

## **Policy on Grievance and Arbitration Procedures** **University of Prince Edward Island Faculty Association**

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This Policy defines the process by which disputes with the Employer are handled by the UPEI Faculty Association (*UPEIFA* or *Association*). Unless specified otherwise, *Membership* or *Members* in this document refers to Members of the UPEI Faculty Association, as defined by its Bylaws, and/or members of any of its bargaining units.

### **1 General**

**1.1** The handling of all disputes which might arise between the Association, or any of its Members, and the Employer shall be carried out pursuant to the collective agreements in force and the provisions of this Policy.

**1.2** A dispute is a complaint or a grievance regarding the interpretation, application, administration, operation or alleged violation of the collective agreement in force.

**1.3** A complaint is a dispute that may be resolved without reference to the grievance procedure. As such, every effort shall be made to encourage and to reach an informal resolution of a complaint before it becomes necessary to file a formal grievance with the Employer.

**1.4** Grievance Officers shall be appointed to handle all disputes on behalf of the Association, one of whom shall be appointed as the Chief Grievance Officer.

**1.5** All appointments, and renewals of appointments, for Grievance Officers and the Chief Grievance Officer shall be made by the Executive Committee, at the discretion of the Executive Committee.

**1.6** The length of the appointment for the Grievance Officers and the Chief Grievance Officer shall be at the discretion of the Executive Committee.

**1.7** The Grievance Officers and the Chief Grievance Officer shall be directly responsible to the Executive Committee.

**1.8** The Association holds carriage rights over all disputes between the Association, or any of its Members, and the Employer.

### **2 Role and functions of the Grievance Officer**

**2.1** Grievance Officers shall be responsible for Association activities that arise out of the *Grievance and Arbitration Procedures* section of the collective agreements in force, and shall have the following functions:

**2.1.1** To handle disputes of Members, or groups of Members, and to advise them of their rights and of the possible courses of action available to deal with the dispute, including the filing of an individual or group member grievance;

**2.1.2** To handle disputes of the Executive Committee and to advise it of its rights and of the possible courses of action available to deal with the dispute, including the filing of an Association grievance;

**2.1.3** To conduct a preliminary investigation of all disputes fairly, without discrimination and in a non-arbitrary fashion;

**2.1.4** To recommend to Members any action to be taken as provided for by the *Grievance and Arbitration Procedures* section of the collective agreement in force, including the filing of an individual or group member grievance;

**2.1.5** To recommend to the Executive Committee any action to be taken as provided for by the *Grievance and Arbitration Procedures* section of the collective agreement in force, including the filing of an Association grievance;

**2.1.6** To negotiate with the Employer regarding the possible resolution of any disputes, subject to Paragraph 1.3 of this policy;

**2.1.7** To identify and recommend to the Executive Committee any areas of the collective agreements in which improvements should be sought in negotiations; and

**2.1.8** To report to the Executive Committee any situation which, in the opinion of the Grievance Officer, violates a collective agreement.

**2.2** In carrying out their functions, Grievance Officers shall, at all times, provide fair representation for the Association and its Members, pursuant to the collective agreements in force and the provisions of this policy.

### **3 Role of the Chief Grievance Officer**

**3.1** The Chief Grievance Officer shall be the primary liaison between the Grievance Officers and the Executive Committee on all Association activities that arise out of the *Grievance and Arbitration Procedures* section of the collective agreements in force.

**3.2** The Chief Grievance Officer shall assign the handling of all files to the Grievance Officers, including herself/himself, taking care to ensure that there is a fair distribution of workload among them and that no Grievance Officer handles a file with which he/she has a clear conflict of interest.

**3.3** The Chief Grievance Officer shall report to the Executive Committee as necessary, through the Association President or in person at an Executive Committee meeting, regarding the issues which arise out of the various files. At the discretion of the Chief Grievance Officer, another Grievance Officer may report to the Executive Committee for this purpose.

**3.4** The Chief Grievance Officer shall give a report at the Association's Annual General Meeting of the Association's activities in relation to the *Grievance and Arbitration Procedures* section of the collective agreements in force. Additionally, by June 30 of each year, the Chief Grievance Officer shall submit a written report of the same to the Executive Committee. These reports shall provide summary information only as to the nature of cases, collective agreement violations involved, recommendations, actions, decisions, etc. These reports shall exclude any confidential personal information.

**3.5** At all times, the Chief Grievance Officer shall maintain open, direct and timely communication with the Association's President regarding the activities in relation to the *Grievance and Arbitration Procedures* section of the collective agreements in force.

**3.6** Whenever a dispute is considered on behalf of an individual Member or group of Members which may have broader implications for the Association, its Membership or its collective agreements, the Chief Grievance Officer shall report to the Executive Committee regarding the potential for such broader implications so that the Executive Committee may consider any actions which it might take on behalf of the Association. Such reporting shall occur in a timely manner so that an Association grievance, if necessary, can be filed within the stipulated timelines.

### **4 Authorities**

**4.1** For disputes which may lead to individual or group grievances, the Grievance Officers shall have the authority to negotiate with the Employer on behalf of the Member(s) involved regarding any informal settlement that may be reached. Any such settlement must be consistent with the terms of the collective agreement in force.

