

**UNIVERSITY OF MINNESOTA**  
**GRIEVANCE POLICY:**  
**A REPORT AND RECOMMENDATIONS FOR CHANGE**

**Prepared By**  
**University of Minnesota Grievance Policy Review Committee**

**May 3, 1992**

**Recommendations for Review, Discussion, and Revision**

**UNIVERSITY OF MINNESOTA  
GRIEVANCE POLICY:  
A REPORT AND RECOMMENDATIONS FOR CHANGE**

PREPARED BY

UNIVERSITY OF MINNESOTA GRIEVANCE POLICY REVIEW COMMITTEE

EXECUTIVE SUMMARY

Background. The University of Minnesota Grievance Policy and Memorandum of Understanding (UMGP or procedure) became effective in September 1990. These documents mandate that after two (2) years, a committee be appointed to review and recommend changes to improve the UMGP. Consequently, the University of Minnesota Grievance Policy Review Committee (Review Committee) was appointed by University President Nils Hasselmo and Senate Consultative Committee Chair Thomas Scott in late January 1992. Between mid-February and the end of April, the Review Committee met on twelve (12) occasions to receive and review information relevant to the procedure and to discuss implications for change.

The Present UMGP. The present UMGP is rich in due process and peer review, and the designation of a University Grievance Officer (UGO) greatly simplifies access to the procedure.

However, the UMGP is overly formal. Technical (i.e., procedural, substantive and discovery) challenges have tended to side-line discussions of grievances on their merits. Differing technical decisions reached by the UGO and the Standing Subcommittee on Procedure (SSP) have led some to conclude that UMGP procedures are not impartial; thus, its determinations lack acceptability. "Hearings," as opposed to "meetings," characterize the UMGP's operations. Delays in grievance resolution have been long, sometimes damaging the working relationship of the parties to the grievance. Finally, the procedure's organizational structure includes the UGO, SSP, University Grievance Committee (UGC), and 26 College Grievance Committees (CGC), most of which have not been called into service. This structure is overly complex and inefficient.

Figure 1 provides context for this brief summary of UMGP weaknesses. With reference to this figure, two (2) points warrant special notice. First, "hearings" dominate the procedure's formal processes. There are SSP hearings arising out of UGO technical decisions and there are hearings on the merits, including appellate hearings. On the other hand, "meetings" between the grievant and respondent to discuss and resolve their differences are not featured by the procedure. Second, decisions reached by the procedure's hearing panels are not binding on the grievant and respondent, rather they are advisory to the University President.

Tables 1 and 2 provide still further context for this summary. The vast majority of non-referred grievances filed under the UMGP await or have had a hearing of some sort (see Table 1). Table 2 shows that two (2) cases await SSP hearings, while nine (9) have had a SSP hearing [three (3) dismissed cases were dropped after appeals to the President failed, one (1) is being reconsidered by the SSP, and the remaining five (5) await a CGC hearing on the merits]. Other cases were directed straight to a CGC. Among these, six (6) await CGC hearings, while three (3) have had a CGC hearing and these decisions have been appealed to the UGC. Of the 23 cases requiring a hearing between September 1990 and March 1992, only three (3) have been settled. Three (3) other grievances were dismissed on technical grounds. It has taken the SSP process about four (4) months to clarify the technical standing of grievances and it has taken

approximately thirteen (13) months for the CGC process to produce decisions which are now on appeal to the UGC.

Based on the foregoing findings, the Review Committee advances a number of recommendations for consideration by the University community. Ultimately, these recommendations, as modified through wider deliberations, should serve as the foundation upon which to build a revised University of Minnesota Grievance Policy.

### Recommendations

#### 1. Scope and Jurisdiction.

Refine the scope of the procedure to include faculty, professional and administrative staff, civil service staff, and academic student employees. Amend the jurisdiction of the procedure to include only employment-related complaints related to University of Minnesota policies, procedures, rules, regulations, and practices governing employee relations.

The scope would increase by including civil service employees and narrow by excluding non-employed University of Minnesota complainants like parents, students, recruiters and suppliers, to mention a few groups having a "close" relationship to the University. The jurisdiction would focus on employment-related matters. Issues like grades, violation of Federal and State law for which there are no parallel internal policies and whether the alleged violation was "serious" or involved "substantial harm" would not fall in the recommended jurisdiction's domain.

Anyone may make allegations involving student misconduct, academic misconduct, sexual harassment and other forms of prohibited discriminatory practices. These complaints should be referred to the Student Conduct and Conduct Code Coordinator, Science and Scholarly Advisory Board, Sexual Harassment In-take Office and Office of Equal Opportunity and Affirmative Action, respectively, for investigation and remedy. Non-academic student employees should continue to take up grievances under the Student Employment Grievance Procedure. Grievances arising within the jurisdiction of the University of Minnesota Hospital and Clinic should continue to be addressed under the Hospital and Clinic's internal grievance policies. Questions about student admissions, academic standing and grades should be remedied by faculty or academic administration under relevant department or college procedures for reviewing complaints of this sort.

#### 2. Administrative Structure.

(1) The three (3) person SSP, 26 CGCs with their approximately 205 members, and nine (9) person UGC should be eliminated.

(2) The UGO position should be a full-time position. The duties of the position should be amended to exclude responsibility for making technical decisions and include responsibilities for directing complaints to the appropriate forum for relief, facilitating bilateral discussions between the parties and providing voluntary mediation assistance, administering the processing of grievance cases and providing reports and evaluations.

