



## OTHER ACTIVITIES OF THE OFFICE AND THE CONFLICT RESOLUTION ADVISORY COMMITTEE

### Educational Programming

The Director, with staff from the Office of Human Resources, taught conflict resolution skills in orientation programs for new supervisors and new Human Resources staff, in programming sponsored by the Graduate School, and in many customized presentations within departments and units. In Spring 2008, the Director taught a graduate-level mediation training course jointly offered by the Humphrey Institute of Public Affairs and the Law School.

### Annual Survey

An annual satisfaction survey is sent to all participants in the conflict resolution processes. Recipients are asked to rate the process, the performance of office staff, and the substantive outcomes. Anonymous responses are returned to the Chair of the Conflict Resolution Advisory Committee and reported to the Senior Vice President for System Academic Administration. The office consistently receives positive feedback in the survey, although delays in the petition process and limitations on remedies available in that process are frequently noted as shortcomings.

### Operational Issues

This report is an opportunity to identify operational issues of concern for this office.

Although the services of the office are available potentially to as many as 20,000 University faculty and staff, few of those

eligible to use the services do so. Efforts to make faculty and staff aware of the office continue. A current proposal to provide a faculty ombuds is intended to improve services for faculty and increase the visibility of University conflict resolution services.

Alleged violations of the Regents Code of Conduct, especially the Code's standards for respectful, fair, and civil conduct (Subd. 2) and responsible management (Subd. 3), are the most frequently raised faculty and staff complaints. Additional clarity on University mechanisms for accountability for these standards is needed.

The Conflict Resolution Policy covers employment-related conflicts of University employees. Efficient operation of the policy requires an intuitively grasped, common understanding of which conflicts are employment-related and which are not, together with a common understanding of who is an employee for purposes of the policy and who is not.

The Conflict Resolution Policy provides for arbitration as the final step in the petition process. Arbitration provides an independent review by an outside arbitrator. Arbitrator fees run between \$3,000 and \$10,000 in the average case; and they can be more. The policy provides that the employee and the University share equally the fees of the arbitrator. Splitting these fees may make arbitration unaffordable for some University employees.



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OFFICE FOR  
**CONFLICT RESOLUTION**  
OPTIONS FOR WORKPLACE DISPUTES



## SUMMARY DATA ON CONFLICT RESOLUTION PROCESSING IN 2007-2008

The Office for Conflict Resolution is established by Board of Regents policy to assist University faculty, staff, and student employees to resolve workplace disputes—either through informal problem-solving initiatives or through a peer hearing process. The Regents policy and implementing administrative procedures require that the office prepare an annual report about the work of the office and distribute it to senior administrators and faculty, staff, and student representatives. This annual report covers the period July 1, 2007, through June 30, 2008.

### Staffing

From July to mid-September 2007, Carolyn Chalmers, the Director of the Office for Conflict Resolution, also served as the Interim Director of the Office of Equal Opportunity and Affirmative Action. During these months, Jan Morse, the Director of the Student Conflict Resolution Center, acted as Deputy Director of the Office. Throughout the year, Jean Henrichsen continued to serve as Program Coordinator and Mary Tate, Director, Office of Minority Affairs and Diversity, Medical School, served as Deputy Director for Special Projects.

### Consultations and Informal Assistance

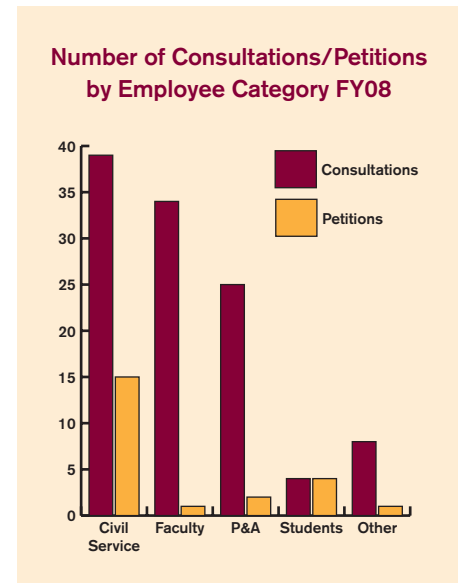
Informal conflict resolution initiatives were the largest part of the workload of the office. Consultations are face-to-face meetings (or sometimes telephone conferences on the coordinate campuses) about workplace concerns or problems. These statistics count the persons who came into the office for one or more consultations in FY08. They do not count separately each of the meetings that staff had related to the matter. In some cases, a matter will involve several meetings with the individual and with others involved over several months. Short telephone contacts and referral calls are not counted in the total number of consultations.

In FY08, the Director and Deputy Directors had 110 consultation matters, compared to 85 in FY07. Of the 110 matters, 35% were with Civil Service employees, 31% were with faculty, 23% were with Professional and Administrative employees, and 11% were with student workers, student academic workers, postdocs, and research assistants.

