

**UNIVERSITY OF MINNESOTA
Grievance Office**

Annual Report

2000-2001

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Introduction

The University Grievance Office assists in the resolution of employment disputes. It has responsibility for implementation of the University of Minnesota Grievance Policy (Policy) and responsibility for oversight of the Student Academic Grievance Policy. It is a system wide office.

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 staff, civil service staff, and student employees. (The policy does not cover employees in bargaining units represented by labor organizations.) The Policy and other information regarding grievances is available at [web cite]

In 2000-2001 the Office was in transition. Nick Barbatsis, Grievance Officer since 1994, retired June 30, 2000. Barbara Shiels, Associate General Counsel, served as acting Grievance Officer in July, August and September. Carolyn Chalmers began as Grievance Officer in October, 2000. Continuity throughout 2000-2001 was provided by John Blair who has served as Executive Assistant since 1993. In addition to two full time staff positions, in 2000-2001 Laurie Scheich served in an "on call" capacity as Deputy University Grievance Officer, principally to administer the grievance process in cases in which the University Grievance Officer could not serve.

Consultation Meetings

Consultation meetings with employees are a large part of the workload of the office. The purpose of these meetings is to respond to an employee's request for help with a workplace dispute. These consultations are often time consuming and may proceed over several meetings. The meetings are devoted to understanding the issues, assisting in identifying options and problem solving the dispute.

In 2000-2001 the Grievance Office opened 85 consultation matters in the office. Of these, 22 employees, or about 24%, filed a grievance. The number of grievances that resulted following consultations is in the same proportion as in prior years. About 76% of the employees who come to the grievance office for assistance preferred to pursue less adversarial strategies for resolving their employment problems than filing a grievance.

Of all the services provided by the Office, informal consultations receive the highest approval rating from employees.

Numbers of Grievances Filed, Open and Closed

In 2000-2001, there were 22 new grievance files opened. This compares to 33 grievances filed in 1999-2000 and to an average of 40-45 grievances filed during the three years preceding 1999-2000. The decline in grievance filings in 2000-2001 occurred during July, August and September of 2000. Normally, the office receives a disproportionate number of grievances (about 40% of the annual filings) during these months. During these same months in 2000-2001, 2 grievances (10%) were filed. This may well be the

result of the transition in the office during those months. The number of filings during the months following October 2000 was consistent with prior years.

The 22 newly filed grievances were nearly equally distributed among the employee groups--with 5 each from civil service and P& A employees and 6 each from faculty and student employees.

During the year, the Grievance Office had an additional 16 open grievance files which were filed prior to 2000-2001. In some cases these grievances had more than one grievant. The 16 grievances involved 21 grievants--11 faculty, 7 civil service and 3 P&A employees

Over the course of the year, 20 grievances files were closed—about the same number as were opened.

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."

The Grievance Officer, on her own motion, wrote two advisory determinations regarding jurisdiction. In one of these, both parties requested review by a jurisdictional hearing panel (which was not held in 2000-2001 and hence is not part of this report). The parties in the second did not request review by a panel.

The Office conducted four jurisdictional hearings in 2000-2001. In each case the panel proceeding was requested by a University respondent who challenged the jurisdiction of the grievance under the Grievance Policy. See Figure 1.

In 3 of the 4 jurisdictional hearings this year, the jurisdictional hearing panel determined that the complaining party could pursue a grievance. University administration accepted the panel's recommendation in each case. In the fourth case the grievance withdrew before the panel decision on jurisdiction.

The decline in the number of jurisdictional hearings this year is welcome. Jurisdictional panel hearings are conducted in accord with the procedures in the policy for phase III panel hearings. This process significantly extends the time necessary to conclude a grievance on the merits. The majority of jurisdictional panel decisions have declined to exclude employees from the grievance procedure and have been accepted by the University administration.

