

AMENDMENT 1:

I will move to amend §V.B. to read as follows:

All parties have the right to be present throughout all Phase III and Phase IV proceedings, to submit evidence, and to cross-examine adverse witnesses. The rules of evidence used in courts shall not apply. In cases not involving the imposition of discipline, the grievant has the burden of demonstrating the violation of University rule, regulation, policy or practice. In cases in which discipline has been imposed, the respondent has the burden of demonstrating the violation of University rule, regulation, policy or practice and the appropriateness of the sanction. In discipline cases, the reports of investigatory bodies may be considered in support of the administrative action, if the investigatory body was independently constituted and if it provided due process to the person subject to discipline.

Reason: Unfortunately, the experience has been that some investigatory bodies do not provide fundamental fairness to the charged party. Their reports should not be given weight in the grievance process. Incidentally, the new Academic Misconduct Policy explicitly postpones the due process hearing to the grievance phase.

AMENDMENT 2:

Amend § V.D. as follows:

~~Advocates are not permitted to attend the Phase I meeting. However, advocates may participate in the Phase II meeting, Phase III hearing and Phase IV arbitration.~~
Grievants may be represented by employee advocates throughout the process. If the grievant wishes to be represented by an attorney, including an employee advocates who is an attorney, the grievant must promptly inform the UGO and the respondent. The University administrators(s) may be represented by an attorney provided by the Office of the General Counsel, only if an attorney represents the grievant (including an employee advocate who is an attorney), or if the grievant is an attorney.

Reason: Some grievants are too intimidated by the "supervisor" to be willing to proceed without an advocate or representative. Our experience has been that employee advocates are quite helpful at early stages of the proceedings in attempting to reach solutions; the committee text would preclude that possibility.

AMENDMENT 3:

Amend the first paragraph of §II.A. as follows:

A grievance may be filed by one or more faculty, academic professional and administrative, civil service or non-academic or academic student employees, except employees represented by a labor organization and UMHC employees. ~~Individuals who are not on the payroll of the University of Minnesota, and who are independent contractors or volunteers are not "employees" under this policy.~~ The person(s) filing the grievance is the grievant.

Reason: The deleted language inserts an overly simplistic "payroll test" for access to the policy. We have a number of individuals who are, in some sense "employees," and who may have grievances, who should have access to the policy: e.g., emeritus faculty, clinical faculty, some adjunct faculty. We should leave the question of whether they are employees to the hearing panel and arbitrator.

AMENDMENT 4:

Amend the first paragraph of §V.A. as follows:

A work day is defined for the purposes of this policy as a day the University is open, but does not include weekends and holidays. Compelling reasons for delay include days on which the employee was not on the payroll of the University, or was on authorized vacation or leave, ~~except for determining the initial filing deadline.~~

Reason: A statute of limitations should not run while the employee is on authorized leave, particularly when the notice of the action may be placed in the employee's mailbox while the employee is out of town.

AMENDMENT 5:

Amend the last paragraph of §IV.E. as follows:

The grievant and the University shall each be responsible for one-half of the arbitrator's fees and expenses, except that the University shall be responsible for all of the arbitrator's fees and expenses if it has declined to accept the results of the Phase III hearing or if it has declined to provide discovery directed by the Phase III hearing officer. There will be no charge for participation by the other representatives on the Phase IV panel. The parties shall be responsible for their own expenses.

Reason: Once there has been an impartial internal decision on the issue, the University should bear the cost of further proceedings to set it aside.

FRED L. MORRISON
Senate Alternate

UNIVERSITY OF MINNESOTA

Twin Cities Campus

*GAPSA
Graduate and Professional
Student Assembly*

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February 10, 1993

To: Martha Kvanbeck, Clerk, University Senate

From: Dave Dahlgren, GAPSA President 

Re: Questions to the President, February 18th Senate and Assembly Meetings

I wish to ask President Hasselmo the following question:

“Students are routinely excluded from membership on review teams assembled to evaluate administrative areas that provide services which directly affect them. Although there are exceptions to this exclusion, such exceptions usually occur only after students have voiced a long and loud protest. Frequently, student participation is limited to providing testimony at a forum or luncheon. Is it unreasonable to expect representation on review teams such as these? If so, what should students do to secure representation on task forces and review teams that clearly concern and involve them? Would you support a general policy that required the placement of staff, faculty and/or students on any future review committees evaluating areas that directly affect them?”

