

HOA Grievance/Complaint

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

Date: October 11, 2023

CONTRACT VIOLATION:

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

SUMMARY:

On 7/20/23 the Association was provided with a copy of the Department of Anesthesiology Interim Policy on Resident Absence from Training. The HOA issued a demand to bargain with the Employer, and the parties met on 9/20/23 to confer on the new policy. On 10/3/23, Employer representative Brian Sumner told representatives of the HOA that the Anesthesiology Department would not be making changes to the interim policy.

The policy contains the following provision under Section D (2):

Emergent Call In: The Program Director will not request a waiver of extension to training for short-term short-notice absences of more than two (2) days per academic year. Any short-term, short-notice absences beyond two (2) days per academic year will be defined as time away from training and will result in an extension of training to comply with the ABA's revised Absence from Training Policy. It is always the residents responsibility to email Anes-Res-Call-In-Sick@med.umich.edu when unable to fulfil their clinical assignments.

A. *A resident who calls in utilizing a short-term short-notice absence will be considered as absent for every day that their clinical assignment covered. A call shift spanning 2 calendar days will be 2 days of short-term short-notice absence. This includes for example in-house call, home call, night float, and sick call.*

The HOA Agreement contains the following language under Article XIII Section A:

When a House Officer is unable to work due to illness or injury and certain criteria are met, certain paid sick leave shall be available. The parties share a mutual interest that House Officers are both encouraged and supported by their programs and colleagues to not work when acutely ill (e.g., is contagious, dehydrated, or vomiting, or has diarrhea). The parties acknowledge that there is a shared responsibility of both Faculty and House Officers to assure coverage during this absence. Excessive absenteeism may result in corrective action.

Article XIII of the CBA also provides Paid Caregiver Leave to allow time away for aiding a family member with serious health conditions. The CBA also permits leaves that mimic the Family Medical Leave Act (FMLA) for House Officers to utilize in order to care for themselves or close family members.

The policy of the Anesthesiology Department penalizes House Officers for utilizing their contractually guaranteed leave. It actively harms the goal of House Officers being “encouraged and supported by their programs and colleagues to not work when acutely ill” as stated in the CBA. Moreover, it is overly broad, limiting the ability of House Officers to deal with family emergencies that would require FMLA or Paid Caregiver Leave by punishing them with training extensions.

The policy has little to do with the academic prerogatives of the department. There is no clinical or educational reason for the limits placed on emergent call. Those justifications are merely pretextual and an attempt avoid the HOA agreement and impose a no-fault attendance policy on House Officers. The Department already has latitude under the CBA to discipline those who violate existing attendance policies or abuse various leaves. The proposed changes to the Interim policy far exceed that authority in ways that are wholly related to House Officers’ standing as employees and violates the CBA. This policy is facially unreasonable and voids benefits provided by the parties’ labor contract.

A fair and just resolution for this grievance would be for the Department of Anesthesiology to rescind the proposed policy and make any impacted House Officers whole.

On Behalf of the Association,



Dominic Barbato

Staff Associate

University of Michigan House Officers Association.