



UNIVERSITY OF MINNESOTA

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Annual Report

2004-2005

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OFFICE FOR
CONFLICT RESOLUTION

OPTIONS FOR WORKPLACE DISPUTES

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I. Introduction

It was a busy year for our office: we adopted a new policy and changed our name. The Grievance Office became the Office for Conflict Resolution. A new Regents policy, Conflict Resolution Process for Employees, which replaced the former Grievance Policy, was approved in February 2005. The new Regents policy and the administrative procedures, approved by President Bruininks in March 2005, are referred to collectively as the Conflict Resolution Policy and can be found at www.umn.edu/conflictresolution.

President Robert Bruininks, Senior Vice President for System Administration Robert J. Jones, and various groups, including the University Senate, the Faculty Consultative Committee, the Senate Committee on Faculty Affairs, the Council of Academic Professionals and Administrators, and the Civil Service Committee, reviewed and endorsed the revised policy before final approval. The Office is under the direction of the Office of the Senior Vice President for System Administration.

The purpose of the new policy is to provide an integrated network of options for managing workplace disputes. In addition to the formal procedures of peer hearings and arbitration, the new policy adds several informal conflict resolution services, including facilitation, ombuds, and mediation. The new policy no longer uses the term *grievance* to describe its processes. *Grievance* vocabulary created confusion about the services provided and was a hurdle preventing some employees from using the services. The new policy substitutes *conflict resolution* language for *grievance* language. The philosophy of the Office is captured in a statement made nearly eighty years ago and featured on the homepage of the Office's website:

Instead of condemning [conflict], we should set it to work for us.... All polishing is done by friction. The music of the violin we get by friction. We left the savage state when we discovered fire by friction. We talk of the friction of mind on mind as a good thing.... That is what I wish to consider here, whether we can get conflict to work and make it do something for us!

Mary Parker Follett, 1926

In 2004-2005, Carolyn Chalmers, Director, and Jean Henrichsen, Program Coordinator, staffed the Office for Conflict Resolution. Mary Tate, Director, Office of Minority Affairs and Diversity, Medical School, served as Deputy Director for the Office.

II. Conflict Resolution Processing in 2004-2005

A. Consultations

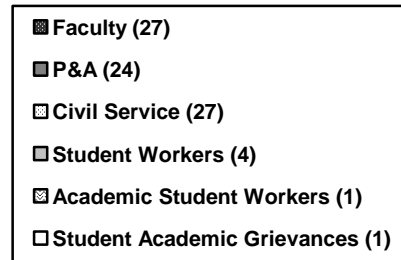
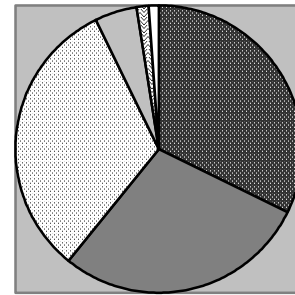
As in past years, consultations with employees were a large part of the workload of the office. These are face-to-face meetings (or, for employees on coordinate campuses, in-depth telephone conferences) between an employee and the director about workplace concerns or problems.

In 2004-2005, the director had consultations with 83 employees who were seeking assistance with an employment dispute. In addition, Office staff had scores of short telephone consultations

and referral calls that are not included in this count. Some of these employees met with the director on several occasions over several months.

Of these 83 employees, 11 employees (13 percent) decided to file a grievance/petition. The rest elected less adversarial strategies to address their employment concerns.

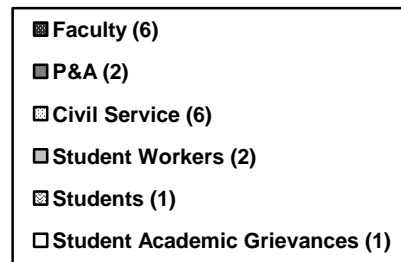
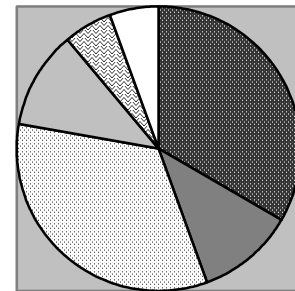
The accompanying pie chart shows the employment groups of those employees who consulted with the office. Faculty, P&A, and Civil Service employees are fairly equally represented in their use of the conflict resolution inquiry process. Substantially less use was made by student workers.