(3) The present UGC should be replaced by a University-wide UGC composed of at least ten (10) individuals drawn from each of the following groups: full-time faculty, P & A staff, and civil service staff, and academic student employees. The purpose of the new UGC is to make available to grievants a set of peers from which the grievant may select a designee to serve on hearing panels.

(4) An Employee Advocate Committee (EAC) should be established consisting of six (6) full-time University employees and one (1) graduate assistant. Two (2) University employees should be appointed by and from each of the following employee groups: Senate Committee on Faculty Affairs, Academic Staff Advisory Committee and Civil Service Committee. The Council of Graduate Students should

appoint the graduate assistant member of the Committee. The EAC has four (4) main functions: (a) to be consulted by the President before he/she appoints a UGO; (b) to assign members to the newly constituted UGC; (c) to establish and provide oversight to the Office of Employee Advocates (OEA); and (d) to review reports prepared by the UGO and OEA.

(5) An Office of Employee Advocates should be established. The OEA staff should initially equal one (1) FTE paid University employee. The purpose of the OEA is to provide employees with advocate assistance once their grievance has advanced beyond Phase I in the recommended procedure.

### 3. Phases of the Grievance Procedure.

The recommended phases and rules that should govern the University's handling of grievances are sketched in Figure 2 and further discussed below.

(1) The grievant shall file a written statement of the grievance within twenty (20) working days of receiving notice of the action being grieved. Within ten (10) working days of receiving this notice, the UGO shall hold an informal Phase I meeting between the parties.

(2) **Phase I. Informal Communications and Mediation.** The UGO shall assist the grievant and University administrator in exchanging information relevant to the grievance and its resolution and, if requested by the parties, the UGO shall mediate the dispute. The Phase I meeting shall be devoted to grievance resolution. By discussing the merits of the grievance, neither party implicitly waives the procedural, substantive or discovery challenges it may have raised. With the parties' consent, the Phase I meeting may be continued over a period of time. Within five (5) working days of the concluding date of the Phase I meeting(s), the University administrator shall submit a written answer to the grievance. Within five (5) working days of receiving this written answer, a dissatisfied grievant may file a written request to advance the grievance to Phase II. The UGO shall hold a Phase II meeting within ten (10) working days of receiving the written request.

(3) **Phase II. Formal Communications and Employee Advocate.** The Phase II meeting shall include the UGO, grievant and the Phase I University administrator's superior. In addition to these three (3), the grievant may invite an employee advocate, legal counsel or any other designee from the University community. The superior may invite the Phase I University administrator to attend; and, if the grievant is an attorney or is represented by legal counsel, the University may choose to be represented by legal counsel. The intent of involving higher University administration in the Phase II meeting is to promote genuine grievance settlement negotiations. The UGO may be asked to mediate. With the parties' consent, the Phase II meeting may be continued over a period of time. Within ten (10) working days of the concluding date of the Phase II meeting(s), the superior University administrator shall submit a written answer to the grievance. Within ten (10) working days of receiving this written answer, a dissatisfied grievant may file a written request to advance the grievance to Phase III. The UGO shall forward a copy of the case's record to the Department of Human Resources. Within thirty (30) working days of receiving the written request to advance the grievance, the UGO shall organize a Phase III hearing.

(4) **Phase III. Tripartite University Panel Hearing.** The Phase III panel shall be chaired by an individual from the Department of Human Resources, trained in conducting hearings. The other two (2) members of the panel shall include an individual designated by the appropriate University Vice President and a peer from the UGC as designated by the grievant. Phase III panel decisions shall be reached by majority rule. The Phase III panel shall hear unresolved technical and grievance issues. Evidence on procedural and substantive issues and on the merits of the grievance may be presented at the same hearing. On those occasions when discovery is an issue, it will be necessary to first hold a separate discovery hearing. Written Phase III decisions on procedural, substantive and merits issues shall be handed down within thirty (30)

working days of the close of the record. All of the Phase III decisions are final and binding on the University and the grievant, except that the grievant may appeal the discovery and merits decisions to Phase IV. Phase III decisions may not award fees and expenses to the parties' advocate representatives, nor may damages other than back pay and benefits be awarded. Within ten (10) working days of receiving the Phase III decision(s), the grievant may submit a written statement of intent to appeal. The UGO shall initiate the Phase IV process within ten (10) working days of receiving the written request to appeal.

(5) **Phase IV. Tripartite Arbitration Panel Hearing.** The Phase IV panel shall be chaired by a non-Minnesota impartial arbitrator/educator who is a member of the National Academy of Arbitrators. The chair shall be jointly selected by the grievant and University. The Phase III panel designee of the grievant and appropriate Vice President shall also serve on the tripartite arbitration panel. If either or both cannot serve or decline to serve, said designee or designees shall be replaced in the manner outlined in Phase III. Further, either side may change their Phase IV designee. Phase IV panel decisions shall be reached by majority rule. When discovery is an issue, it will be necessary to first hold a separate discovery hearing. Written Phase IV decisions on discovery and merits shall be handed down within thirty (30) calendar days of the close of the record. The panel decisions shall be final and binding on the grievant and University. Phase IV decisions may not award fees and expenses to the parties' advocate representatives, nor may damages other than back pay and benefits be awarded. The parties' will share equally in paying the impartial arbitrator's fees and expenses.

#### 4. Impartial Arbitrator's Costs.

Concerns have been raised about employee out-of-pocket costs of taking a case to Phase IV impartial arbitration. The Review Committee recommends that the impartial arbitrator's total expenses and fees be split evenly between the grievant and University administration.

