

The University of Minnesota Grievance Office

Annual Report 2001-2002

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The Grievance Office

RESOLUTIONS

For Workplace Disputes

Introduction

The University Grievance Office assists in the resolution of employment disputes. It is responsible for implementation of the Board of Regents Grievance Policy. In 2001-2002 the Office was staffed by Carolyn Chalmers, Grievance Officer, and Laura Wegscheid, Case Administrator. Laurie Scheich served as Deputy University Grievance Officer.

The Grievance Policy sets forth an internal University process for the good faith review and resolution of employment grievances filed by employees of the University, including faculty, academic professional and administrative (P&A) staff, civil service staff, and student employees. (The policy does not cover employees in bargaining units represented by labor organizations.) Information regarding the grievance policy is available at www1.umn.edu/ugo.

The Grievance Policy directs the Grievance Officer to prepare an annual report "...to include a summary of issues grieved and the decisions...The report must include a summary (prepared to protect the identity of individual grievants) of those instances in which the executive vice president and provost has declined to accept the recommendations of a Phase III hearing panel." (Policy, Section IV, Subd.1 (6)) This annual report is in two parts. The first section provides information about grievances and inquiries processed in 2001-02. The second section reports on other activities of the Grievance Office.

A. Grievance Processing

Inquiry Meetings

As in past years, consultations with employees prior to a grievance were a large part of the workload of the office. The purpose of these meetings is to respond to employees and supervisors who have a workplace concern or problem. These consultations may involve several meetings over time. Inquiry meetings include information about the grievance process and consideration of a range of problem-solving approaches to the dispute.

In 2001-02 the Grievance Office opened 106 inquiry matters (as compared to 85 such matters in 2000-01). Of these, 28 employees, or about 25%, filed a grievance. About 75% of the employees who came to the Grievance Office for assistance preferred to pursue less adversarial strategies for addressing their employment concerns.

Numbers of Grievances Filed, Opened and Closed

In 2001-02, 37 new grievances were filed. This compares to 22 grievances filed in 2000-01, 33 grievances filed in 1999-00 and to an average of 40-45 grievances filed during the three years preceding 1999-00. The 37 newly filed grievances were brought by 42 grievants-- 8 faculty, 6 P&A employees, 19 civil service, 7 students and 2 research assoc/post-docs. Two of the newly

filed grievances by students were filed pursuant to the Board of Regents Student Academic Grievance Policy.¹

Seventeen additional grievances were opened prior to 2001-02 but were actively processed during 2001-02.

Over the course of the year, 32 grievance files were closed. This compares to 20 grievances closed in 2000-01.

Advisory Determinations and Jurisdictional Challenges

The Grievance Policy provides, in part, that the Grievance Officer will:

Review each complaint to make an advisory determination whether the complaining party is covered by this policy, and whether the complaint is a grievance within the scope of the University Grievance Policy. (Section V, Subd. 1)

Either party may request review of the Grievance Officer's advisory determination. A jurisdictional hearing to review an advisory determination is conducted by a Phase III hearing panel (see below).

In 2001-02 there were six written advisory determinations. Two of these determinations supported jurisdiction. Four concluded that jurisdiction did not exist under the Grievance Policy. Four of the advisory determinations were challenged and in each of these a Phase III panel was convened to review the advisory determination and decide the jurisdictional question. Three of the Phase III jurisdictional hearings resulted in decisions against jurisdiction and one resulted in a decision supporting jurisdiction. The Executive Vice President and Provost (EVPP) rejected the panel's recommendation supporting jurisdiction.

Issues and Policies Grievied

The Grievance Office maintains data regarding the issues presented in inquiries and grievances and the policies that are allegedly violated. It is difficult to provide an accurate picture of grievances and inquiries with this data. Often, several different issues fuel a grievance.

The chart below summarizes issues presented in grievances and in inquiry meetings in 2001-02. It shows the number of grievants or inquirers for whom each issue was significant. The total on this table is greater than the total number of grievances and inquiry meetings because some individuals raised several issues.

¹The Grievance Office has responsibility for oversight of the Student Academic Grievance Policy. This policy is administered within collegiate units. Parties may request appeal to the University Academic Grievance Committee, and to the University Grievance Officer who serves as the University Academic Grievance Officer.