**4.2** For disputes which may lead to individual or group grievances, the Grievance Officers shall have the authority to decide whether or not a matter shall proceed to grievance, to establish the terms of redress for the grievance and to determine whether a proposed final settlement in a matter shall be agreed to with the Employer. Such a grievance shall not be filed without the written approval of the Member(s) involved. Any settlement that may be reached must be consistent with the terms of the collective agreement in force.

**4.3** For disputes which may lead to Association grievances, the Grievance Officers shall have the authority to negotiate with the Employer on behalf of the Executive Committee regarding any informal settlement that may be reached. Any such settlement must be consistent with the terms of the collective agreement in force and must be acceptable to the Executive Committee.

**4.4** For disputes which may lead to Association grievances, the Executive Committee shall have the authority to decide whether or not a matter shall proceed to grievance, to establish the terms of redress for the grievance and to determine whether a proposed final settlement in a matter shall be agreed to with the Employer. In such cases, the Grievance Officers shall represent the Association in discussions with the Employer throughout the grievance process. Any settlement that may be reached must be consistent with the terms of the collective agreement in force and must be acceptable to the Executive Committee.

**4.5** In all grievance matters, the Executive Committee shall have the authority to decide whether or not a matter shall proceed to arbitration.

**4.6** Grievance Officers shall determine the specific actions and strategies to be taken in investigating and handling disputes on behalf of Members or on behalf of the Executive Committee. All such actions and strategies shall be in accordance with the collective agreement in force and the provisions of this policy. In exercising their role in this regard, Grievance Officers shall consult with each other and, where appropriate, with the Executive Committee.

**4.7** Grievance Officers shall have access to the Canadian Association of University Teachers (CAUT) and the Association's legal counsel.

## **5 Duty to Fair Representation**

**5.1** The power conferred on the Association to act as representative for its Members entails a corresponding obligation on the Association to fairly and properly represent all Members.

**5.2** The representation by the Association must be fair, genuine and not merely apparent and must be undertaken with integrity and competence, without serious or major negligence and without hostility toward the bargaining unit members.

**5.3** To ensure fair, just and reasonable treatment for all Members, there shall be no discrimination practiced with respect to any Member on the basis of age, race, colour, ethnicity, national origin, philosophical, political or religious affiliation or belief, sex, sexual orientation, marital status or physical or mental disability.

**5.4** In order to show that all potential grievances are dealt with in a fair and expeditious manner, Grievance Officers must be in a position to show:

**5.4.1** That a thorough investigation of the facts has been conducted and that the informal stage of the process has been promptly and exhaustively pursued in an attempt to reach a resolution in the matter;

**5.4.2** That internal procedures were correctly followed in the processing of each case;

**5.4.3** That those involved worked, or attempted to work, within the time limits specified in the collective agreement in force;

**5.4.4** That, where deemed necessary, those involved sought informed legal advice and relied on that advice;

**5.4.5** That the Association or Members involved in grievance or arbitration matters were advised of meetings which might affect them whether or not they were permitted to attend those meetings; and

**5.4.6** That insofar as was possible, written records of all meetings, interviews, discussions and all other activities or episodes having to do with the issue under investigation were maintained.

## **6 Investigations**

**6.1** All Grievance Officers shall ensure that all matters of grievance and arbitration are investigated and assessed fairly, without discrimination and in a non-arbitrary manner.

**6.2** During the course of all investigations, the Grievance Officer shall:

**6.2.1** Hold at least one meeting with those involved to determine all of the relevant facts and to secure all relevant documentation;

**6.2.2** Interview or attempt to interview any relevant witnesses to the facts; and

**6.2.3** Maintain careful notes of interviews with those involved and with relevant witnesses.

## **7 Confidentiality**

**7.1** All matters handled by the Grievance Officers and the Executive Committee shall be treated with the strictest confidence in accordance with the Association's *Personal Information and Privacy Policy*.

**7.2** Where the Association proceeds with a dispute, Article 7.1 of this *Policy on Grievance and Arbitration Procedures* will not prohibit the disclosure of non-confidential information including the facts of a dispute, the nature of the dispute, the position of the Association, the position of the Employer and the outcome of the dispute including access to arbitration decisions.

## **8 Training**

**8.1** Reasonable effort shall be made to ensure that all Grievance Officers receive training in their role as Grievance Officers. At a minimum, this training should include participation in a Grievance Handling Workshop to be offered at UPEI by CAUT through arrangements made with CAUT by the Chief Grievance Officer.

**8.2** Reasonable effort shall be made to ensure that the Chief Grievance Officer attends the Senior Grievance Officers Workshop organized annually by CAUT.

## **9 Records Keeping**

**9.1** While respecting the requirement of confidentiality, it is the responsibility of any Grievance Officer in any dispute proceedings, whether formal or informal, to document thoroughly all matters and to maintain, with due care and in strictest confidence, up-to-date files.

**9.2** The Chief Grievance Officer shall be responsible for the Association's official files with respect to the activities of all Grievance Officers and shall ensure the strictest confidence with respect to these files.

**9.3** As soon as is possible and in a manner consistent with the provisions of confidentiality and conflict of interest, all notes and files created and maintained by any Grievance Officer shall be transferred to the Chief Grievance Officer for filing in accordance with the Association's *Records and Information Management Policy*.