

## **ARTICLE 32. GRIEVANCE PROCEDURE AND ARBITRATION**

**Proviso** Provisions of the Preamble to and Objectives of this Agreement shall not be subject to this Article. Grievances filed in accordance with this Article concerning Articles which make provision for an appeal of a negative recommendation shall be limited to claims of noncompliance with the procedural requirements (including bias and denial of natural justice) of those Articles.

A matter that could lead to the filing of a grievance shall not be the subject of a claim of unjust treatment.

### **32.1 Definitions**

In this Article:

32.1.1 A "grievance" is a claim by a Member or group of Members, by the Association or by the University, that there has been a violation, misinterpretation or improper application of the terms and conditions of this Agreement.

32.1.2 A "claim of unjust treatment" is a claim filed by a Member, relating to terms and conditions of employment not covered by this Agreement, that an omission or a discretionary act by a department head, director, dean or the President or by their designates in the exercise of his/her administrative authority is unreasonable.

32.1.3 "Working days" as used in this Article shall mean Monday through Friday excluding holidays.

### **32.2 Obligation of the Parties**

Should any dispute arise between the University and the Association as to the meaning and application of the provisions of this Agreement, it is agreed by the parties to this Agreement that there shall be no slowdown or stoppage of work on account of such dispute, but an earnest effort shall be made to settle immediately and without delay any such dispute in accordance with the procedure herein provided.

### **32.3 Procedure for Handling Grievances and Claims of Unjust Treatment**

#### **32.3.1 University Grievances**

In the event that the University believes that the terms and conditions of this Agreement have been violated, misinterpreted, or improperly applied, the dean/director, or where appropriate, a vice-president, shall present a grievance in writing to the President of the Association, within ten (10) working days of the event giving rise thereto or the date on which the University first knew or reasonably should have known of such event if that date is later.

If the matter is not resolved to the satisfaction of the University within twenty (20) working days of the Association having received the grievance, the University may submit the grievance to binding arbitration as provided by this Article. The Association shall be notified in writing of such action.

### 32.3.2 **Association Grievances**

32.3.2.1 In the event that the Association believes that the terms and conditions of this Agreement have been violated, misinterpreted, or improperly applied, the President of the Association shall present a grievance in writing to the President, with a copy to the Staff Relations Officer, Human Resources of the University, within twenty (20) working days of the event giving rise thereto or the date on which the Association first knew or reasonably should have known of such event if that date is later.

32.3.2.2 If the matter is not resolved to the satisfaction of the Association within twenty (20) working days of the University having received the grievance, the Association may submit the grievance to binding arbitration as provided by this Article. The University shall be notified in writing of such action.

### 32.3.3 **Employee Grievances and Claims of Unjust Treatment**

32.3.3.1 **Stage 1** - It is understood and expected that a Member will discuss with his/her department head any matter relating to an alleged grievance or claim of unjust treatment. The department head shall notify his/her dean of any complaint giving rise to such a discussion. This discussion is to be informal in nature and directed at improving communication and solving problems. The department head shall notify his/her dean/director of the result of this discussion. In cases where there is no department head, such informal discussion shall be held with the dean/director.

32.3.3.2 **Stage 2** - A Member who is not satisfied with the solution arising from the informal discussion at Stage 1 and who believes that he/she has a grievance or a valid claim of unjust treatment shall, within twenty (20) working days of the event giving rise thereto or the date on which the Member first knew or reasonably should have known of such event if that date is later, consult the Association, and report to the dean/director in writing on the grievance form provided by the Association for that purpose. The report shall set forth, in the space provided, all of the following:

32.3.3.2.1 whether the dispute involves a grievance or claim of unjust treatment;

32.3.3.2.2 the nature of the grievance or claim of unjust treatment;

32.3.3.2.3 the facts upon which the grievance or claim of unjust treatment is based;

32.3.3.2.4 the remedy sought;

32.3.3.2.5 the result of the informal stage; and

32.3.3.2.6 the Article(s) of this Agreement relied upon or claimed to have been violated, misinterpreted or improperly applied.