The most frequently raised issues concerned termination, discrimination, disrespectful work environment, and claims of unfair supervision. The most frequently cited policies were the Code of Conduct, the Equal Opportunity Policy and the Civil Service Rules

Issues Raised in Grievances and Inquiries

Frequent Issues	Total	Grievants	Inquiry only
Termination of employment	34	13	21
Discrimination	28	7	21
Disrespectful work environment	27	14	13
Unfair supervision	25	8	17
Retaliation	18	8	10
Assignment of Work	18	11	7
Compensation	16	8	8
Performance Evaluation	14	7	7
Benefits	13	9	4
Discipline	10	7	3
Hiring—offer letter	5	3	2
Job classification	5	2	3
Privacy	3	3	
Demotion/Promotion	3	2	1
Training, Professional Development	2	1	1
Intellectual Property	1		1

Policies Cited in Grievances and Inquiries

Policies Cited	Total	Grievants	Inquiry only
Code of Conduct	40	21	19
EEO/AA	25	9	16
Civil Service Rules	23	11	12
Employment Contract	18	10	8
P&A Manual	13	6	7
Tenure Code	8	3	5
Student Acad. Grievance Policy	5	2	3
Student Employment Rules	5	5	
Phased Retirement/Terminal Leave	4	1	3
Compensation Policy	4	4	
Performance Evaluation	3	2	1
Grievance Policy	2		

Informal Resolution prior to Phase III

The Grievance Policy provides two structured opportunities for informal resolution of a grievance: a Phase I meeting between the parties, and a Phase II meeting with the grievant and representative(s) of University administration. The purpose of these meetings is to explore grievance resolution. At these meetings, the parties often are accompanied by advisors. Both Phase I and Phase II often require more than one session. The Grievance Officer facilitates these meetings.

In 2001-02, of the 54 grievances that were open, 32 grievances (59%) were resolved or had good promise of being resolved in the informal process.²

During 2001-02, the Grievance Office held 47 Phase I meetings, Phase II meetings or combined Phase I/Phase II meetings. In connection with the Phase I and Phase II meetings, there were at least again as many follow-up meetings with either the grievant or the University representative(s) or both.

The 22 grievances that did not settle in the informal process either had a Phase III panel hearing, were in the process of being scheduled for a hearing, or were on hold at the request of both parties in order to permit some other process to conclude. The proportion of grievances resolved, or likely to be resolved, at the informal level, was consistent with prior years.

Phase III Panel Hearings

Phase III of the grievance process is a hearing before a three-person panel of University employees. The panel is made up of a hearing officer selected from the Hearing Officer's Panel, a member of the University Grievance Board selected by the grievant, and a third member appointed by the responsible University administrator.

The role of the hearing panel is to conduct an evidentiary hearing. After the hearing, the panel prepares a written decision that is distributed to the parties and to the Executive Vice President and Provost, who may reject the panel's decision. If the grievant receives an unfavorable decision from either a panel or from the Executive Vice President and Provost, the grievant may elect to proceed to binding arbitration.

Pre-hearing Conferences

Prior to Phase III hearings on the merits, the Grievance Office schedules a pre-hearing conference for the parties with the Hearing Officer to prepare for the hearing. There were five pre-hearing conferences in 2001-02.

²Thirty grievances were resolved prior to a Phase III hearing and two had good promise for being resolved prior to Phase III.

Panel Hearings

In 2001-2002, seven Phase III panel hearings were held (compared to 9 hearings in 2000-01). Three were evidentiary hearings on the merits and four were hearings on jurisdiction. One of the evidentiary hearings on the merits resulted in a panel decision 'on the whole' favorable to the grievant, and two resulted in decisions 'on the whole' favorable to the University. One of the jurisdictional hearings was favorable to the grievant, and three were favorable to the University.

The Grievance Policy provides that a panel decision which is favorable to the grievant may be rejected by the EVPP, if rejection is postmarked within two weeks and reasons are stated. (Policy, Section VIII, Subd. 6) Of the two panel decisions favorable to the grievant, the EVPP accepted one and rejected one.

The following table is a summary of Phase III panel hearings, including employee classifications, issues(s), panel decision and the action taken by the EVPP in response to the panel decision. The designations 'For Grievant', 'For University', 'Accepted' and 'Rejected' capture the primary emphasis of the panel decisions or administrative actions, but not necessarily all aspects. Many of these decisions include some aspect(s) favorable to the other party.