B. Grievances/Petitions

In 2004-2005, the Office operated for most of the year under the former grievance policy. During this year, 17 new grievances and one petition were filed, 11 fewer cases than the previous year. Two of the newly filed grievances were filed pursuant to the Board of Regents Policy: *Student Academic Grievance*¹.

In addition to the 18 new cases, 16 grievances filed prior to 2004-2005 were continued for active processing in 2004-2005. Over the course of the year, 32 grievance files were closed, compared to 34 closed in 2003-2004.



¹The Office for Conflict Resolution has responsibility for oversight of the Student Academic Grievance Policy. This policy is administered within collegiate units, and the Office for Conflict Resolution 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 Director of the Office for Conflict Resolution who serves as the University Academic Grievance Officer.

C. Informal Resolutions

Once a grievance is filed, the Grievance Policy provided 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 director facilitated the Phase I and Phase II meetings. At these meetings, advisors often accompanied the parties. Both Phases I and II often were continued to permit further discussions and meetings.

In 2004-2005, 15 of the 18 newly filed grievances/petitions were resolved through informal processes, an 83 percent resolution rate. This compares to an 86 percent resolution rate the preceding year. Of the three matters not resolved, one was scheduled for arbitration in 2005-2006; one remained in Phase II; a third, regarding implementation of the terms of an earlier Phase III decision, continued in Phase I.

Of the 16 grievances filed prior to 2004-2005 but actively processed in 2004-2005, 12 were resolved in informal processes during 2004-2005.

D. Advisory Determinations and Jurisdictional Challenges

The Conflict Resolution Policy provides, in part:

When a party raises a jurisdictional challenge..., the director will make a written determination whether the petition meets the jurisdictional requirements for the formal process. (Policy, Section V, Subd. D (2))

When requested by a party, the director makes an advisory determination on jurisdiction. It is subject to review by a hearing officer from the same employment category as the petitioner if either party requests it.

In 2004-2005, the director issued three jurisdictional advisory determinations. One concluded that the grievance issues were not within the scope of the Grievance Policy. Another determined that the grievance was not timely filed and that no violation of a University rule, regulation, policy, or practice had been identified. The third concluded that the matter, suspension of a tenured faculty member, was the province of the Senate Judicial Committee.

E. Panel Hearings and Decisions of the Senior Vice President and Provost

Phase III of the grievance process is a fair hearing before a three-person panel of University employees. The panel is made up of a hearing officer selected by the director from the Hearing Officer Roster, a member of the University Grievance Board selected by the grievant, and a third member 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 may accept, modify, or reject the panel's decision. In 2004-2005, no panel hearings were held under the Grievance Policy, compared to two hearings the year before. The

Senior Vice President and Provost did not make any decisions during 2004-2005 regarding whether to accept or reject the recommendation of a panel.

F. Arbitration Hearings

Under the Grievance Policy, if the grievant received an unfavorable decision from either a Phase III panel or from the Executive Vice President and Provost, the grievant could petition the Minnesota Court of Appeals for review or elect to proceed to binding arbitration.

During 2004-2005, two grievances on the merits were arbitrated (compared to four arbitrations the previous year). Both arbitrations involved Civil Service employees who had been terminated, and both arbitration panel decisions ruled in favor of the University.

Arbitration Decisions

Employee Classification	Issue Before Panel	Panel Decision
Civil Service	Termination	For University
Civil Service	Termination	For University

A continuing concern regarding the administration of arbitrations is the cost of the process. Since the petitioner and the University share the cost of the arbitrator's time equally under the policy, this is a realistic option for most employees only if the costs are reasonable. In 2004-2005, each arbitration cost a little more than \$6,000.

G. Coordinate Campuses

The Conflict Resolution Policy also applies to the coordinate campuses. In 2004-2005, there were inquiries and formal grievances that were processed on the Crookston, Duluth, and Morris campuses. All but one of these grievances were settled in the informal processes.

