

Complete Policy Title:
Faculty General Grievance Procedure

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n/a

Approved by:
Senate / Board of Governors

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Responsible Executive :
University Secretariat

Enquiries:
[University Secretariat](#)

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1. OBJECTIVE

This Procedure is designed to provide McMaster faculty members with prompt and impartial adjudication of grievances arising from their employment relationship with McMaster and which are not covered by existing, specific review procedures. It is intended to facilitate and promote informal resolution of grievances, and to furnish a formal mechanism of grievance resolution when informal means are unsuccessful. ¹

2. APPLICATION

This Procedure is open to all full-time and part-time members of the teaching staff as defined under the McMaster University Act (1976), i.e. those “employees of the University or of a college affiliated with the University who hold the academic rank of professor, associate professor, assistant professor or lecturer”; except that any such member of the teaching staff who is covered by a collective agreement of a certified union shall not be eligible to use this procedure.

The parties to a grievance shall be the Grievor and the University. The Grievor may be an individual member of the teaching staff or a group of such members.

¹ Information about using the Grievance Procedure can be obtained from the Secretary of the Senate (Gilmour Hall 210, ext. 24337) or the Faculty Association (Hamilton Hall 103A, ext. 24682).

3. SCOPE

Subject to clauses 3.1 and 3.2 below, a general grievance is a complaint that the interpretation or application of a duly enacted policy or established practice of McMaster University by any person with administrative authority (such officers as the President, a vice-president, dean, associate dean, department chair, director of a programme, institute or centre, or research project director), or by a committee with administrative authority, has not been fair, just or reasonable. Hence, a grievance must be a complaint which can be remedied by such an officer, or by the committee.

3.1 An established practice is a practice which is identifiable, certain, known and in force as of the date of the decision or action that is the subject of the complaint at Stage 1 (as described in clause 5.1 below). The onus to show that such a practice exists rests upon the party who seeks to rely upon it.

3.2 Excluded from this general Grievance Procedure are the following:

- a) complaints for which specific review or appeal procedures exist (such as the denial of tenure or promotion, suspension or removal, merit pay awards, research misconduct, sexual harassment, violation of human rights, or other such complaints for which procedures may be established from time to time);
- b) complaints about remuneration.²

4. GRIEVANCE REVIEW PANEL

The President of the University and the President of the Faculty Association shall jointly appoint a full-time tenured faculty member as Chair of a Grievance Review Panel for a two-year term. The two Presidents, in consultation with the Chair, shall appoint eight full-time, tenured faculty members, with at least one chosen from each Faculty, to a Grievance Review Panel for staggered three-year terms and shall appoint one or more of the members as Vice-Chair(s). The Chair shall have the authority to delegate to the Vice-Chair(s).

5. PROCEDURE

In keeping with the stated objective to facilitate and promote informal resolution of grievances, the parties are encouraged to exhaust all the opportunities afforded by Stages 1 to 3 (including mediation) to the fullest extent consistent with a prompt and fair resolution, before resorting to Stage 4.

ADVICE TO GRIEVORS: A person who wishes to pursue a complaint may contact the Chair of the Special Enquiries and Grievances Committee of the Faculty Association for

² Nothing in clause 3.2(b) is intended to affect adversely the rights of persons to take complaints about their remuneration to the Provincial Pay Equity Commission if they have been unable to resolve them to their satisfaction within the University.

advice regarding this Procedure and for assistance in formulating and pursuing the complaint.*** The Chair of that Committee may nominate a member of the Committee or some other faculty member from McMaster to advise the Grievor and if the latter so wishes, to accompany him or her in any meetings with administrative officers under this Procedure.

MEDIATION: At any stage in the Procedure, the parties by mutual agreement may request mediation. If they cannot then agree on the choice of a mediator, the Chair of the Grievance Review Panel shall be asked to designate a member of the Panel or some other McMaster faculty member to mediate informally and in confidence. The mediator, who must have had no previous involvement in the case, shall hear both sides of the dispute and shall remain impartial. He or she shall hold all information in strict confidence and shall issue no public report or statements on the mediation. The mediator may not subsequently be a member of the tribunal which hears the case if it proceeds to stage 4, nor may he or she be called as a witness before any such tribunal. Mediation may extend the duration of the stage at which it occurs by fourteen days.