This formula is well established in University rules and collective bargaining agreements. Under civil service rules, personnel not covered by the University of Minnesota and AFSCME Collective Bargaining Agreement must presently share one-half (1/2) of the costs of advancing their grievance to impartial arbitration. For University employees covered by collective bargaining agreements, monthly union dues are used to pay for the grievant's share of impartial arbitrator costs.

Regarding the UMGP, the traditional formula for cost sharing is appealing on three (3) counts: first, the University administration may not advance adverse Phase III decisions to Phase IV's arbitration – only the grievant may; second, fee and expense sharing should limit the number of cases that will be arbitrated – only grievants who feel strongly that their Phase III decisions are unjust will appeal to Phase IV, given the economic disincentive; and third, if only one (1) side paid the arbitrator, the principle of impartiality could be compromised.

Table 3 is a recent compilation of per diem and per case charges assessed by national arbitrators carried on the roster of the Federal Mediation and Conciliation Service. These costs, divided into two (2) equal parts, seem to be reasonable. However, the charges reported in Table 3 probably understate what it would cost to retain the highly qualified Arbitrator recommended. To optimize real and perceived impartiality the arbitrator should be from out of state. This will require travel, say, from Illinois, or Wisconsin. The Arbitrator should also be an educator to ensure he or she is familiar with the academic culture. In addition, the Arbitrator should be a member of the National Academy of Arbitrators, thus maximizing the integrity and acceptability of the decision. Even if the equally divided costs shown in Table 3 were to double, the Review Committee concludes that this is an expected cost worth paying.

#### 5. Concluding Remarks.

The recommended changes to the present UMGP should prompt fair and early resolutions to grievances. Up-front settlement meetings and provision for voluntary mediation assistance are a part of the procedure's recommended structure. To enhance the UGO's effectiveness as a neutral, the UGO would be

removed from making technical decisions. The Senior Vice President would be empowered to ultimately decide whether a complainant is a covered "employee" and whether the complaint should be heard under the UMGP or some other University procedure.

The Review Committee believes that by immediately resolving these issues and delaying final action on all other technical issues (until Phase III and also Phase IV in the case of discovery) should free the parties to address ways to remedy the grievance. Grievants should no longer be frustrated by the inordinate delays caused by first holding hearings on procedural matters and then, if at all, holding hearings on the grievance itself.

Discovery conflicts occur less often than procedural and substantive challenges to grievances. This generalization is consistent with UMGP experience. Thus, discovery aside, by opening the Phase III panel to hearing both technical and grievance issues during the same session, the pace at which grievances are heard and ultimately decided should greatly accelerate. The composition of the Phase III panel should make it relatively easy to schedule hearings. Further, Phase III chairs should know how to proceed with the conduct of the hearing.

Phase III panel decisions are final and binding on the University. This feature should speed-up grievance resolution. Moreover, if the employee loses on a point of discovery while prevailing on the grievance, Phase III would probably end the case. It is anticipated that the vast majority of grievances will be resolved before or at Phase III. Of course, a final Phase IV hearing would be available to grievants, but as a "safety valve." The possibility of a Phase IV hearing should cause the Phase III hearing panel to carefully weigh the evidence and to reach just conclusions. Grievants are not likely to incur the time and expense of appealing Phase III decisions unless their case is very compelling.

Under the proposed structure, both sides will be assured that grievances not settled bilaterally may ultimately be settled by an outside impartial with the authority to issue final and binding awards. Politics or making end-run appeals to the President should become less attractive to both sides since the President is now out of the decision-making loop. Grievances would be judged impartially on their merits. On average this should add incentive to settle early in the process.

## FIGURE 1

### CURRENT UNIVERSITY OF MINNESOTA GRIEVANCE PROCEDURE\*

#### Filing a Grievance

Written grievance filed. University Administrator written answer filed within ten (10) days. UGO makes initial threshold (procedural and substantive) decision to accept, dismiss, or refer the case.

#### SSP Hearing

UGO decisions may be appealed to SSP for a hearing at which point deliberations on the grievance may stop.

#### Pre-hearing Conference

First required meeting between the parties is held to simplify the issues, resolve matters of discovery and attend to questions of procedure relevant to the CGC hearing on the grievance.

#### SSP Hearing

The UGO's discovery decisions may be appealed to the SSP for a hearing at which point deliberations on the grievance may stop.

#### The Hearing

All CGC panel hearings follow the parameters of academic due process. The panels' decisions are advisory and may be appealed.

#### The Appeal

The UGC reviews CGC decisions for the proper application of academic due process and accurate interpretation of University policy. The Committee's decisions are advisory.

#### Finality

Panel decisions which are not implemented may result in a reopening of the case and a UGC request that the President implement the recommendation. The President may request the UGC to review a decision. Ultimately, final decision authority lies with the President. If panel recommendations are not fully implemented, an account of the matter will go on the docket of the University Senate.

\*See University of Minnesota Grievance Policy and Memorandum of Understanding, Effective September 16, 1990. Copies are available at the University Grievance Office, 315 Walter Library.

