

HOA Step Three Grievance

To: Hakim Berry, Director of Labor Relations
Brian Sumner, HOA Contract Administrator

Date: September 5, 2023

CONTRACT VIOLATION:

Article XIII (Paid Time Away), and any other relevant or implicated provisions of the current Collective Bargaining Agreement (CBA) between the University of Michigan Regents and the University of Michigan House Officers Association (HOA).

The HOA is proceeding to Step Three of the parties Agreement on behalf of [REDACTED].

SUMMARY:

On 8/9/23, [REDACTED], a chief resident for the Department of Neurology, reached out to representatives of the HOA about three House Officers who were facing the prospect of late graduations and delayed starts to fellowships. The three above mentioned House Officers utilized Leaves of Absence during their intern year in the Internal Medicine Department for either illness or maternity leave. These House Officers extended their training in Internal Medicine to remedy those excused absences, this satisfied Internal Medicine administration, but as we now know, this was unnecessary as only 8 months of Internal Medicine training is necessary to proceed with Neurology training.

Both [REDACTED] and [REDACTED] were working with their chief residents and Dr. London to use vacation to offset any time required by the American Board of Psychiatry and Neurology to become Board eligible and start fellowship on time. Dr. London had approved [REDACTED] schedule prior to [REDACTED] matching into fellowship. According to what was communicated by Dr. London to those involved, the GME office would not allow him to schedule vacation to offset a Leave of Absence as outlined in the parties CBA. This has profound and devastating implications for the career paths and finances of all three, particularly [REDACTED] who has matched into a fellowship that requires an on-time start date. The HOA is requesting all communications relevant to this issue as stated in paragraph 205 of the parties CBA to further process this grievance.

The training and leave of absence policy of the American Board of Psychiatry and Neurology (ABPN) states:

“Also, training programs must allow, at least once during training, a minimum of six weeks of time away from training for purposes of parental, caregiver, and medical leave, without exhausting all other allowed time away from training and without extending training. Within ABPN and ACGME

policy guidelines, it is up to the program director and the program clinical competency committee to determine whether a given resident has met training requirements or must extend their period of training.”

All three House Officers utilized their contractually guaranteed leave for Serious Illness and Maternity. The ABPN policy clearly gives the Program Director the ability to determine whether the resident is meeting training requirements in this circumstance. The GME administration cannot belatedly overrule the Program Director’s decision in this manner, particularly in a way that follows neither the HOA CBA nor the written policies of the ABPN, and which contravenes promises made by the Department that these doctors relied upon.

The ABPN Leave of Absence FAQ also makes clear that: “the policy requires that training not be extended solely due to a trainee using the allowed leave time.” In this case, the affected House Officers are dealing with a training extension for no other reason than for using their contractually permitted leave time and a delayed start date in Neurology that was unnecessary. However, this does not appear to be a situation of any clinical deficiency being observed. House Officers are not trying to reduce their training time, either. Instead, the impacted House Officers are merely foregoing their contractually permitted vacation time to ensure they reach the end of their residencies on time. The CBA and ABPN policy allow this arrangement with Program Director approval.

Article XIII of the HOA Agreement also states:

“Vacation shall be scheduled to meet the requirements of the Employer on a departmental basis with due consideration given to the Employee's wishes as to time and duration. The actual scheduling of vacations shall be the responsibility of the Program Director or equivalent level of supervision. Such vacations will be scheduled as a regular and routine part of service assignments over the course of the year. Once a vacation request is approved, the Employer shall not unilaterally change or cancel the approved vacation unless the Employer has implemented its Emergency Operations Plan pursuant to UMHS Policy 01-02-000. Either the Employee or the Program Director may initiate a request for a change to previously approved vacation, but any changes must be mutually agreed upon.”

On 8/21/23, the Association filed a grievance at Step Two to Dr. Kleindorfer and Dr. London in the Department of Neurology. In its filing, the Association requested a meeting and discussion regarding the grievance. The Department did not respond to this request for meeting, nor did they provide a written grievance response, by the negotiated deadline. As a result, the Association is appealing the grievance to Step Three as permitted in the agreement.

On 9/5/23, Dr. London issued a response to the Association’s Step Two grievance after the expired time window. In his response, Dr. London rejected the grievance and stated it was not arbitrable as it related to an academic matter. In his response, Dr. London referred to language in paragraph 82 of the CBA in order to argue that the grievance is not arbitrable and to deny it on the merits.

There is no intent for [REDACTED] to reduce the amount of training they receive or to fill any deficit. The grievance is regarding the four weeks of vacation all three House Officers are guaranteed by the contract, their ability to schedule their vacation, and whether the Employer and the Department have the authority to change schedules once they have already been

agreed to or determined. The Department and GME violated the rights of the affected House Officers under Article XIII of the CBA by its actions.

A fair and just resolution for this grievance would be for the Employer to permit the agreed-upon vacation arrangement for [REDACTED] and make them whole and allow the Program Director to access their readiness for independent practice and Board eligibility without interference.

On behalf of [REDACTED]

and the Association,

Robin Tarter

Robin Tarter, M.Ed., Executive Director

University of Michigan House Officers Association