The Member shall sign the form and shall take the form, with or without an Association representative, directly to his/her dean/director. Alternatively, the Member may request an Association representative to present the signed grievance

form to the dean/director on his/her behalf. The Member or the Association shall also provide a copy to the Staff Relations Officer in Human Resources. The dean/director or the Association representative may request the presence of the Member in any further process of the grievance. The dean/director shall have ten (10) working days from the date of receipt of the grievance form in which to render a decision in writing. The dean/director shall meet with the Member and, where the Association has presented the grievance form on the Member's behalf, with the Association representative, prior to rendering a decision. At any such meetings, the dean/director may include both the department head and a representative from human resources, and the Association may include a professional or technical advisor.

- 32.3.3.3 **Stage 3** - If the decision at Stage 2 does not resolve the grievance or claim of unjust treatment, the Member or the Association may refer the matter to the Provost and Vice-President (Academic) within ten (10) working days from the date of receipt of the Stage 2 decision. The appeal shall be in writing and shall include a copy of the grievance or claim of unjust treatment filed in Stage 2, a copy of the decision of the dean/director and a statement of the reasons for the disagreement with the decision. Within five (5) working days of the receipt of the appeal, the Provost and Vice-President (Academic) shall call a meeting with representatives of the Association. In any meeting between representatives of the Association and the Provost and Vice-President (Academic), the Association may include a professional or technical advisor and the Provost and Vice-President (Academic) may include a representative from human resources. The Provost and Vice-President (Academic) shall, within ten (10) working days after the final meeting, submit a decision in writing to the parties concerned.
- 32.3.3.4 **Stage 4 (Grievances)** - If the decision at Stage 3 does not resolve the grievance, the Association may, within ten (10) working days of the receipt of the decision, submit the matter to binding arbitration. The Association shall notify the Staff Relations Officer, Human Resources, in writing of such action.
- 32.3.3.5 **Stage 4 (Claims of Unjust Treatment)** - If the decision at Stage 3 does not resolve the claim of unjust treatment, the Association may, within ten (10) working days of the receipt of the decision, submit the matter to an Inquiry Committee. The Association shall notify the Staff Relations Officer, Human Resources in writing of such action.
- 32.3.3.5.1 The Inquiry Committee shall consist of one (1) person from the agreed upon list of arbitrators as provided in s. 32.4.2 of this Article.
- 32.3.3.5.2 The Inquiry Committee shall receive a copy of the grievance form together with all documentation thereto relating. The proceedings of the Inquiry Committee shall be confidential unless both parties in writing agree otherwise. The terms of reference of the Inquiry Committee shall be limited to the claim of unjust treatment. The Inquiry Committee shall determine its own procedures.
- 32.3.3.5.3 After having completed its investigation, the Inquiry Committee shall within twenty (20) working days transmit to the Board of Governors its decision. The decision of the Inquiry Committee shall be binding upon the Association, the University and the Member(s) affected thereby.

32.3.3.5.4 Each party to this Agreement shall bear the costs of presenting its case but the parties shall share equally in the expenses, if any, of the single member of the Inquiry Committee appointed.

## 32.4 **Arbitration**

### 32.4.1 **Object of Arbitration**

It is understood that the object of arbitration is to resolve finally the real matter in dispute. To this end, technical irregularities may be waived so long as the other party's position is not thereby prejudiced.

### 32.4.2 **Selection of an Arbitrator**

32.4.2.1 Promptly after the execution of this Agreement, the Association and the University shall establish an arbitration panel consisting of at least five (5) persons, who have been mutually agreed upon by both parties, each of whom shall serve in sequence.

The names which make up the panel of arbitrators may be reviewed annually in October at the request of either party to the Agreement. Names may be deleted from or added to the list only with the mutual consent of the parties to the Agreement. Names added to the panel shall be placed at the end of the sequence.

