

## Introduction

The University Grievance Office assists in the resolution of employment disputes by implementing the Board of Regents Grievance Process. This Regents policy, together with the administrative procedures adopted pursuant to it, are referred to collectively as the Grievance Policy and can be found on the Grievance Office web site, [www.umn.edu/ugo](http://www.umn.edu/ugo). In 2002-03 Carolyn Chalmers, Grievance Officer, and Laura Wegscheid, Case Administrator, staffed the Grievance Office. Kris Lockhart and Mary Tate served as Deputy Grievance Officers.

The Grievance Policy sets forth an internal University process for the good faith review and resolution of employment grievances filed by employees, 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 or employees of University of Minnesota Physicians, Inc.

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 proceeds in three parts. The first section provides information about grievances and inquiries processed in 2002-03. The second section describes education and outreach activities by the Grievance Office. The third section describes the work of the Grievance Advisory Committee.

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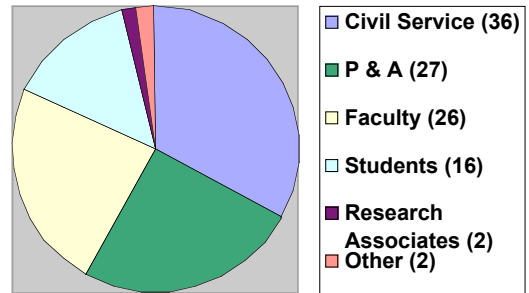
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## I. Grievance Processing in 2002-03

### A. Inquiry Meetings

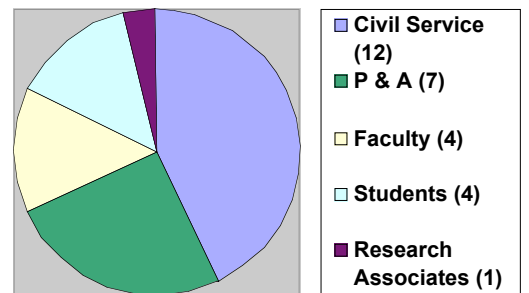
As in past years, consultations with employees were a large part of the workload of the office. These are face-to-face meetings with employees and supervisors about workplace concerns or problems. At an inquiry meeting the Grievance Officer provides information about the grievance process, about other University services and about problem-solving approaches to the dispute.

In 2002-03 the Grievance Office met with 109 employees who were seeking assistance with an employment dispute. These consultations involved significantly more than 109 meetings, as some of these employees met with the Grievance Officer on several occasions over many months. The number of inquiry meeting was about the same as last year (106 employee inquirers in 2001-02). Of the 109 inquiring employees, about 25%, filed a grievance in 2002-03. About 75% of the employees who came to the Grievance Office for consultations elected less adversarial strategies to address their employment concerns.



### B. Numbers of Grievances Opened and Closed

In 2002-03, 28 new grievances were filed. This compares to 37 grievances filed in 2001-02 and 22 grievances filed in 2000-01. Twelve civil service employees, seven P&A employees, four faculty, four students and one research assoc/post-doc employee filed the new grievances. One of the newly filed student grievances was filed pursuant to the Board of Regents Student Academic Grievance Policy.<sup>1</sup>



There were 64 open grievance files in 2002-03 that were actively processed. In addition to the 28 new grievances, 36 grievances filed prior to academic year 2002-03 were continued for active processing in 2002-03.

Over the course of the year, 35 grievance files were closed. This compares to 32 grievances closed in 2001-02.

<sup>1</sup>The Grievance Office has responsibility for oversight of the Student Academic Grievance Policy. This policy is administered within collegiate units. The Grievance Office does not conduct Phase I or Phase II meetings in these grievances. Parties may request appeal to the University Academic Grievance Committee, and to the University Grievance Officer who serves as the University Academic Grievance Officer.

### **C. Informal Resolution at Phases I and II**

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 a representative of University administration. The Grievance Officer facilitates the Phase I and Phase II meetings. At these meetings, advisors often accompany the parties. Both Phase I and Phase II often require more than one meeting.

In 2002-03, 26 of the 28 newly filed grievances went through Phase I and II meeting processes.<sup>2</sup> There were 42 Phase I or II meetings held for these 26 grievances. In addition, there were at least again as many individual follow-up meetings with either the grievant or the University representative.

Of the 26 grievances that went through Phase I or II, 22 were resolved or concluded in the informal Phase I and II processes. This reflects an 85% resolution rate in the informal process. The proportion of grievances resolved at the informal stage was significantly improved over prior years.

The four grievances that were not resolved in the informal process during 2002-03 had a Phase III panel hearing or were in the process of preparing for a Phase III hearing to be held in 2003-04.

### **D. Advisory Determinations and Jurisdictional Challenges**

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

- (1) 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 IV, Subd. 1)

These initial jurisdictional determinations by the Grievance Officer are called ‘advisory determinations’. They are subject to review upon request by either party. A Phase III panel conducts the review.

In 2002-03 there were three written advisory determinations. Each concluded that jurisdiction did not exist under the Grievance Policy. Two of these determinations were reviewed by a Phase III panel. Both panel decisions found no jurisdiction.

