

ARTICLE 25 - COMPLAINTS, GRIEVANCE AND ARBITRATION PROCEDURE

25.1 Terms

A "Complaint": a disagreement which may lead to a grievance

A "Grievance": any difference that arises between the Parties relating to the interpretation, application, administration or alleged violation of this Agreement, including any question as to whether a matter is arbitrable. Grievances are categorized as follows:

a) an "individual grievance": which shall be one involving a single member and shall be initiated by the member or by the Association. If the Association initiates an individual grievance, the member concerned must sign the formal grievance. An individual grievance shall not proceed beyond step III of the grievance procedure without the written consent of the Association.

b) a " group grievance": which shall be one involving more than one member and which by virtue of this Article can be presented as an individual grievance. The members concerned must sign the formal grievance. It shall be initiated by the Association and shall name the members involved.

c) a "policy grievance": which shall be one arising directly between the Association and the Board concerning interpretation, application, administration or alleged violation of the provisions of this Agreement, and may be initiated by either the Association or the Board.

The Parties to a grievance shall be the Parties to this Agreement and those only.

~~VI.1 — A grievance is a claim by a member or group of members, by the Association or by the Board that there has been a violation, misinterpretation, improper application or faulty administration of the terms and conditions of this Collective Agreement.~~

24.2

~~VI.2.1~~

Where the procedures expressly established in this Agreement provide for reviews and appeals prior to final decision by the Board, the all such procedures shall be utilized in full good faith before any grievance is brought.

VI.2.2

When such procedures have produced a decision which has been formally communicated to a member by the President, the Dean, or University

Librarian, any grievance alleged by a member against this communicated decision may be submitted as a grievance by the Association to the Grievance Conciliation Panel provided in Article VI.6 below, with formal notice to the President.

VI.3.1 Where there are no such procedures provided, the parties agree to use every reasonable effort to encourage informal, amicable and prompt settlement of disagreements likely to lead to grievance arising from the administration of this Collective Agreement.

Moved VI.3.1 up - occurs before "COMPLAINT STAGE"

VI.3 **GRIEVANCE PROCEDURE - STEP I - INFORMAL STAGE /**
Complaints

VI.3.2 Informal discussions among the persons directly concerned in the matter giving rise to a complaint alleged to be grievable, covered by VI.3.1, shall commence within fourteen (14) days of when the act or omission giving rise to the complaint has become known or ought reasonably to have become known to the complainant. Such efforts at informal settlement shall not be unreasonably prolonged.

VI.3.3 If the informal discussions provided in VI.3.2 fail to resolve the complaint within ten (10) days of their commencement, a grievance may be filed by either of the parties to this Agreement. ~~But where it is a complaint by a member or group of members which is thought to be grievable, the member or members involved, or the Association acting on their behalf, shall at this time first give written notice of this complaint to the President (or designate). The President (or designate) shall respond in writing within ten (10) days of receiving this notice, indicating the Board's response to the complaint.~~

~~Such written notice of a complaint thought to be grievable may be submitted by a member or group of members without seeking the consent of either of the parties to the Agreement, and its formulation or presentation, and the President's response thereto, shall not prejudice the way in which the Association or the Board may subsequently state a grievance relating to the matters involved.~~

Attempts at informal resolution may continue for longer than fifteen (15) working days with the mutual agreement of both Parties.

GRIEVANCE PROCEDURE - STAGE II - FORMAL GRIEVANCE

VI.4.1 ~~Except for the matters covered in VI.2.1, a~~ A formal grievance may be filed by either party, and only by them, within fifty (50) days after the act or omission giving rise to the grievance has become known or ought reasonably

to have become known, provided that all the informal steps in VI.3.1, 3.2, and 3.3 have been followed.

VI.4.2 Formal grievance proceedings shall be initiated in these cases by formal notice of grievance to the other party. ~~The party receiving the formal notice shall make formal answer within ten (10) days of receiving this notice.~~

VI.4.3 The formal Notice of Grievance shall specify, so far as possible, the nature of the matter(s) in dispute, the provision(s) of this Agreement which has(have) allegedly been violated (including reference to past practices or other established authoritative procedures incorporated in this Agreement by articles of inclusion, where appropriate), the manner and date that the matter in dispute became known to the grievor, and the remedy or remedies sought.