**TABLE 1**  
**UNIVERSITY OF MINNESOTA GRIEVANCE PROCEDURE**  
**CASES FILED AND DISPOSITION**  
**(SEPTEMBER 1990 - MARCH 1992)**

<u>CASES AND DISPOSITION</u>			<u>FREQUENCY</u>	<u>PERCENT</u>
<b>A. CASES WITHOUT HEARINGS</b>			<b>14</b>	<b>38</b>
	<u>#</u>	<u>%</u>		
(1) Referred	6	43		
(2) Settled/Withdrawn	7	50		
(3) Settlement under discussion	1	7		
Total:	<u>14</u>	<u>100</u>		
<b>B. CASES WITH HEARINGS</b>			<b>23</b>	<b>62</b>
	<u>#</u>	<u>%</u>		
(1) Cases with subcommittee hearing	13	57		
(2) Cases without subcommittee hearing	10	43		
Total:	<u>23</u>	<u>100</u>		
<b>TOTAL NUMBER OF CASES FILED</b>			<u><b>37</b></u>	<u><b>100</b></u>

**TABLE 2**  
**UNIVERSITY OF MINNESOTA GRIEVANCE PROCEDURE**  
**CASES REQUIRING HEARINGS, DISPOSITION AND LAPSED TIME**  
**(SEPTEMBER 1990 - MARCH 1992)**

<u>CASES</u>	<u>LAPSED</u>	<u>%</u>	<u>#</u>	<u>%</u>	<u>MEAN MONTHS FROM DATE CASE FILED</u>
<b>CASES REQUIRING HEARINGS</b>	<b>23</b>	<b>100</b>			
<b>A. CASES WITHOUT SUBCOMMITTEE HEARINGS</b>					
<b>COLLEGE PANELS:</b>	<b>10</b>	<b>43</b>			
<b>(1) Hearings Pending</b>			<b>6</b>	<b>60</b>	<b>9</b>
<b>(2) Cases decided &amp;     appealed to UGC</b>			<b>3</b>	<b>30</b>	<b>13</b>
<b>(3) Cases decided &amp;     closed</b>			<b>1</b>	<b>10</b>	<b>5</b>
<b>B. CASES WITH SUBCOMMITTEE HEARINGS</b>					
<b>SUBCOMMITTEE PANEL:</b>	<b>13</b>	<b>57</b>			
<b>(1) Hearings Pending</b>			<b>2</b>	<b>15</b>	<b>6</b>
<b>(2) Cases settled     before hearing</b>			<b>1</b>	<b>8</b>	<b>6</b>
<b>(3) Cases settled     after hearing</b>			<b>1</b>	<b>8</b>	<b>7</b>
<b>(3) Cases decided</b>			<b>9</b>	<b>69</b>	<b>4</b>
<b>C. SUBCOMMITTEE CASES DECIDED</b>					
<b>(1) Grievant sustained</b>			<b>5</b>	<b>56</b>	<b>4</b>
<b>(a) Pending college         panel hearing</b>			<b>5</b>	<b>—</b>	<b>4</b>
<b>(2) Respondent sustained</b>			<b>4</b>	<b>44</b>	<b>4</b>
<b>(a) Appealed to the         UM President</b>			<b>3</b>		<b>Denied</b>
<b>(b) Reconsideration by         subcommittee</b>			<b>1</b>		<b>Pending</b>

## FIGURE 2

### PROPOSED UNIVERSITY OF MINNESOTA GRIEVANCE PROCEDURE\*

#### Filing a Grievance

Written grievance filed. Threshold issues (procedural, substantive or discovery) are suppressed until the Phase III panel hearing.

#### Phase I Meeting

Informal discussions between the parties and UGO aim at settling dispute. UGO may mediate the dispute. University administrator issues a written answer to the Grievant following the Phase I meeting. Grievant may appeal to Phase II.

#### Phase II Meeting

Formal discussions involving the responding University administrator's supervisor, the respondent (optional), the grievant, the grievant's advocate (optional) and the UGO as facilitator. Discussions focus on settling the grievance. The responding University administrator's supervisor issues a written answer to the grievant following the Phase II meeting. Grievant may appeal to Phase III.

#### Phase III Hearing

A tripartite University panel hears both the threshold and grievance issues. The panel is chaired by a representative from the University's Department of Human Resources. Each party designates a panelist. All panel hearings follow the parameters of academic due process. The panel's decisions are final and binding upon the University. The grievant may appeal the panel's discovery and grievance decisions to Phase IV.

#### Phase IV Hearing

A tripartite Arbitration panel hears only discovery and grievance decisions. The panel is chaired by an impartial educator/arbitrator member of the National Academy of Arbitrators from outside Minnesota and the University. Each party designates a panelist. The tripartite Arbitration panel's decision are final and binding upon all parties.

\* Reference pp. 40 - 46 for a discussion of these phases.

**TABLE 3  
FEDERAL MEDIATION AND CONCILIATION SERVICE  
ARBITRATION STATISTICS  
FISCAL YEAR 1991**

**AVERAGES**

**Average Dollar Amounts (based on all awards):**

Per Diem Rate	\$ 470.95
Fee	\$ 1,747.37
Expenses	\$ 228.45
Total Charge	\$ 1,975.82

**Average Days Duration (based on all awards):**

Hearing Time	1.06
Travel Time	.37
Study Time	2.27
Total Time	3.70

**Average Days Duration (based on sampled awards):**

Between Grievance Filed/Panel Request	112.30
Between Panel Request/Panel Sent	3.94
Between Panel Sent/Appointment	80.67
Between Appointment/Hearing	106.81
Between Panel Request/Award	252.56
Between Hearing/Final Brief	41.64
Between Hearing/Award	80.31

**Panel Averages (based on sampled awards):**

Number Panel Lists Sent to Parties (Total = 750)	1.27
Total Number Award Cases Sampled	586

**UNIVERSITY OF MINNESOTA  
GRIEVANCE POLICY:  
A REPORT AND RECOMMENDATIONS FOR CHANGE**

PREPARED BY

UNIVERSITY OF MINNESOTA GRIEVANCE POLICY REVIEW COMMITTEE

I. INTRODUCTION

This report results from an intensive two and one-half (2 1/2) month review of activities carried out under the University of Minnesota Grievance Policy (hereafter UMGP or procedure). In addition to presenting the results of the activity analysis, this report presents recommendations for changing the procedure.

