf of [REDACTED] (the “Grievant”), titled “183 & 184 Grievance.” The Grievance alleged that “[t]he Employer refused to allow HOA Executive Director to attend an academic grievance review committee meeting at [REDACTED] request.”

The Union alleged a violation of:

Article XX [“Discipline”] and any and all other implicated provisions of the Collective Bargaining Agreement (CBA) between the University of Michigan Regents and the University of Michigan House Officers Association (HOA).

II. Background

Grievant is a Resident in the [REDACTED] Program (the “Program”). On September 28, 2021, Grievant met with the [REDACTED] Clinical Competency Committee (“CCC”), at their invitation, to discuss [REDACTED]. Based on the advice of the CCC, Program Director [REDACTED] met with Grievant on October 7, 2021, and presented [REDACTED] with a letter of the same date (the “Letter of Probation”), notifying Grievant that the Program was placing Grievant on an academic probation. The Letter of Probation clearly explained the reasons for the probation and specified the Program’s expectations of Grievant in order to successfully complete the probationary period.

The Letter of Probation included a copy of the Program’s Educational Grievance Policy, which outlined the Grievant’s rights in the event Grievant wished to appeal the probation or terms of the Letter of Probation. The Letter of Probation also included a list of support resources available for House Officers, with contact information for those resources. The Union was listed as one of those support resources, with its contact information. That resource list also included the University’s Office of Counseling & Workplace Resilience (or “Employee Assistance Program”), the House Officer Wellness Program, and University’s Spiritual Care programs, among others.

Grievant notified [REDACTED] on October 12, 2021, of [REDACTED] intent to grieve the academic probation under the Educational Grievance Policy. Pursuant to the policy, an Educational Grievance Review Committee (“the Committee”) was formed, consisting of clinicians from within Grievant’s Department who were not involved in the original decision to issue the academic probation. The Committee scheduled a hearing for Monday, October 25, 2021, to hear the educational grievance.

On October 22, 2021, the Union contacted Labor Relations to state that Grievant had requested Union representation at the Committee meeting on Monday, October 25, 2021. Labor Relations denied this request, on the basis that the meeting was part of the academic process, and therefore union representation was inappropriate.

Grievant met with the Committee on October 25, 2021, where ■ addressed ■ concerns about ■ academic probation to the Committee. On October 26, 2021, the Committee issued its unanimous recommendation that the educational grievance be denied, and the academic probation be upheld. ■ proceeded to notify Grievant on October 29, 2021, that the academic probation would remain in place and that this decision by the Program was final.

Under institutional policy, Grievant has the right to appeal the Program's decision to the Graduate Medical Education Committee (GMEC). Grievant submitted his written appeal to the GMEC on November 18, 2021, and the appeal will be heard by that Committee at its regularly scheduled meeting on December 20, 2021.

III. Analysis

Article XX of the CBA ("Discipline") provides in paragraph 182: "It is understood that the collective bargaining agreement addresses the terms and conditions of employment, **but does not extend to oversight of a House Officer's academic training program**" [emphasis added]. The CBA further clarifies, in Article XX, paragraphs 183-184:

However, the Employer and the House Officers Association share a common interest with regard to providing assistance and support for a House Officer in the event a House Officer receives notice of a remediation plan, probation, suspension, termination, or non-reappointment from their Program Director. The employer agrees to assist the House Officer with making contact with the House Officers Association in such a circumstance, so that the House Officer is aware of the services and support that may be provided by the House Officers Association.

Thus, directly applying the terms of Article XX, the Union has failed to state any claim arbitrable under the CBA. Article XX, in paragraphs 183-184, provides a single obligation on the part of the University toward a House Officer facing academic discipline: that the House Officer be offered assistance making contact with the Union. The Program fulfilled this requirement by including the Union and its contact information in the sheet of resources provided to Grievant with the Letter of Probation, along with numerous other support resources available to Grievant. Article XX makes no provision whatsoever for the Union to participate in the academic discipline process. Academic discipline, by the explicit language of Article XX, is solely the province of the University. The University provides an internal appeal process through which Grievant may appeal academic discipline, and Grievant has availed ■ of this internal academic appeal process by filing an educational grievance against the Program on October 12, 2021. On October 25, 2021, pursuant to the Program's Educational Grievance Policy, the Educational Grievance Review Committee was convened and met with Grievant to discuss ■ educational grievance. That Committee consisted of clinicians in the Grievant's Department, who are in the best position to evaluate the performance concerns that gave rise to the probationary status. The Committee unanimously recommended that the academic probation be upheld. Grievant has exercised ■ right to appeal the outcome of his educational grievance at the institutional level to the GMEC. The terms of this academic appeal process, and the Employer's compliance with those terms, are likewise not subject to the CBA.

IV. Conclusion

The grievance has not identified a violation of Article XX or any other provision of the CBA. The Program met its obligation pursuant to Article XX, paragraph 183, to provide Grievant with contact information for the Union. Article XX does not provide for union representation at an academic proceeding, nor do the grievance and arbitration procedures set forth in Article XXI apply to academic discipline. For the foregoing reasons, the grievance is not arbitrable and is denied.

FOR THE UNIVERSITY REVIEW COMMITTEE: s/ *Wade Baughman*

Lead Labor Relations Advisor

Date emailed to the HOA: December 7, 2021