Within ten (10) working days of the initiation of a grievance, the University Librarian or the Dean (or his/her designate) and the President of the Union (or his/her designate) shall meet to attempt to resolve the grievance.

The Party receiving formal notice shall make formal written response within ten (10) working days of the meeting between designates of the Parties.

If the grievor(s) is/are not satisfied with the disposition of the grievance, the Association may submit the grievance to Stage III, including, where appropriate, a restatement of the claim in the light of the formal exchange, provided that it acts within thirty (30) working days of the initiation of the grievance.

GRIEVANCE PROCEDURE - STAGE III

Within ten (10) working days of the receipt of notice, the President, or his/her designate, and the President of the Union, or his/her designate, shall meet to attempt to resolve the grievance.

The Party receiving formal notice shall make formal written response within ten (10) working days of the meeting between designates of the Parties.

If the grieving Party is not satisfied with the disposition of the grievance in the formal response to the notice, it may submit the grievance to Arbitration, including, where appropriate, a restatement of the claim in the light of the formal exchange, provided that it acts within ten (10) working days of receipt of the response, or, if there has been no response, within thirty (30) working days of the filing of notice of intent to proceed to Stage II.

The Parties may agree in writing to extend any time limits specified in either

the grievance or arbitration procedures.

VI.5.1 ~~If either side is not satisfied with the disposition of the grievance in the formal response to the notice of grievance, it may submit the grievance to the Grievance Conciliation Panel, including a restatement of the claim in the light of the formal exchange, provided that it acts within fifteen (15) days of the receipt of the response provided for, or within twenty five (25) days of filing formal notice of grievance, where there is no response.~~

VI.5.2 ~~In cases involving a communicated decision at the end of a procedure of reviews and appeals, expressly set forth in this Agreement, the Association if it chooses to file a grievance on behalf of a member, shall file it within twenty (20) days of its being communicated to the member, directly with the Grievance Conciliation Panel, including in the notice of grievance the elements required in Article VI.4.3. A copy of any such notice shall be simultaneously provided to the other party.~~

~~VI.6~~ Grievance Conciliation Committee

~~VI.6.1~~ ~~A Grievance Conciliation Panel shall be constituted within thirty (30) days of the signing of this Collective Agreement and shall consist of six (6) persons: three (3) persons appointed by the Board and three (3) persons appointed by the Association. All members of the Panel shall hold an academic, academic/administrative, administrative, professor emeritus, or professional librarian position or rank at the University. After such appointment, members of the Committee are not "representing" a party, but shall use their independent judgment in attempting to resolve grievances. The members of the Panel shall choose one of their members as Secretary to receive all formal notifications and communications, keep a cumulative record of all recommendations of Grievance Conciliation Committees, and prepare the agenda for periodic meetings of the Panel. These records of the Panel shall be open to the parties.~~

~~VI.6.2~~ ~~Each grievance submitted to grievance conciliation pursuant to VI.5.1 or VI.5.2 shall be heard by three (3) members of the Panel, one (1) chosen from the Panel by each party and a Chair chosen by the two (2) conciliators thus selected. If they cannot agree, the choice will be determined by lot.~~

~~VI.6.3~~ ~~Terms of individuals chosen for the Panel shall be two (2) years. No person shall sit on the Committee in relation to any grievance which would involve a conflict of interest because of a personal involvement in the matter that gives~~

~~rise to the grievance. Should a member of the Panel resign, be unable to serve her/his full term of office, or be disqualified by conflict of interest, then the party or the Panel members who made the appointment, as the case may be, shall name a temporary replacement, as necessary, or for the remainder of that member's term.~~

~~VI.6.4 — A Grievance Conciliation Committee shall begin its inquiries into the grievance for which it was appointed within thirty (30) days after the grievance is referred to it by the Grievance Conciliation Panel, and the Committee shall announce its recommendation within ten (10) days of concluding its inquiries, if possible, and, in any case, within sixty (60) days of the Committee being established.~~

~~VI.6.5 — The following rules and procedures shall be observed by the Grievance Conciliation Committee:~~

~~VI.6.5.0 — It is not intended that the Grievance Conciliation Committee shall possess the powers to summon and enforce the attendance of witnesses and to compel them to give oral or written evidence in the same manner as a court of record in civil cases.~~