Part II of the report explains why the review occurred at this time, how the review committee went about its assignment, and it concludes with a general assessment of the procedure's operations and areas where changes may be in order. An evaluation of the UMGP's activities appears in Part III. Lastly, Part IV, contains the Review Committee's recommendations for change.

The conclusions, recommendations and ideas presented in this report should be widely disseminated and discussed within the University community. Once this has occurred, the resulting recommendations should serve as the foundation upon which to build a revised University of Minnesota Grievance Policy.

II. BACKGROUND, PROCESS AND GENERAL ASSESSMENT

A. Background

The University of Minnesota Grievance Policy was approved by the University Senate on April 27, 1989. On February 12, 1990, the Senate Consultative Committee and the President entered into a Memorandum of Understanding which states in relevant part:

2. ... It is the intention that there be [a] thorough review of the operation of the policy after approximately two years has passed, so that any problems or difficulties can be dealt with...

3. No later than January 1, 1992, the President and the Senate Consultative Committee will appoint a committee composed of faculty, students, administrators and professional staff to review the Grievance Policy and recommend changes in the Policy.

On April 6, 1990 the Board of Regents approved the UMGP and the new procedure became effective in September, 1990.

The University Grievance Policy Review Committee (UGPRC or Review Committee) was appointed by Nils Hasselmo, President, and Tom Scott, Chair, Senate Consultative Committee, in a letter dated January 24, 1992, to carry out the charge "...to review...and recommend changes to the Policy."

The following individuals were appointed:

Mario Bognanno, Professor and UGPRC Chair	Industrial Relations Center, Carlson School of Management
Mary Easterling Executive Assistant, HRM	Student Financial Aid Service
Judith Garrard, Professor	School of Public Health
Burle Gengenbach, Professor	College of Agriculture
Harriett Haynes, Sr. Psychologist	University Counseling Services
Jack Imholte, Professor	University of Minnesota, Morris
Rosemarie Park, Associate Professor	College of Education
Esther Reese, Student <sup>1</sup>	College of Liberal Arts
David Ward, Professor <sup>1</sup>	College of Liberal Arts

---

<sup>1</sup> Members Reese and Ward participated in the Review Committee's first meeting. However, prior commitments prevented them from participating in subsequent meeting.

The UGPRC's legal counsel was Julie Sweitzer, University Attorney's Office, and staff support was provided by Emily Page, Office of Academic Affairs, and Tom Duenow, graduate student in Industrial Relations.

The letter from Messrs. Hasselmo and Scott charged the UGPRC with the task of reviewing "...the effectiveness of the new University Grievance Policy in resolving grievance matters." Specifically, their letter raised the following questions:

1. What are the major strengths and weaknesses of the policy?
2. To what extent is the policy compatible, or in conflict, with other University grievance mechanisms?
3. Is the jurisdictional scope of the policy appropriate?
4. Does the policy provide for effective resolution of procedural matters?
5. To what extent might more collegial and informal procedures be implemented?
6. How might the policy be streamlined and procedures simplified?
7. Should the role of the grievance officer or committees be changed?

**B. Process**

The Review Committee worked intensively to meet its charge which included delivering this report in April 1992. Twelve (12) lengthy meetings of the Review Committee were held on each of the following dates:

February 17, 1992	March 24, 1992
February 27, 1992	March 30, 1992
March 12, 1992	April 6, 1992
March 17, 1992	April 14, 1992
March 19, 1992	April 21, 1992
March 23, 1992	April 30, 1992

Time was spent reviewing files maintained at the University Grievance Office. For purposes of security and confidentiality, only Mr. Bognanno and Ms. Sweitzer surveyed the activity carried out under the current procedure. Summaries of grievance case files were prepared, distributed and discussed by all UGPRC members. The members also considered data and comments provided by other University units charged with either (1) investigating allegations made against individuals in the University community, or (2) managing University grievance procedures other than the UMGP. The following individuals and units provided the UGPRC with requested data, documents and assessments:

**University Grievance Procedure**

Fred Morrison, Chair, University Grievance Committee  
Chair, Standing Subcommittee on Procedures  
Acting University Grievance Officer

Anne D. Pick, Vice Chair  
University Grievance Committee

Charlotte Striebel  
Former University Grievance Officer

**PA Rules of Procedure**

David Aronson, Chair  
Academic Staff Advisory Committee  
Director, Student Life  
University of Minnesota, Morris

**Graduate Assistants' Grievance Procedure**

Margaret Brissenden, Coordinator  
Graduate Assistant Office

**Civil Service Rules**

John Erickson, Assistant Director  
University Personnel Department

**Equal Opportunity and Affirmative Action**

Patricia Mullen, Director  
Office of Equal Opportunity and Affirmative Action

**Student Employment Rules**

Susan Treinen, Director  
Student Employment Center

**Procedures for Sexual Harassment**

Anne Truax  
Office of Equal Opportunity and Affirmative Action

**Faculty/Academic Staff Advocacy and Grievance Advisory Program**  
Maureen Venters  
Academic Staff Advisory Officer

Finally, several individuals from the University community communicated with the UGPRC (e.g., Betty Hackett, Director, Senate Judicial Affairs) via specific members, while others sent unsolicited letters and still others either requested or were invited to appear before the UGPRC to present statements of fact and opinion. Among this latter group were the following individuals:

Clarence Carter, Chair  
CLA Grievance Committee

Fred Morrison

Anne D. Pick

Mike Steffes, Member  
University Grievance Committee

Charlotte Striebel

Maureen Venters

**C. General Assessment**

Perhaps the most responsive way to present the Review Committee's general assessment of the current procedure's operations is in the form of answers to the seven (7) questions in the President's original charge.