### Petitions

Petitions are formal complaints that allege a violation of University policy. A three-person peer panel conducts a hearing and makes recommendations to the Senior Vice President and Provost, who makes the final University decision. During FY08, 17 new petitions were filed, compared to 18 in FY07 and 9 in FY06. In addition to the 17 new petitions, 6 petitions filed prior to FY08 were continued for active processing. Over the course of the year, 15 petition files were closed, compared to 12 closed in FY07.

Of the 23 petitions actively processed in FY08, 6 were resolved through informal processes and 6 were concluded without a hearing due to settlement, dismissal, or voluntary discontinuance. Of the 11 remaining matters, one resulted in a peer panel decision against the petitioner, one resulted in an arbitration decision against the petitioner, 4 were continued for additional processing in FY09, and 5 were consolidated into one petition and also continued for processing in FY09.



Of the employees who consulted with our office or filed a petition in FY08, 63% were women and 37% were men.

### JURISDICTIONAL CHALLENGES AND ADVISORY DETERMINATIONS

The Conflict Resolution Policy provides a procedure for determining if a particular matter is within the jurisdiction of the formal petition process. If brought up early in the process, the Director makes an advisory determination reviewable by a hearing officer and finally decided by the Senior Vice President and Provost. If a jurisdictional challenge is raised after a hearing officer is appointed, the hearing officer makes the initial determination.

In FY08, jurisdictional challenges were presented in 2 cases regarding termination of Civil Service employees. One was raised after a pre-hearing conference and was referred directly to the hearing officer for decision. The hearing officer's decision was that the petition was within the subject matter of this office and the Provost concurred. The other challenged a binding arbitration award. The Provost determined that there was no jurisdiction for a challenge to the arbitration process.

### PEER HEARINGS AND DECISIONS OF THE SENIOR VICE PRESIDENT AND PROVOST

A peer hearing on a petition is conducted before a three-person panel of University faculty and staff. A hearing officer is selected from a roster of hearing officers nominated by faculty and staff committees and appointed by the Senior Vice President for System Academic Administration. A second member is selected by the petitioner and a third member is appointed by the responsible University senior administrator. After the hearing, the panel prepares a written decision that is distributed to the parties and to the Senior Vice President and Provost, who makes the final University decision in the matter.

In FY08, there was one panel decision. The Senior Vice President and Provost accepted the panel decision, which was in favor of the University. The petition challenged a Civil Service employee's employment termination.

### ARBITRATION HEARINGS

Under the Conflict Resolution Policy, if the petitioner receives an unfavorable decision from either a peer hearing panel or from the Senior Vice President and Provost, the petitioner may elect to proceed to binding arbitration. If a petitioner elects arbitration, the University and the petitioner each pay one-half of the arbitrator's fee. To proceed to arbitration, the petitioner waives all rights to pursue the claim in another forum.

During FY08, one matter was arbitrated, compared to none the previous year. The arbitration decision was in the University's favor. The issue was termination of a Civil Service employee.

### Coordinate Campuses

The Conflict Resolution Policy applies to the coordinate campuses. In FY08, there were 3 consultation matters with employees on the Morris and Duluth campuses. One formal petition was submitted from the Duluth campus, which was continued for processing to FY09.



### Issues and Policies Raised

The Office for Conflict Resolution maintains data regarding the issues presented in consultations and petitions and the policies that are allegedly violated. It is nonetheless difficult to provide an accurate general picture of the subject matter because several issues often fuel an individual consultation or petition.

In informal consultations, the predominant concerns were about disrespectful work environments, including problematic work relationships and supervisory conduct. The policy most often cited in informal consultations was the Regents Code of Conduct. In contrast, most formal petitions concerned termination of employment and cited violations of the Civil Service Rules.

Some issues that were raised have systemic implications. These differ for different employee groups. For Civil Service employees, several complaints concerned the implementation of Civil Service Rule 7 providing for a probationary period, including alleged failure to 1) inform employees at the time of hire of the probationary period and 2) provide a written performance appraisal during

the probationary period. Inconsistent interpretations of Rule 12 on layoff and bumping rights were frequently raised. Implementation of the JEQ process under Rule 4 was raised for lack of timeliness and transparency.

P&A employees rarely submit formal petitions. Non-renewal of P&A employees is generally not subject to challenge. P&A employees can submit petitions regarding violations of other university policies but they generally do not. They do consult informally regarding work environment and supervisory issues and frequently refer to the Regents Code of Conduct as the applicable policy.

Faculty complaints cover a broad spectrum and some of these have systemic implications. Teaching issues include class reassignments, increased teaching loads, and hostile student behavior in class. Research issues include lack of transparency in decisions regarding sabbatical leaves, sabbatical supplements, semester research leaves, and summer stipends. Disputes over ownership of intellectual property, credit for intellectual work, merit raises, and post-tenure review were also raised.

Issues Raised	Petitioners	Consultations
Disrespectful work environment	1	34
Unfair supervision	1	15
Compensation	1	11
Relationship between employees	0	11
Termination of employment	13	7
Policies Cited	Petitioners	Consultations
Code of Conduct	2	41
Civil Service Rules	15	18
P&A Manual	1	13
Employment contract	0	8
Equal Opportunity/ Affirmative Action	7	4