### **E. Phase III Panel Hearings and EVPP Decisions**

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 senior administrator.

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<sup>2</sup> One newly filed grievance settled prior to the Phase I meeting. Another was brought pursuant to the Student Academic Grievance Policy, which does not provide for Phase I and Phase II meetings.

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, a pre-hearing conference is held with the parties and the Hearing Officer to prepare for the hearing. There were 11 pre-hearing conferences in 2002-03.

Panel Hearings

In 2002-2003, eight Phase III panel hearings were held (compared to seven hearings in 2001-02). Five were evidentiary hearings on the merits; three were jurisdictional hearings to review advisory determinations. One of the Phase III merit hearings involved five grievants.

One of the evidentiary hearings on the merits resulted in a panel decision ‘on the whole’ favorable to the grievant. The remaining four merits hearings and the three jurisdictional hearings resulted in decisions ‘on the whole’ favorable to the University.

The Grievance Policy provides that a panel decision that 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). The EVPP accepted the 2002-03 merits panel decision that was favorable to the grievant.

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.

**Merits Hearings**

<b>Employee Classification</b>	<b>Issue(s) Before Panel</b>	<b>Panel Decision</b>	<b>EVPP Action</b>
Faculty	Performance reviews	For Grievant	Accepted
Faculty	Termination	For University	
Civil Service	Job classification	For University	
Civil Service	Termination	For University	
Teaching Assistant	Discrimination / harassment	For University	

**Jurisdictional Hearings**

Civil Service	Jurisdiction	For University	
Research Associate	Jurisdiction	For University	
P&A	Jurisdiction	For University	

## **F. 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 2002-2003, five grievances progressed to arbitration (compared to four arbitrations in 2001-02). One arbitration hearing was on jurisdiction, and four arbitration hearings were on the merits. The jurisdiction decision was favorable to the grievant. Of the four merit decisions, two were favorable to the University and two were favorable to the grievant.

<b>Employee Classification</b>	<b>Issue</b>	<b>Arbitration Decision</b>
Faculty	Jurisdiction	For Grievant
Faculty	Indemnification	For Grievant
Faculty	Compensation	For Grievants
Faculty	Termination	For University
P&A	Termination	For University

## **G. Coordinate Campuses**

The Grievance Policy applies to the coordinate campuses. In 2002-03 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 and a hearing on the Morris campus.

## **H. Issues and Policies Grieved**

The Grievance Office maintains data regarding the issues presented in inquiries and grievances and the policies that are allegedly violated. Nonetheless, it is difficult to provide an accurate general picture of the subject matter of grievances and inquiries. Usually several different issues fuel an individual grievance.

The chart below summarizes issues presented in grievances and inquiry meetings in 2002-03. 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.

The most frequently raised issues concerned termination, discrimination, disrespectful work environment, unfair performance evaluations, assignment of work and unfair supervision. The most frequently cited policies were the Civil Service Rules, P&A Manual, Tenure Code, Code of Conduct and Equal Opportunity/Affirmative Action. Budget cuts that took effect in the spring resulted in approximately 500 employee lay-offs in 2002-03. Issues related to termination,

seniority calculation, lay-off benefit calculations and bumping procedures were predominant in the grievances filed in the latter half of 2002-03.

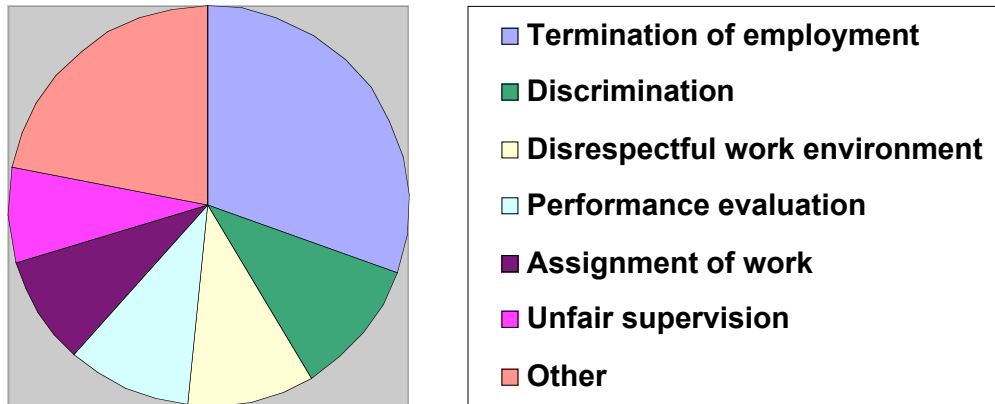
### **Issues Raised in Grievances and Inquiries**

<b>Issues</b>	<b>Total</b>	<b>Grievants</b>	<b>Inquiry only</b>
Termination of employment	39	15	24
Discrimination	14	4	10
Disrespectful work environment	13	-	13
Performance Evaluation	13	3	10
Assignment of Work	11	2	9
Unfair supervision	10	-	10
Compensation	7	3	4
Benefits	6	4	2
Demotion/Promotion	5	2	3
Retaliation	4	1	3
Discipline	3	1	2
Privacy	2	-	2
Intellectual Property	1	-	1