**AMENDMENT TO ITEM II. FACULTY COMPENSATION POLICY, ON THE
FEBRUARY 18 FACULTY SENATE AGENDA**

AMENDMENT:

[In the Faculty Involvement section, delete footnote 2 and add after ".....increases are determined."]

The process determined through consultation must ensure that faculty participate in the judgements regarding compensation changes as a committee of the whole or through a salary committee consisting in whole or in part of elected members.

COMMENT:

As noted in the printed docket, the Senate Committee on Faculty Affairs (SCFA) decided to bring the above amendment to the Faculty Senate for the purpose of ensuring discussion of an issue that was specifically raised in the original Faculty Senate discussion of the policy.

**CARL ADAMS, Chair
Senate Committee on Faculty Affairs**

University of Minnesota Grievance Policy. **MOTION 1.**

Comment:

It is widely held that academic committees or equivalent organizations exist to remedy student complaints arising out of non-employment, academic fact situations (for example, admission, advising, testing, grading and related complaints). The Review Committee surveyed the University's colleges discovering that while some do have academic complaint policies and committees, others were uncertain, and still others do not. For example, the Graduate School does not. The scope of the proposed University Grievance Policy includes employment-based grievances raised by any student employees, but it does not include academic-based complaints students may have. The Review Committee concluded that the latter class of complaints were properly heard and remedied under policies and procedures connected with the academic program (faculty), department or college out of which the complaint arose. Further, it concluded that student academic complaint policies and procedures should accommodate cases that may cut across academic units (for example, a department-based academic program and the Graduate School). The proposed special committee to develop a Student Academic Complaint Policy would be an all-University committee.

University of Minnesota Grievance Policy, **MOTION 2.**

Comment:

The current University Grievance Policy (UGP or procedure) which took effect in September 1990 called for a review after two years. Consequently, in late January 1992 President Nils Hasselmo and SCC Chair Thomas Scott appointed the following Review Committee to study and propose revisions to the current UGP: Mary Easterling, HRM Executive Assistant, Student Financial Aid Service, Civil Service; Judith Garrard, Professor, School of Public Health; Burle Gengenbach, Professor, College of Agriculture; Harriett Haynes, Sr. Psychologist, University Counseling Services, P & A; Jack Imholte, Professor, University of Minnesota, Morris; Rosemarie Park, Associate Professor, College of Education; Esther Reese, Student, College of Liberal Arts; David Ward, Professor, College of Liberal Arts; and Mario Bognanno, Professor, Industrial Relations Center, CSOM, and Review Committee Chair. Julie Sweitzer, University Attorney's Office, and Emily Page, Office of Academic Affairs provided ex officio assistance to the Review Committee.

Between February - March of 1992 the Review Committee studied grievance files, received written information from a variety of individuals and organizations, and took direct testimony from a number of individuals. After reviewing this information, findings and recommendations were prepared and presented for information and discussion at the May 1992 meeting of the University Senate. Following the Senate meeting additional ideas and reactions were received by the Review Committee.

During the summer of 1992 the Review Committee issued its initial draft of a proposed UGP, inviting comments and reactions. This and subsequent drafts of the proposed UGP were discussed with and/or reviewed by individuals or groups affiliated with the Academic Staff Advisory Committee, Civil Service Committee, Department of Human Resources, Equal Employment Opportunity for Women Committee, Faculty Consultative Committee, Graduate and Professional Student Association, Office of Equal Employment and Affirmative Action, Senate Committee on Faculty Affairs, Senate Consultative Committee, Senate Judicial Committee, Student Employment Center, Student Consultative Committee, Provost's Council, University Attorney's Office, University Grievance Committee, University Grievance Officer and University of Minnesota Board of Regents. The final draft of the proposed UGP was prepared by the Review Committee after considering and balancing the full range of ideas offered by the above-named parties.

It is significant to observe that since the scope of the proposed UGP included all University employees who are not represented by a certified bargaining agent, and who do not work at the University Hospitals and Clinic, the Review Committee attempted to build a procedure that met the expectations of a large number of different employee categories including faculty, academic professional and administrative staff, civil service staff, and student employees. Moreover, the proposed UGP goes beyond the current advisory procedure by providing for final and binding decisions. By endorsing the UGP, the University is surrendering its final decision-making prerogative to the authority of a balanced arbitration panel chaired by a neutral, professional arbitrator. This and other critical aspects of the proposed UGP implies that the Review Committee also took into consideration the expectations of the University. The proposed UGP assumes that good faith differences will exist between employees and the University, and it attempts to provide generally acceptable mechanisms for dealing with these differences.