**1. What are the major strengths and weaknesses of the policy?**

Strengths. The Review Committee concludes that the UMGP has a number of strengths. These are: (1) the UMGP provides an internal procedure for resolving grievances at the University; (2) the procedure rightly provides for time limits governing the pace at which grievances are processed; (3) due process rules regulate the conduct of hearings; and (4) impartial hearing panels are comprised of peers.

Another strength is the identification of a single University Grievance Officer (UGO). This identification has simplified the University communities' understanding of who the UGO is and with whom grievances should be filed.

The UGO has successfully fulfilled the triage function of referring individuals when their complaints should be heard by another University procedure. Between September 1990 and March 1992 approximately 16 percent of grievances filed with the UGO were referred to another investigatory or grievance procedure within the University.

The UMGP has positively demonstrated that it is possible to review complaints filed by individuals from different University groups within a single procedure. During the time period mentioned above, the group and corresponding proportion of grievances filed by each were as follows:

Faculty	- 51 percent
Student	- 30 percent
P & A	- 14 percent
Civil Service	- 5 percent (the current procedure specifically excludes civil service employees).

Weaknesses. The Review Committee concludes that the UMGP has numerous weaknesses. These weaknesses are as follows.

(1) The procedure emphasizes formal grievance "hearings" over informal grievance "meetings." Less than 15 percent of grievances under the jurisdiction of the UMGP were actually settled without a hearing via face-to-face meetings and/or with the aid of mediation. In the remaining cases, the parties' positions hardened early unleashing a quasi-legal and adversary process. This process at its most complex may involve the following steps: (a) an initial procedural/substantive/discovery ("threshold") decision(s) by the UGO; (b) an appeal to a Standing Subcommittee on Procedure (SSP) which hears appeals of the UGO's threshold decisions; (c) a pre-grievance hearing and discovery conference between the parties; (d) a hearing by a College Grievance Committee (CGC) panel which hears grievance cases; (e) a hearing by a University Grievance Committee (UGC) which hears appeals of CGC panel decisions; and (f) finally, a decision by the

University President who ultimately decides appeals of the appellate threshold and substantive decisions made by the SSP and UGC, respectively.

(2) Most of the grievances under the jurisdiction of the UMGP are being processed through a sequence of hearings, involving unreasonably long delays and the time of many individuals. Only one (1) case was closed following its first (CGC panel) hearing and only one (1) case was settled immediately after being heard (by the SSP). Among the remaining twelve (12) cases that had a first hearing, those involving SSP hearings were either appealed to the President or they have CGC panel hearings pending, and those involving CGC hearings have UGC appellate hearings pending.

Between September 1990 and March 1992 not a single case has exhausted all of the procedure's potential for appeal. Of the four (4) cases decided by CGC panels, three (3) await UGC hearings. An average of thirteen (13) months has elapsed since these grievances were initially filed. It took about four (4) months to get out SSP decisions for another five (5) cases involving threshold questions. These cases are waiting for CGC panel hearings. If these cases proceed no faster than have cases not involving threshold delays, they may be about a year and one-half old before reaching the UGC hearing stage.

The Review Committee concludes that the current procedure lacks any requirement that the parties must hold a meeting focused on dispute resolution. The tendency to move immediately into a "hearing" mode is too confrontational. Grievances become harder to settle and the nature of the process has the potential of forever souring interpersonal relationships. It is important to keep in mind that the parties to a grievance must often work side-by-side on a daily basis. Consequently, their differences demand speedy resolution.

(3) Given the central role played by hearings in the current procedure, the fact that most panel chairs are not trained to conduct administrative hearings is cause for some concern. Further, neither the chair nor the other panelists are necessarily impartial third parties. As University employees, the panelists' interests are not completely divorced from those of the University administration. Procedural fairness has been questioned because of these limitations of the procedure.

Finality is lacking because panel decisions are "advisory" and not "binding" on the University administration. This aspect of the procedure may create a disincentive to settle early-on. Most cases are appealed up the ladder, end-runs to the President and Board of Regents have occurred and the procedure is open to politics. The absence of final and binding impartial, third party decision making does little to add to the perception that the procedure is fair and just.

(4) The UMGP was neither designed nor intended to handle challenges to faculty decisions concerning student admissions to programs, academic standing, performance, cheating and related issues. Individual course grades were not to be reviewed under the UMGP, although college policies governing courses and grading and their administration arguably may be challenged and are reviewable.

Academic issues involving students were exempted from the UMGP in favor of relevant departmental and college committees designed to handle the merits of academic questions. However, confusion still exists. Three (3) cases involving student admission and academic standing issues have been heard. Of these cases, one (1) settled following the hearing, one (1) is being appealed and one (1) was lost by the grievant and the matter ended. Two (2) other cases have CGC hearings pending.