H. Issues and Policies Raised

The Office for Conflict Resolution maintains data regarding the issues presented in inquiries and grievances/petitions and the policies that are allegedly violated. However, it is difficult to provide an accurate general picture of the subject matter because several issues often fuel an individual complaint. The chart that follows summarizes the most frequently raised issues presented in grievances/petitions and inquiry meetings in 2004-2005 and the number of grievants/petitioners or inquirers for whom each issue was significant.

Issues Raised

Issue	Grievants/ Petitioners	Inquiries only
Termination of employment	6	28
Disrespectful work environment	1	26
Compensation	4	11
Discrimination	3	11
Performance evaluation/Post-tenure review	4	7
Retaliation	0	7
Assignment of work	1	3

Policies Cited

Policy	Grievants/ Petitioners	Inquiries only
Civil Service Rules	5	26
P&A Manual	2	19
Equal Opportunity/Affirmative Action	2	11
Tenure Code	1	10
Code of Conduct	1	7

Other issues raised in 2004-2005 regarded unfair supervision, discipline, and job classification. Other policies cited this year included student employment rules and Board of Regents policies on student academic grievances and nepotism and consensual relationships.

III. Other Activities of the Office and the Conflict Resolution Advisory Committee

The Conflict Resolution Policy provides for a Conflict Resolution Advisory Committee to be appointed by representative University groups. This committee advises the Office and reports to the Senior Vice President for System Administration on the performance of the director and on the operation of the Conflict Resolution Policy. The Office staff and the Advisory Committee pursued several initiatives.

The performance of the Office is assessed by an annual satisfaction survey sent to everyone who participated in the grievance/petition process in the preceding year. The survey is anonymous and is returned directly to the Chair of the Conflict Resolution Advisory Committee, Professor David O. Born. Surveys about the performance of the office in 2003-2004 were collected in the summer of 2004. This year 167 surveys were mailed and 72 responses were received. The surveys show a very good level of satisfaction with the services of the office notwithstanding some dissatisfaction with the outcomes of formal hearing processes.

A. New Regents Conflict Resolution Policy

In the fall of 2003, the Grievance Advisory Committee began its five-year review of the Grievance Policy. Its goal for 2004-2005 was to recommend and implement significant revisions to the Grievance Policy, including simplifying access to dispute resolution services, generating more flexible and varied dispute resolution tools, raising the visibility of internal informal dispute resolution as an institutionally valued approach to employment conflicts, and renaming the Grievance Policy and Office.

In August 2004, the Grievance Advisory Committee and the Dispute Resolution Work Group recommended a thorough revision of the Grievance Policy. Grievance Advisory Committee Chair David O. Born and Carolyn Chalmers consulted broadly with administrators, faculty, and other University employees and offices regarding the recommendations. A new policy, Conflict Resolution Process for Employees, was presented to the Regents in December 2004 and was adopted by the Regents at their February 2005 meeting. Subsequently, final Administrative Procedures implementing the new Regents Policy were approved by the President in March 2005.

Since February 2005, the Office has focused on implementing the transition to the new policy. The Office has a new name, Office for Conflict Resolution, a new website for the new office, and a new policy brochure. Outreach regarding the new office and its message is an important goal for 2005-2006.

B. Change in the Reporting Relationship of the Office

In the summer of 2004, the office transferred from reporting to the President's Office through the Vice President and Chief of Staff to reporting to the Senior Vice President for System Administration. This change aligned this office with other system-wide administrative and multi-disciplinary offices.

C. Educational Programming

With staff from the Center for Human Resource Development, the Office has developed a two-hour segment on conflict resolution skills to include in the CHRD orientation program for new supervisors at the University. With staff from the Student Conflict Resolution Center, the Office has developed a similar program for post-docs and for graduate students. The Office regularly presents programming when requested to Human Resources staff and unit personnel. In 2004-2005, the director was a guest lecturer at the University Law School in the upper-level "ADR in the Workplace" seminar and in the first year "Civil Procedure" class.