The decision-making criteria that guided the work of the Review Committee included easy access to the procedure and structural simplicity; greater emphasis on problem-solving; fairness and procedural due process; speed; and finality. These criteria resulted in the proposed UGP which may be characterized by the following features:

- (1) An office of the University Grievance Officer where the grievances of all covered employees are filed, and where the responsibility resides for case management and administration. The current 3 person Standing Subcommittee on Procedure, 9 person University Grievance Committee, and 26 Unit Grievance Committees with a membership of about 205 persons will all be replaced by a 25 member University Grievance Board, and 15 person Hearing Officers' Panel. Oversight of the office of the University Grievance Officer and UGP's operations will be the responsibility of the 7 person joint employee-administration Grievance Advisory Committee.

(2) The opportunity for informal, non-technical, problem-solving meetings to discuss grievances with the first-level University representative (Phase I), and with that representative's supervisor or a higher-level University authority (Phase II).

(3) An internal Phase III hearing panel responsible for conducting an evidentiary, due process hearings. Phase III panels are comprised of 2 employees and 1 administrator. The panels will be chaired by a trained Hearing Officers (appointed to the Hearing Officers' Panel) drawn from the ranks of covered regular non-administrative employees, a peer designee selected by the grieving employee (from the University Grievance Board), and a designee identified by the University. The Phase III hearing panel's judgements are advisory to both the grievant and University.

(4) A Phase IV arbitration hearing panel responsible for conducting an evidentiary, due process hearings. Phase IV panels are comprised of 1 employee, 1 jointly selected neutral arbitrator, and 1 administrator. The arbitration panels will be chaired by a neutral, professional arbitrator, a peer designee selected by the grieving employee (from the University Grievance Board), and a designee identified by the University. The Phase IV arbitration panel's judgements are final and binding on the grievant and University. The decision to exercise Phase IV arbitration (versus, for example, taking the matter to court) resides exclusively with the employee-grievant. Arbitration is voluntary. The grievant and University pay equal shares of the arbitrator's fees and expenses.

(5) Under normal circumstances, from the day a grievance is filed until:

- the end of Phase I, including the University's written answer, 15 work days may elapse;
- the end of Phase II, including the University's written answer, 45 work days may elapse;
- the end of Phase III, including the Phase III panel's written advisory decision, 70 work days may elapse;
- the scheduling of the Phase IV arbitration hearing, 100 work days may elapse.

University of Minnesota Grievance Policy. Motion 3.

Comment:

The motion provides for a smooth transition from the current to the proposed University Grievance Policy. It provides for the identification of the effective date on which the proposed policy shall become effective; procedures to be followed in the management of existing cases, and non-employment, academic complaints involving students; and administrative details such as passing all cases decided under the current policy to the University Grievance Officer under the proposed policy.

MARIO BOGNANNO, Chair

Senate Consultative Committee

ALTERNATIVE AMENDMENTS TO ITEM V., U OF M GRIEVANCE POLICY, ON THE
UNIVERSITY SENATE AGENDA

MEMORANDUM

February 18, 1993

TO: Mike Bognanno
FROM: Fred Morrison
SUBJECT: Alternative amendments

Alternative to Amendment 1: [Amendment 1-A]

Amend V.B. to read as follows:

All parties have the right to be present throughout all Phase III and Phase IV proceedings, to submit evidence, and to cross-examine adverse witnesses. The rules of evidence used in courts shall not apply. In cases not involving the imposition of discipline, the grievant has the burden of demonstrating the violation of University rule, regulation, policy or practice. In cases in which discipline has been imposed, the respondent has the burden of demonstrating the violation of University rule, regulation, policy or practice and the appropriateness of the sanction. ~~In discipline cases, the reports of investigatory bodies may be considered in support of the administrative action~~

Alternative to Amendment 5: [Amendment 5-A]

Amend III.A.5. to read as follows:

5. Prepare an annual report to include a summary of issues grieved and the decisions, which shall be published in the University Senate docket, and which shall be delivered to the President, Grievance Advisory Committee, Faculty Consultative Committee, Academic Staff Advisory Committee, Civil Service Committee, and Student Consultative Committee The report must include a summary (prepared to protect the identity of individual grievants) of those instances in which the Senior Vice President for Academic Affairs has declined to accept the recommendations of a Phase III hearing panel.