32.4.2.2 The arbitration panel shall be composed of persons from outside the University.

32.4.2.3 Within ten (10) working days after submission of the notice to arbitrate, the Association and the University shall meet to determine the arbitrator who is next in sequence. No person may be selected who has been involved in an attempt to negotiate or settle the grievance. Where the selected arbitrator is unable to serve, the next in sequence shall then be selected. If none of the panel is able to serve, the parties shall select an arbitrator by mutual agreement.

32.4.2.4 In grievances involving involuntary termination on any of the grounds set out in s. 19.B.1.2, s. 17.A.8.2, s. 34.10.2, s. 19.C.4.6, s. 17.A.7.3, s. 34.8.3, s. 19.C.5.5.1 (s. 17.A.4.1 and s. 34.1), s. 19.C.6.5.1 (s. 17.A.4.1 and s. 34.1) or s. 19.D.8.1 of Article 19, the Association or the University may opt for a three (3) person arbitration board. In the event one of the parties opts for a three (3) person arbitration board, each party shall within ten (10) working days after submission of the notice to arbitrate, advise the other of its appointee. The chairperson of the arbitration board shall be selected by mutual agreement of the appointees but failing such agreement within ten (10) working days, shall be selected in accordance with the procedure outlined in s. 32.4.2.3 hereof from the arbitration panel established pursuant to this Agreement.

### 32.4.3 **Matters Subject to Arbitration**

32.4.3.1 Unless otherwise agreed, no matter may be submitted to arbitration which has not been properly carried through all the previous stages of the grievance procedure as detailed in this Article.

- 32.4.3.2 No matter shall be subject to arbitration which involves:
- 32.4.3.2.1 a request for modification of the Agreement;
  - 32.4.3.2.2 a matter not covered by the Agreement;
  - 32.4.3.2.3 a matter which by the terms of the Agreement is exclusively vested in the University;
  - 32.4.3.2.4 a claim of unjust treatment which claim shall be dealt with by the Inquiry Committee as provided for in this Article.

#### 32.4.4 **Authority of the Arbitrator**

- 32.4.4.1 The arbitrator shall have no power to add to, subtract from, modify or amend the provisions or terms of this Agreement.
- 32.4.4.2 The arbitrator shall confine him/herself to the grievance submitted for arbitration and shall have no authority to determine any other issues not so submitted.
- 32.4.4.3 The arbitrator shall not substitute his/her judgment for that of the University where the Agreement calls for the exercise of judgment by the University.
- 32.4.4.4 When dealing with grievances involving claims of non-compliance with the procedural requirements of an Article as set out in the Proviso of this Article, if the arbitrator finds that the procedural requirements have not been complied with, he/she shall be limited to directing that the matter be reconsidered by the appropriate body in accordance with the procedures specified in the appropriate Article.

#### 32.4.5 **Effect of the Decision**

The decision or award by the arbitrator shall be final and binding upon the Association, the University and the Member(s) affected thereby.

#### 32.4.6 **Fees and Expenses**

- 32.4.6.1 Each of the parties to this Agreement shall be responsible for the expense of presenting its case, including the fees of its witnesses and its appointee to three (3) person arbitration boards.
- 32.4.6.2 Each of the parties to this Agreement shall jointly bear the expenses of the arbitrator or chairperson so appointed.

#### 32.5 **Time Limits**

- 32.5.1 The time limits as established by this Article may be extended by mutual agreement between the University and the Member or the Association, as appropriate. Such agreement will not be unreasonably withheld.

32.5.2 Failure by the University to provide a response within the time limits allows the Member or the Association, as appropriate, to appeal to the next stage.

32.5.3 If the University, the Member or the Association, as appropriate, fails to file an appeal within the time limits provided in this Article, the grievance or the claim of unjust treatment shall be deemed to have been resolved by the response at the prior stage.

32.6 **Precedent**

Any grievances resolved at Stages 1, 2 or 3 shall not constitute a precedent in any arbitration proceeding unless agreed to in writing by the University and the Association.