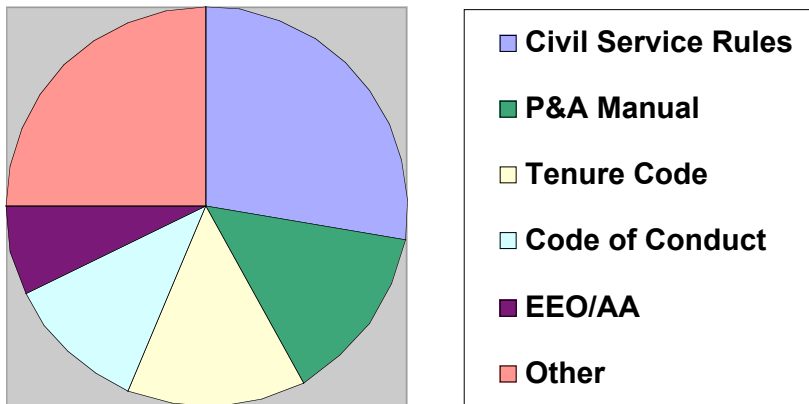
### **Policies Cited in Grievances and Inquiries**

<b>Policies Cited</b>	<b>Total</b>	<b>Grievants</b>	<b>Inquiry only</b>
Civil Service Rules	31	11	20
P&A Manual	16	3	13
Tenure Code	16	-	16
Code of Conduct	13	4	9
EO/AA	8	3	5
Student Employment Rules	6	2	4
Compensation Policy	5	4	1
Employment Contract	5	3	2
Performance Evaluation	5	2	3
Student Acad. Grievance Policy	3	1	2
Phased Retirement/Terminal Leave	2	1	1
Privacy Policy	2	1	1

### Top Issues Raised in Grievances and Inquiries



### Top Policies Cited in Grievances and Inquiries



## II. Education and Outreach Activities

In 2002-03 the Grievance Officer gave numerous presentations to campus groups regarding the work of the office. These are done annually for groups such as CAPA, COGS, the Civil Service Committee, new Human Resource staff orientations and new Deans orientation.

The Grievance Office developed and conducted a training program on the Phase III hearing process and the role of the panel. This orientation was offered to Phase III hearing officers, members of the University Grievance Board and Phase III University representatives.

The Grievance Office participated in developing a training program for units on “Managing During Challenging Times: Human Resources Challenges and Strategies”. The Grievance Officer was one of the panelists that presented this program to several units in the Spring of 2003.

With the Office of General Counsel, the Grievance Office developed a training program for Human Resource staff on “Working effectively with the University Grievance Process”. This was presented to the Human Resources Pros group and to administrative staff in an AHC unit.

Jan Morse of the Student Dispute Resolution Center, Professor Amos Deinard and the Grievance Officer collaborated on developing a checklist for anticipating and reducing conflicts on research teams. This project involved several consultation meetings with the Council of Research Deans, the Faculty Education Advisory Committee, Sponsored Projects Administration and the Senate Research Committee. The checklist is on the web at [www.umn.edu/~sos](http://www.umn.edu/~sos). The three individuals have offered their services to research teams who would like the assistance of a third-party neutral.

### **III. Grievance Advisory Committee Activities**

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.

#### **A. Interim Report and Preliminary Recommendations on Ombuds Services for University Employees**

In September 2002, the Faculty Consultative Committee (FCC) requested that the Grievance Advisory Committee study the issue of whether the University should provide ombuds services to assist faculty, and perhaps other employees, with workplace problems and, if so, how such services should be structured. The FCC was following up on the question, periodically raised by members of the University community, of whether employee-employer conflict resolution could be improved by the provision of ombuds services that could seek to resolve disputes by less formal mechanisms.

In 2002-03 the Grievance Advisory Committee gathered information on the questions posed by the FCC. Current budgetary conditions at the University made it appropriate to issue an interim report describing its findings and preliminary recommendations. The Grievance Advisory Committee Interim Report and Preliminary Recommendations on Ombuds Services for University Employees, issued in April 2003, is available at [www.umn.edu/ugo](http://www.umn.edu/ugo) under Reports.

In its Interim Report, the Grievance Advisory Committee recommended that a working group of University dispute resolution providers be convened to share information about services, evaluate University policies to improve dispute resolution services, and coordinate outreach efforts to the University community.

The FCC endorsed the recommendations in the Interim Report. President Bruininks discussed the report with the FCC and responded to the FCC in August 2003, asking the Grievance Advisory Committee to continue its work and to assist in implementing the recommendations of the report.

## **B. Survey of User Satisfaction**

The GAC conducts an annual survey of all participants in grievances or inquiry meetings--inquirers, grievants, University representatives, advisors, attorneys, panel members, and arbitrators. To protect anonymity, the surveys are returned directly to the Chair of the Grievance Advisory Committee. The Grievance Advisory Committee reports the results of the survey to the President. Survey responses in 2002-03 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 2002-03 the Grievance Advisory Committee reported that the Grievance Office was fulfilling its obligations to provide a fair process for the resolution of employee grievances.