The Review Committee concluded that the limited avenue through which grade-related issues may be brought to the UMGP has been difficult to communicate and is easily misunderstood. One (1) grade grievance filed by a student was denied by the SSP on jurisdictional grounds leaving behind bitter feelings; and another was settled with the aid of the Office of Equal Opportunity and Affirmative Action (EO & AA).

Three (3) other grievances were filed by students, one (1) soon settled and the other two (2) which involve employment-related issues remain under consideration. Opening the current procedure to both employment-related and academic- or student-related complaints is a weakness of the procedure. These two (2) classes of complaints are fundamentally different, requiring different regimes for grievance resolution.

(5) The procedure inadvertently compromises the perceived neutrality of the UGO and it does not make provision for an University based Employee Advocate service. The former weakness stems from the UGO's conflicting responsibilities as a neutral facilitator of grievance resolutions and first-level judge of critical threshold challenges to grievances. Some of the UGO's threshold decisions have been the subject

of controversy involving the SSP. Following the resolution of a contested threshold dispute in which the UGO has taken a decisional position, it is not surprising that the losing side in that contest might have difficulty viewing the UGO as a neutral once attention returns to that of grievance resolution discussions. The UGO's dual role and the current procedure's proclivity to focus on threshold disputes rather than the merits of the grievance are important concerns.

The Review Committee decided an amended UMGP might relieve the UGO of decisional authority over threshold issues. Further, it might restructure the position such that the UGO would no longer be asked to perform advocate-like tasks such as providing grievants with case counseling. Amendments along these lines would make clear the need for an independent Employee Advocate service.

2. To what extent is the policy compatible or in conflict with other University grievance mechanisms?

The UMGP was originally established to provide a remedy for all complaints not within the domain of another grievance mechanism. This broad charter has functioned reasonably well. However, problems still remain.

(1) The procedure does not clearly differentiate between the University's many "investigation" policies, and its variety of "grievance" policies. Investigation policies are in place to investigate allegations such as academic misconduct, prohibited forms of discrimination, sexual harassment and student misconduct. Investigations into the truth of these allegations normally precedes disciplinary action by University administrators. When an investigation produces a guilty finding, the University administrator takes remedial steps which may include disciplining the investigation's respondent. Subsequently, the respondent may grieve the guilty finding and the discipline under the appropriate grievance policy and could now become a complainant or grievant.

(2) The current UMGP covers the complaints of academic student employees. Suppose a T.A. is charged with sexual harassment. Given the foregoing, this allegation should be investigated and remedied under the University's Sexual Harassment Policy. In the event that the T.A. is found guilty and disciplined for sexual harassment, the T.A. may challenge this finding and discipline under the UMGP. However, in the

case of academic student employees, a problem of dual jurisdiction exists between the UMGP and the Sexual Harassment Board. The University's Sexual Harassment Policy, Section II D., authorizes the Sexual Harassment Board to:

...hear appeals by student respondents against whom complaints have been filed regarding their actions in an instructional capacity (as teaching assistants, research assistants, etc.), if administrative action has already been taken. (Emphasis added).

These appeals rightly belong to the grievance procedure as in the case with faculty, P & A staff and other students. Further, Section III B. in the Sexual Harassment Policy needs to be brought into conformity with relevant aspects of the UMGP, and the rules of the Senate Judicial Committee and Academic Staff Advisory Committee.

(3) Another area needing attention is Section 15.1 in the University of Minnesota's Regulations Concerning Faculty Tenure. It states in relevant part:

Cases arising under Sections 7, 8, 10, or 11 may be brought directly to the Judicial Committee. In other cases the faculty member must exhaust all other available University remedies before bringing the case to the Judicial Committee; the Judicial Committee will not proceed with such a case until the appropriate University body has either decided it or has refused to consider it.

Currently cases involving the removal or suspension of a faculty member or denial of tenure, arising under Sections 7, 8, 10 or 11, and cases involving promotion do not fall within the domain of the UMGP. However, a host of other cases do. The problem then becomes one of deciding whether decisions made under a grievance procedure can be final, or if the Judicial Committee may also take up the matter. Inter-policy conformity is needed.

### 3. Is the jurisdictional scope of the policy appropriate?

Substantive jurisdiction under the UMGP is problematic.

(1) There is little agreement on what constitutes a non-grievable "discretionary decision," particularly with respect to student grades and faculty salaries. The current UMGP does not permit a review of the "exercise of discretion," but judging precisely what this means has led to strongly held differences of opinion between the UGO and the SSP. New language needs to be drafted to clarify intent in this area because, at a minimum, these differences have limited the UMGP's effectiveness.

(2) Practically any complaint under the sun may be addressed under the current procedure, necessitating limiting provisions that the UGO may block grievances that are frivolous, not "serious" and that do not involve "substantial harm." These can be difficult judgements to make. One way to limit substantive jurisdiction disputes is to narrow the definition of a grievance, giving sharper focus to the purpose of the procedure.

(3) Complaints from (non-union) civil service employees are excluded from the present procedure. Whether this and other exclusions should continue is an issue discussed later in this report.

(4) Allegations of illegal discrimination, even physical assault, have been brought to the UGO. These complainants were referred to the Office of Student Affairs or EO & AA, which have investigation and remedial authority over them. However, what about complaints that also alleged a collateral charge? For example, cases where illegal discrimination is linked with complaints of being passed over for a permanent P & A position, denied admission into Graduate School, accusations of plagiarism, being misgraded and so forth. Some cases like these have been processed under the UMGP. The ultimate concern is whether this practice should be continued.

