

House Officers Association  
Grievance #21-10987

**RESPONSE TO ASSOCIATION GRIEVANCE**

**I. Introduction**

On October 15, 2021, the University of Michigan (“University” or “Employer”) received House Officers Association (“HOA” or “Union”) Grievance #21-10987, on behalf of [REDACTED] (the “Grievant”), alleging that “[t]he Employer placed [REDACTED] on probation without just cause.” 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. Analysis**

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 numerous serious concerns related to his academic performance. Based on the advice of the CCC, Program Director [REDACTED] met with Grievant on October 7, 2021, and presented him 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 outlines the Grievant’s rights in the event Grievant wishes to appeal the probation or terms of the Letter of Probation. The Letter of Probation also included a contact list of additional support resources available for House Officers.

Article XX of the CBA (“Discipline”) provides in paragraph 178 that “The Employer shall not discharge or take other disciplinary action without just cause.” This paragraph, however, must be read in conjunction with Article XX, Paragraph 182, which states that “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].

Thus, directly applying the terms of Article XX, the Union has failed to state any claim arbitrable under the CBA. Grievant’s probationary status is a form of academic discipline, which is solely the province of the Program. The Program provides an internal appeal process through which Grievant may appeal academic discipline, and Grievant has in fact initiated this internal academic appeal process by filing an academic grievance against the Program on October 12, 2021. On October 25, 2021, pursuant to the Program’s Academic Grievance Policy, the Educational Grievance Review Committee was convened and met with Grievant to discuss his academic grievance. That Committee consists 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. After full consideration of the issues, this Committee issued its written recommendation that the academic probation be upheld. On October 29, 2021, the Program notified Grievant of the Committee’s recommendation and, consistent with that recommendation, the Program’s decision to uphold the academic probation. If Grievant is not satisfied with the Program’s response to his grievance, he has a right to appeal the outcome at the institutional level to the Graduate

Medical Education Committee. The terms of this academic appeal process, and the Program's compliance with those terms, are likewise not subject to the CBA.

### **III. Conclusion**

The grievance has not identified a violation of Article XX or any other provision of the CBA. Neither the "just cause" provisions of Article XX, nor the grievance 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: November 9, 2021