~~VI.6.5.1 — Each Grievance Conciliation Committee shall determine its own rules of procedure for its inquiries, provided that it gives reasonable opportunity to the parties to make submissions to it, and permits the parties to be present during all presentations, and to be represented by persons of their choice, if they so choose.~~

~~VI.6.5.2 — The Committee shall give the parties reasonable notice of the meetings for the presentation of submissions. The Committee shall not meet with either party in the absence of the other except with the agreement of the other party.~~

~~VI.6.5.3 — A quorum of the Committee in all its meetings shall be the three (3) members of the Committee.~~

~~VI.6.5.4 — The parties shall have access to all documents which the parties deem relevant to the grievance, and they shall make these documents available to the Committee if they consider them to be pertinent to its inquiries.~~

- ~~VI.6.5.5 The parties agree to give full cooperation to these committees in their inquiries, and to use all their authority to secure such cooperation from their members and/or officers.~~
- ~~VI.6.5.6 The Committee shall conduct its inquiries in a manner that shall be and shall be seen to be fair and equitable, and all meetings at which the parties are present shall be open unless either party requests their closure.~~
- ~~VI.6.5.7 The Committee of the Panel shall render its recommendation, including any minority recommendation or recommendations, in writing, and shall send copies to the aggrieved member, the Association, and the Board, and any other member involved or affected by the grievance. The membership of the Committee of the Panel in process of hearing a particular grievance shall not change until its recommendation is rendered, except with the written consent of the Association and the Board.~~
- ~~VI.6.5.8 The records of the Committee shall remain confidential and shall be retained for three (3) years by the Secretary of the Grievance Conciliation Panel.~~
- ~~VI.6.6.1 The Committee of the Panel shall confine itself to the grievance submitted to it, and shall have no authority to determine any other issue or issues not submitted to it.~~
- ~~VI.6.6.2 The Committee shall not have jurisdiction to amend or add to any of the provisions of this Collective Agreement, nor to give any recommendation inconsistent with the terms of the Collective Agreement.~~
- ~~VI.6.6.3 The Committee shall not be barred from dealing with the substance of a grievance because of a technical violation, irregularity or failure to follow procedures in this Collective Agreement.~~
- ~~VI.6.6.4 By mutual agreement, the parties may elect to refer a particular grievance to a one person Conciliation Committee. In such cases, the same procedures shall apply, mutatis mutandis.~~
- ~~VI.7.1 Five (5) days after receiving the recommendation, the parties shall meet to ascertain whether they can reach a formal agreement on the basis of the conciliation recommendation.~~

VI.7.2 ~~There may be as many such meetings as the parties desire, provided that a decision by either party to carry the grievance to arbitration cannot be made later than fifteen (15) days after transmission of the conciliation recommendation to the parties.~~

~~VI.7.3 If a grievance is resolved by the parties prior to arbitration, either on the basis of the conciliation recommendation or otherwise, the Secretary of the Grievance Conciliation Panel will be advised, in writing, of the outcome. If the grievance is referred to arbitration, the Secretary will be provided with a copy of the correspondence referring the matter to arbitration. The Secretary will also be provided with a copy of the arbitration award, within five (5) days of receipt by the parties.~~

VI.8.1 ~~The time limits established by this chapter may be revised by mutual agreement of the parties. By agreement of the parties, the grievances covered by VI.2.2 may be taken directly to arbitration.~~

~~VI.8.2 No resolution of a grievance shall constitute a precedent in any subsequent arbitration unless there has been a formal agreement signed by both parties.~~

~~VI.8.3 When there is no formal agreement on the resolution of the grievance at these discussions, the parties may nevertheless agree in writing to narrow the issues for arbitration.~~

VI.9 Arbitration

~~VI.9.1 Any grievance processed in accordance with the grievance procedures may be submitted to arbitration by either party within fifteen (15) days of receipt of the recommendation of the Grievance Conciliation Committee.~~

In the event that the grievance is not resolved at Step III, the Association or the Board shall inform the other party within 15 days of the receipt of its intent to proceed to arbitration.