5.1 STAGE 1

The Grievor shall discuss the grievance initially at the first administrative level having the authority to dispose of it. Usually this will be the Grievor's department chair, institute or centre director, or research project director.³ This person will be referred to as the "primary Respondent".⁴ The grievance must be presented in writing within twenty-eight days after the Grievor knows, or ought reasonably to have known, the grounds for the grievance. The primary Respondent shall respond to the Grievor in writing within fourteen days following presentation of the grievance.

5.2 STAGE 2

If the grievance is not resolved under Stage 1 to the Grievor's satisfaction, the Grievor may within fourteen days of the expiration of the time limit in Stage 1, present the same grievance in writing, along with the written response from stage 1, to the person at the next administrative level having the authority to dispose of it, normally the Faculty Dean, or a person designated by the Dean, who becomes the "current Respondent". (If the current Respondent is a Vice-President, the grievance will proceed directly to stage 3.) The written grievance shall specify the decision or omission complained of, and the remedy sought. The current Respondent shall respond to the Grievor in writing within fourteen days of receipt of the written grievance.

*** Clinical faculty members who are not members of the McMaster Faculty Association should consult with the Clinical Faculty Association for such advice.

³ In the case of a committee decision the primary Respondent will be the administrative officer at the level to which the committee reports, i.e., in the case of a Departmental Committee it will be the Chair of the Department, of a Faculty Committee it will be the Dean, of a University Committee the appropriate Vice-President or the President.

⁴ If the primary Respondent is a Dean or equivalent, the grievance will proceed directly to stage 2. If the primary Respondent is a Vice-President or the President the grievance will proceed directly to stage 3

5.3 STAGE 3

If the grievance is not resolved under an earlier Stage to the Grievor's satisfaction, the Grievor may, within fourteen days of expiration of the time limit of the previous stage, present the same grievance in writing, along with the written responses from all previous stages, to the Provost and Vice-President (Academic), who shall either respond to it or refer it to the appropriate Vice-President (the "current Respondent"). If the grievance is against the President of the University the President is deemed to be the current Respondent. The current Respondent shall respond to the Grievor in writing within twenty-one days of receipt of the written grievance.

If the grievance is against a vice-president, and if the grievance is not resolved to the Grievor's satisfaction at this stage, the Grievor may, within fourteen days of receipt of the response, present the grievance to the President of the University under the terms and conditions set out in the paragraph above.

5.4 STAGE 4

If the grievance is not resolved under an earlier Stage to the Grievor's satisfaction, the Grievor may within twenty-one days of the expiry of the time limit of the previous stage, file with the Chair of the Grievance Review Panel, through the Secretary of Senate and using the appropriate forms, a written request for a formal hearing. The request shall contain the details of the grievance, a statement of the issue or issues in dispute, a statement of the remedy sought, and documentation, including the written responses from all previous stages of the grievance.

6. TIME LIMITS

A Grievor who fails to meet a time limit loses the right to proceed to the next stage. If a Respondent fails to meet a time limit, the Grievor shall have the right to proceed to the next stage. Time limits, including those which apply to mediation, may be extended by mutual agreement between the Grievor and the current Respondent.

Disputes about time limits (e.g., when the Grievor ought reasonably to have known the decision or action that is the subject of the grievance) shall be adjudicated by the Chair of the Grievance Review Panel.

7. RULES OF PROCEDURE IN STAGE 4

The Grievance Review Panel shall establish guidelines for the conduct of hearings by Hearing Committees. These guidelines shall conform to the principles of natural justice and to the provisions of The Statutory Powers Procedure Act. The Grievance Review Panel shall be responsible for periodically reviewing these guidelines.