Phase III Panel Hearings

Merits Hearings

Employee Classification	Issue(s) Before Panel	Panel Decision	Administrative Action
Faculty	Due Process	For Grievant	Accepted
Faculty	Transfer of tenure home	For University	
P&A	Involuntary termination	For University	

Jurisdictional Hearings

Faculty	Jurisdiction	For Grievant	Rejected
Faculty	Jurisdiction	For University	
Faculty	Jurisdiction	For University	
Teaching Asst.	Jurisdiction	For University	

Phase IV Arbitration

Phase IV of the grievance process provides an opportunity for final and binding arbitration by a three-person panel, chaired by an arbitrator selected by the parties from a list meeting certain requirements and maintained by the Minnesota Bureau of Mediation Services. Under the Grievance Policy, grievants who choose to proceed to arbitration must sign an acknowledgment of their voluntary choice to proceed to binding arbitration, and must waive and release their right to pursue substantially the same claim in any other forum. The grievant and the University are each responsible for one-half of the arbitrator's fees and expenses.

During 2001-2002, four grievances progressed to arbitration (compared to two arbitrations in 2000-01). All four arbitration hearings involved faculty and were on the merits.

Employee Classification	Issue	Arbitration Decision
Faculty	Involuntary termination	For University
Faculty	Terminal Leave	For University
Faculty	Indemnification	For Grievant
Faculty	Merit pay	For Grievant

The Grievance Policy provides that “The grievant and the University will each be responsible for one-half of the arbitrator’s fees and expenses.” (Policy Section IX, Subd. 5). Total fees and expenses for each of the four arbitrations in 2001-02 were \$4,700, \$6,500, \$8,000 and \$20,000.

Coordinate Campuses

The Grievance Policy applies to the coordinate campuses. In 2001-02 there were inquiries and formal grievances on the Duluth, Morris and Crookston campuses. The Grievance Officer conducted phase I and II meetings on the Duluth and Crookston campuses. In addition, the Grievance Office consulted with staff at all three coordinate campuses on employment disputes, the resources of the Grievance Office and the scope of the Grievance Policy.

B. Other Activities of the Grievance Office

Revision of the Grievance Policy

After full consultation, the President recommended, and Board of Regents approved, a revised Grievance Policy in July 2002. Administrative Procedures implement the Policy. The revised policy and procedures are not significantly changed from the prior policy. The new policy provides for grievances by faculty emeriti in some circumstances, includes a non-retaliation provision, clarifies that the Phase III panel process is available to review advisory determinations and lengthens the terms of roster appointees.

Educational and Outreach Initiatives

In 2001-02 the Grievance Officer gave numerous presentations to campus groups regarding the work of the office. She conducted educational programs for University employees on negotiation and mediation skills.

Rosters

The Grievance Office is responsible for maintaining rosters—one roster is for Hearing Officers and another for grievance panel members. Each roster must include people from each of the major employee categories at the University. In addition, the Office is responsible for assuring that the Minnesota Bureau of Mediation Services maintains a roster of arbitrators who meet the criteria in the Grievance Policy. In 2001-02 all of these rosters were updated.

Evaluation of the Grievance Office

The Grievance Policy provides for a Grievance Advisory Committee to be appointed by representative University groups. The Grievance Advisory Committee advises the President on the performance of the Grievance Officer and the operation of the Grievance Policy. The Committee conducts an annual survey of all participants in grievances or inquiry meetings. To protect anonymity, the surveys are returned directly to the Chair of the Grievance Advisory Committee. In 2001-02 the survey tools were revised and expanded to assess levels of satisfaction with different steps in the grievance process.

In 2001-02, 99 out of 242 (41%) surveys were returned from inquirers, grievants, University representatives, advisors, attorneys, panel members, and arbitrators. Survey responses showed a high level of satisfaction with the performance of the Grievance Officer across all categories of participants. To a slightly lesser degree, survey responses showed satisfaction with the grievance process itself. In 2001-02 the Grievance Advisory Committee reported that the Grievance Office was fulfilling its obligations to provide a fair process for the resolution of employee grievances.