The Parties agree that the practices and procedures of the Labour Relations Act governing grievance arbitration of collective agreements shall generally apply, as well as the following provisions:

a) The Parties agree that they will confer no later than thirty (30) days before the scheduled arbitration hearing and use their best efforts to resolve the grievance.

b) Arbitration shall be by a single arbitrator, unless the Parties agree to refer the matter to a three (3) person Board of Arbitration.

VI.9.2

~~The notice referring the matter to arbitration shall specify whether the party giving the notice desires a single Arbitrator or a Board of Arbitration, and if the latter, shall specify the party's appointee to the Board of Arbitration and shall be delivered to the other party in writing who shall within fifteen (15) days advise the other party if they do not wish a single Arbitrator, and, if applicable, the name of its appointee to the Board of Arbitration. The party referring the matter to arbitration shall appoint its nominee within five (5) working days of being advised of the appointee of the other party. It is the right of the Board or the Association to have any grievance referred to arbitration heard by an Arbitration Board rather than a single Arbitrator.~~

~~VI.9.2.2~~—Where a single Arbitrator determines the grievance, **For a single arbitrator**, the following shall apply:

- (a) the parties agree that the following persons serve as single Arbitrators on a rotating basis so long as this Collective Agreement continues to operate:

Kevin Burkett
Jane Devlin
Pamela Picher
Owen Shime
William Kaplan
Mary Ellen Cummings

- (b) the persons specified in (a) above shall serve as single Arbitrators in rotation according to the order in which they are listed. If an arbitrator is not available or agreeable to commence hearings within thirty (30) days of being notified of her/his requested appointment, the next person on the list shall be selected, and so on, until one of those on the list is available. For the next arbitration thereafter, the person who appears on the list immediately after the arbitrator last selected shall be next in the sequence of selection. However, by mutual consent in writing, the parties may select a listed arbitrator out of turn or select an arbitrator not on the list;

- (c) if none of the persons on the list specified in (a) above can or will act within the required time, and if the parties do not agree on another arbitrator in accordance with (b) above, the parties, within fifteen (15) days shall ask the Ontario Minister of Labour to appoint such single Arbitrator;
- (d) where either party chooses to have a three-member Arbitration Board, it shall consist of a nominee from each of the parties and a Chair to be chosen on a rotation basis from the panel of arbitrators provided in VI.9.2.2(a) and in the manner provided in VI.9.2.2(b) and VI.9.2.2(c).

VI.9.3 The single Arbitrator or the Board of Arbitration shall determine its own procedures but shall give full opportunity to all parties to present evidence and make representations.

VI.9.4 The single Arbitrator or Board of Arbitration shall confine itself to the grievance submitted and shall have the power to amend technical deficiencies of the grievance and modify penalties including disciplinary penalties but shall not by its decision add to, delete from, modify or otherwise amend the provisions of this Agreement, nor shall it decide any other issue than that submitted to it. **The single Arbitrator or Board of Arbitration shall not have the jurisdiction to grant tenure or permanency to a member.**

VI.9.5 No person shall be appointed as an arbitrator who has been involved with or has attempted to negotiate or settle the grievance or who has any other conflict of interest.

VI.9.6 Each of the parties shall bear the expense of its appointee, if any, to the Arbitration Board, and one-half (1/2) of the expense of the Chair or single Arbitrator. The parties shall pay their own expense of appearing at the hearing of the Arbitration Board.

VI.9.7 ~~Where the grievance concerns a charge of discrimination pursuant to Articles 1.2.4.1 or 1.2.4.2 and the grievor demonstrates the existence of a pattern consistent with discrimination, the arbitrator(s) shall require the party against whom the grievance is filed to show that there was no discrimination in fact.~~

VI.9.8 Without limiting the operations of other appropriate provisions of this Chapter, the Arbitrator(s) shall have the power to award compensation, but only to the extent of recovery of monetary losses actually suffered by an individual member or party arising from the proven breach.

The decision of the single arbitrator or Board of Arbitration, including any remedy or remedies, shall be final and binding on both Parties.

Each of the Parties to the grievance shall bear the fees and expenses of its appointee, if any, to the Arbitration Board. These Parties shall share equally the fees and expenses of a single arbitrator or those of the Chair of an Arbitration Board. Each Party to the grievance shall bear its own expenses of appearing at hearings.