7.1 HEARING

Within fourteen days of receipt of the written grievance, the Chair of the Grievance Review Panel (or Vice-Chair in case of conflict of interest or absence), shall establish a Hearing Committee. The Committee shall consist of the Chair or a Vice-Chair of the Grievance Review Panel, who shall act as Chair of the Hearing Committee, and two other members of the Grievance Review Panel. The Chair shall select members of the Hearing Committee who have no conflict of interest; for example, they shall not be members of the same department as the Grievor, nor shall they have made a substantive contribution to the decision being grieved.

The Respondent for the hearing shall be the primary Respondent, the person to whom the grievance was originally addressed. As stated in Section 5.1, this is the person at the first administrative level having the authority to dispose of the grievance. The Chair of the Grievance Review Panel shall give both parties the opportunity to object, with reasons, to the proposed membership of the Hearing Committee. The Chair of the Grievance Review Panel shall rule on any such objection before the Hearing Committee begins its work.

The first task of the Hearing Committee shall be to decide, after giving the parties an opportunity to speak to the issue, whether the hearing shall be open or closed, in conformity with section 9(1) of The Statutory Powers Procedure Act. The Hearing Committee shall also decide whether the grievance falls within the scope of the General Grievance Procedure (see clause 3 above), after giving the parties an opportunity to speak to the issue of jurisdiction. If the Hearing Committee decides that it has jurisdiction, the hearing shall then proceed under the rules established by the Grievance Review Panel.

7.2 ACCESS TO INFORMATION

The Grievor shall have the right to request information to be placed before the Hearing Committee. The Hearing Committee must make a preliminary determination that the information so requested is relevant to the grievance in question. Once that determination has been made the Grievor may request the information in question from the person or body who holds that information. The person or body holding the information shall release it to the Hearing Committee unless that person or body holding the information is otherwise precluded by law from divulging it. If the information is denied on the basis that the person or body holding it is precluded by law from releasing it, then the Grievor may exercise his or her rights at law to compel the delivery of that information to the Hearing Committee.

Both parties shall be provided copies of all written information presented to the Hearing Committee.

7.3 REPRESENTATION

These procedures will normally be followed without recourse to legal counsel. Both the Grievor and the Respondent may be accompanied at any Stage by a colleague of their choice. At Stage 4 either party may be represented by a colleague or by legal counsel.

7.4 FACULTY ASSOCIATION OBSERVER

With the consent of the Grievor the Faculty Association shall be entitled to have an observer at any formal hearing under this procedure. The function of the observer shall be to monitor the conduct of the formal hearing, in accordance with the Senate "Guidelines Concerning the Appointment of Faculty Association Members as Observers and Concerning the Role of Observers at Review Hearings".

8. DECISIONS

The decision of the Hearing Committee shall be by majority vote, and shall be binding. The Hearing Committee shall send a report of its decision to the Grievor, the Respondent, the President of the University and such other parties as it deems appropriate. The report shall include a summary of the issues, the factual findings, the conclusions, and the decision with reasons.

The report shall be issued within three months from the last day of the hearing, whether that day of hearing is "in person" or by means of "written submissions".

Reports of hearings held in open session will be available on request from the office of the President.

The President shall implement the decision promptly, and shall notify all those eligible to receive the Hearing Committee's report of the implementation of the decision.

The Hearing Committee shall not have jurisdiction to change any of the provisions of a duly enacted policy or established practice of the University.

The Hearing Committee may make recommendations to the President of the University regarding policies, procedures and practices.

9. MONITORING

The Chair of the Grievance Review Panel shall submit an annual report to the Chairs of the Senate and the Board of Governors and the President of the Faculty Association on the year's experience with the Procedure. This report may include recommendations for clarification of or changes to University policies, practices or procedures. The Special Enquiries and Grievances Committee of the Faculty Association shall submit to the Chair of the Grievance Review Panel a summary of the Committee's activities for the year. This information shall form a part of the annual report of the Chair of the Grievance Review Panel.

10. ADMINISTRATIVE SUPPORT

The Grievance Review Panel shall be entitled to receive support services from the University.