Informal resolutions of grievances by employee classification

(resolved or likely to be resolved informally)
2000-01

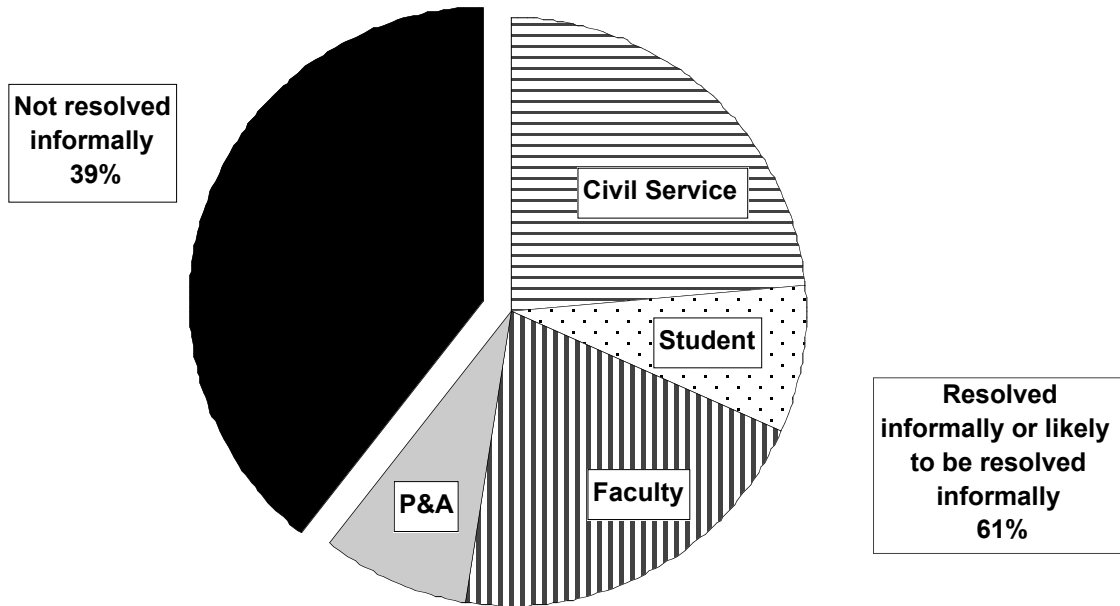


Figure 1

Issues Grieved

The Grievance Policy requires that:

"...a grievance must allege a violation of a specific University rule, regulation, policy or practice pertaining to the employment relationship between the grievant and the University. This includes the terms of the grievant's employment contract, alleged violations of this grievance policy, and discipline."

An important benefit of the Grievance Procedure is to provide upward feedback to University administration about policies and practices that contribute to grievances and workplace disputes. What follows identifies issues presented in the grievances and the consultations this year. This categorization pulls together into broad groups some disparate concerns. Since some grievances identify several issues, the numbers in this table are greater than the total number of grievances and consultation meetings in 2000-2001.

Grievance	# of newly filed	# of Consultations Grievances
1. Supervisory treatment	4	9
2. Termination of employment	4	10
3. Performance evaluation	9	5
4. Teaching, administrative and tenure assignments	3	2
5. Disrespectful work environment	4	10
6. Teaching Assistant and Post Docs: unfair expectations/termination	2	1
7. Benefits/compensation/job classification	3	10
8. Retaliation	1	1
9. Denial of indemnification	1	0
10. Discrimination EEO	5	10
11. Tenure track: performance and evaluation	1	4
12. Privacy	2	2
13. Employment contract terms	0	3

Phase I and Phase II Meetings

The Grievance Policy provides two opportunities for informal resolution of a grievance: a phase I meeting between the parties, and a phase II meeting with the grievant and a University administrator. The purpose of these meetings is to facilitate grievance resolution. At these meetings the parties often are accompanied by advisors. Both phase I and phase II can, and often do, require more than one meeting. The Grievance Officer facilitates these meetings.

During 2000-2001, the Grievance Office held 37 phase I meetings, phase II meetings or combined phase I/phase II meetings with the parties and their advisors present. Following the phase I and phase II meetings, there were 35 follow-up meetings with either the grievant or the University representative(s) or both.

Of the 38 grievances that were open last year, 20 (53 %) were resolved informally prior to a phase III hearing. Three others had good promise for being resolved informally.

The 15 others (39 %) either had a Phase III panel hearing, were in the process of being scheduled for a hearing, or were very likely to require a hearing.

Of all grievances that were open last year, 61 % were resolved or were likely to be resolved at the informal levels. Figure 2 shows a summary of informal resolutions and anticipated informal resolutions, by employee classification.

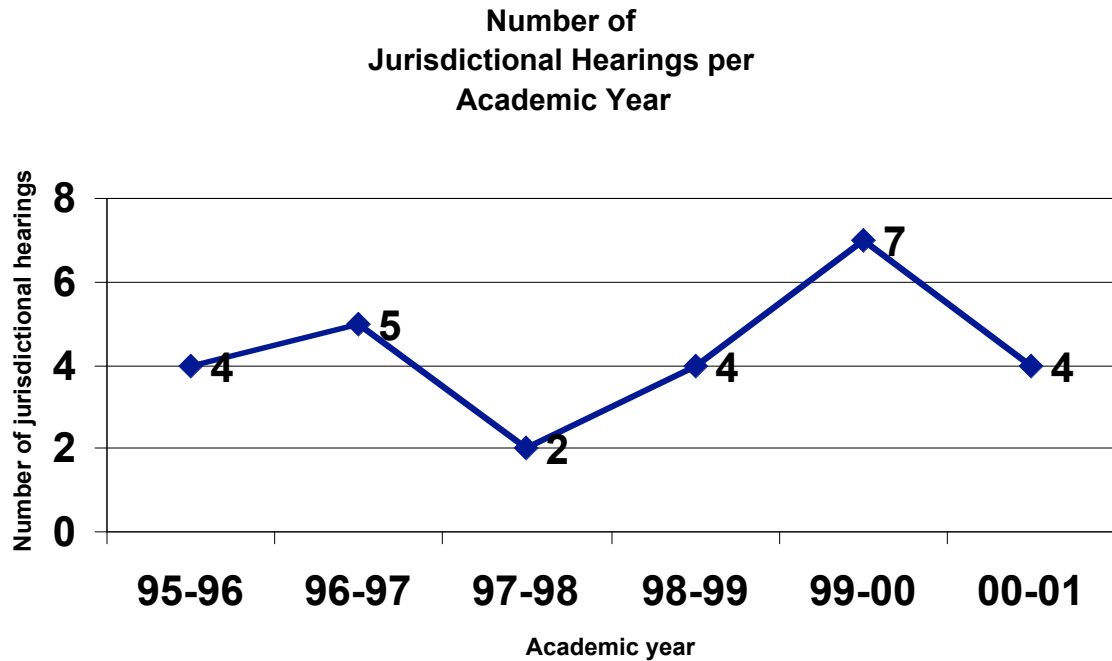


Figure 2

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 Roster and a member selected from the University Grievance Board Roster. The third member is appointed by a responsible University administrator. The rosters for both the University Grievance Board and the Hearing Officers' Panel are appointed by the President from names that are forwarded by committees that represent several employee constituencies.

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

Pre-hearing conferences

P r i o r t o f t o p r o c e e d i n g	Employee Classification	Issue(s)	Panel Decision	Administrative Action Panel Decision Not <u>Accepted</u>
	Faculty (Norwood)	Tenure transfer	For University	
	Faculty (gray)	Teaching schedule	For Grievant	X
	Faculty (engl) Civil Service	Merit salary	For Grievant	X
	(Hanson)	Indemnification	For University	
	Student (Calavicci)	Privacy and Code of Conduct	For Grievant	
	Student (Mathy)	Academic Grievance Policy	?	?
	Faculty (Reyes)	Jurisdiction	For Grievant	
	Faculty (HTL)	Jurisdiction	For Grievant	
	Faculty (HTL)	Jurisdiction	For Grievant	
	Faculty (Polla)	Jurisdiction	Grievant withdrew prior to decision	

to a hearing, the Grievance Office schedules a pre-hearing conference for the parties with the Hearing Officer on the case. The pre-hearing conference is used to discuss preparations for the hearing—including issues, discovery, witnesses, exhibits, scheduling and objections. In 2000-2001, the office held 6 pre-hearing conferences.

Panel hearings

In 2000-2001, nine panel hearings were held—five evidentiary hearings on the merits and four jurisdictional hearings. Two of the full evidentiary hearings resulted in panel decisions “favorable” to the grievant, and two “favorable” to the University. The fifth evidentiary hearing was held pursuant to the Student Academic Grievance Policy. Three of the jurisdictional hearings were “favorable” to the grievant, and one was withdrawn prior to a panel decision. The Executive Vice President and Provost accepted the decision/recommendation of the hearing panels in all but two cases under the Grievance Policy.

The following table is a summary of panel hearings, including employee classifications, issues(s), panel decision and the action taken by University administration in relation to the panel decision.

Phase III Panel Hearings 2000-2001

Phase IV Arbitrati

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 provided 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 2000-2001, two grievances progressed to arbitration. One case was on the merits and the second was an arbitration of a discovery dispute.

2000-2001 Phase VI Arbitrations

Employee	Issue	Arbitration decision
Faculty	Discoverability of documents	For Grievant
P&A	Promotion	For Grievant

Transition

Evaluation

Coordinate Campuses

Educational and Outreach Initiatives