11. RETENTION OF DOCUMENTATION

Documentation submitted to any Hearing Committee will be retained by the University for a period of seven years after the Hearing Committee has submitted the report containing its decision. It will then be destroyed, unless required for any legal proceedings external to the University which have been initiated during the seven-year period, in which case the material will be destroyed immediately after all legal processes have been exhausted.

12. REVISION OF THIS PROCEDURE

Proposals for amending this procedure may be made by the Chair of the Grievance Panel, the administration, the Senate or the Faculty Association. When such proposals are made, there shall be consultation among these parties and, if appropriate, an *ad hoc* drafting committee shall be established. The drafting committee, which shall consist of members named by the Senate Committee on Appointments and by the Faculty Association, shall review the proposed amendments and formulate revisions for submission to the Senate and the Board of Governors for approval. During the course of its work, the drafting committee shall ensure that the parties mentioned in the first sentence are kept fully informed of any proposed revisions and that their views on any such changes are properly considered.

FACULTY GRIEVANCE REVIEW PANEL

McMASTER UNIVERSITY

Request for a Formal Hearing

If you have questions about the grievance procedure or about completing this form, please contact the University Secretariat, Room 210, Gilmour Hall, Extension 24337, E-mail univsec@mcmaster.ca

Name: _____

Department: _____

University
Address: _____

E-mail: _____ Extension: _____

I confirm that I have completed the initial stages of the grievance procedure described in Sections 5.1 to 5.3 of the Faculty General Grievance Procedure. (Please attach a copy of your written grievance presented at all previous stages, together with the written responses you received)

Signature

Date

Notice of Collection of Personal Information

The information gathered on this form is collected under the authority of *The McMaster University Act, 1976*. The information is used only for the purposes of administering the Faculty General Grievance Procedures and for statistical purposes. Personal information provided on this form will not be used for any unrelated purpose without the consent of the faculty member. This information is protected and is being collected pursuant to section 39(2) and section 42 of the *Freedom of Information and Protection of Privacy Act* of Ontario (RSO 1990). Questions regarding the collection or use of this personal information should be directed to the University Secretary, Gilmour Hall, Room 210, McMaster University

1. **Please state *briefly* your grievance or allegation of injustice** (i.e., the decision, ruling or action you are grieving against and the person(s) or committee who mad the decision or ruling or who took that action).

Person(s) or committee: _____

Grievance or allegation of injustice:

2. **You are required to submit a written statement describing the grounds for your grievance. Please use the space below for that purpose. If this space is insufficient, additional pages may be appended. You should also attach any written documents that you want to submit to the Panel as evidence in support of your grievance.**

3. **What relief do you seek (i.e. what do you want the Panel to do for you)?**
(If this space is insufficient, additional pages may be added.)

4. **In certain circumstances, the Hearing Committee may decide to conduct the hearing of your grievance in closed session. Are any of the details of your grievance of a sufficiently confidential nature to make a closed hearing desirable?**

No Yes (explain):

5. **Will you be represented by counsel (i.e. a faculty colleague, friend, or lawyer)?**

No

Yes If yes, please indicate who your counsel will be:

Colleague Lawyer Friend Other

If Other, please specify: _____

Name: _____

Address: _____
 No. Street City Province Postal Code

OR
University
Address: _____

Telephone: _____ Fax: _____

E-mail: _____

6. Do you intend to call any witnesses?

No

Yes **Please list witnesses below**

Name: _____ Title / Position: _____

Please note: You are responsible for contacting your witnesses and making all arrangements for them to attend the hearing.

7. Are you agreeable to having a Faculty Association Observer present during the grievance hearings and to all documentation being provided to the Observer, in accordance with the Senate policy?

Yes No

Please return your completed form to:

**Chair of the Grievance Review Panel
c/o University Secretariat
Gilmour Hall, Room 210**

A copy of this application, together with any attachments, will be forwarded for reply to the respondent(s), i.e., the person(s) or committee whose decision or ruling you are grieving against. When that reply is received by the University Secretariat, you will be provided with a copy.

You and the respondent will then be contacted by the University Secretariat to make arrangements for the hearing.