The Review Committee concludes that allegations of prohibited discrimination should be investigated and remedied by procedures specifically designed for this job. To attach a collateral charge to a discrimination claim should not convert the complaint to a grievance under the UMGP. In general, collateral allegations are integral to discrimination charges.

4. Does the policy provide for an effective resolution of procedural matters?

Answers to questions 1 and 3 above suggest that this question must be answered in the negative. The UGO and SSP have been in a tug-of-war over procedural, substantive and discovery differences. This is perhaps the single most visible aspect of the procedure's operating weakness. The more overarching problem the procedure creates is that the merits of complainants' grievances are put on the back burner while procedural challenges are being sorted out.

The Review Committee concludes that even a complaint that is not technically grievable -- having been challenged on say timeliness or jurisdiction grounds -- nevertheless warrants attention. It is good management practice to see to it that all complaints are discussed. Unlike ships passing in the night, the parties to University complaints are in daily contact with one another and often must work together. Thus, consideration of their differences should not be put on the back burner awaiting the resolution of procedural squabbles or totally ignored if the complaint is thrown out on procedural grounds. To protect the integrity of the UMGP and legitimate University prerogatives, non-grievances ultimately may correctly have to be set aside. However, at least initially, whenever non-grievance problems divide University personnel, they should be discussed and hopefully resolved before they are dismissed for technical reasons.

5. To what extent might more collegial and informal procedures be implemented?

The current UMGP encourages collegial and informal resolution of grievances, but it does not provide the structure and administrative "push" that a UGO might otherwise give to such a resolution strategy. Indeed, participation in informal discussions is not a prerequisite under the procedure. In the event the parties do engage in informal discussion, this may not be a basis for extending the time limits under the procedure.

Once a formal grievance is filed, the UMGP opens into a semi-judicial process featuring "hearings," rather than informal meetings. The current procedure states that the UGO "may" try to bring the parties together, even to encourage mediation, but such a meeting is not mandated. It may be helpful to present a general outline of the current procedure's operating phases (refer to Figure 1):

(1) Within thirty (30) calendar days after the grievant becomes aware of the challenged action, the grievant must file a written statement of the grievance with the UGO.

(2) After receiving a copy of the written grievance, the designated University administrator is to reply in writing within ten (10) working days.

(3) Procedural and substantive motions are initially ruled on by the UGO and, on appeal, heard by the SSP whose decisions are final (though they have been appealed and answered by the President).

(4) A pre-hearing conference is called at which the issue in dispute is clarified, questions of discovery are answered, witness lists are exchanged, and protocol for the subsequent CGC panel hearing is reviewed. Challenges to the UGO's decisions relating to discovery are appealed to the SSP for final disposition.

(5) There are 26 CGCs at the University. Rather than the parties themselves, it is the chair of the appropriate CGC who designates a panel of three (3) individuals who will hear the case. The chairs of these panels are University delegates holding positions in other colleges. Consequently, under the current procedure, the parties may challenge the panel's composition. Next, the appropriate CGC panel holds a hearing -- opening statements are made, exhibits are submitted, witnesses are examined and cross-examined, closing summations are put into the record and, ultimately, a written decision is handed down.

(6) The CGC panel's decision may be appealed to the UGC which consists of at least nine (9) members. The UGC hears the appeal and delivers a written decision.

(7) The decisions of hearing panels are final recommendations only. The parties to the dispute may ask that the matter be forwarded to the President for final administrative action.

The effectiveness of the current procedure's language governing the informal resolution of grievances may vary with the tastes of any given UGO. Nevertheless, more collegial and informal procedures can be implemented. Currently, subsequent to the filing of a grievance, the respondent is required to reply to the complaint in writing. To require a written response before the parties have had a chance to meet to talk about their differences may tend to harden their divergent positions. This can be particularly problematic in cases where the parties first face off at a threshold hearing aimed at abrogating the grievance before they

have actually sat down to discuss the problem. The first time the current procedure requires the grievant and appropriate University administrator to meet is during the pre-hearing conference. Critically, however, the object of that meeting is to prepare for the upcoming hearing and not to work on a resolution of the grievance.

The forgoing suggests a need for early-on grievance resolution meetings. It also suggests that threshold procedural, substantive and discovery disputes should not detract from the need to address and resolve grievances. A powerful incentive to get the parties to discuss and settle their disputes early and informally is knowing that if they fail to settle, a trained outside impartial arbitrator will have the binding authority to settle the matter for them.

6. How might the policy be streamlined and the procedures simplified?

The UMGP can be streamlined and simplified by following the recommendations listed below and partly sketched in Figure 2:

(1) Grievances should be limited to employment-related complaints filed by specifically designated groups of University employees.

(2) The system of 26 CGC and the UGC should be replaced by a single and new University Grievance Committee comprised of an appropriate number of faculty, P & A staff, civil service staff and academic student employee representatives. The new UGC should provide grievants with a pool of named peers from which they may select the grievant's panelist to sit on the new tripartite Phase III and IV hearing panels discussed below.

(3) The UGO's job should be converted from that of a case administrator and administrative law judge to that of a case administrator and grievance resolution facilitator. An Employee Advocate service should be established to provide grievants with the grievance-related assistance they may require.

(4) The Senior Vice President for Academic Affairs should be authorized to make final decisions regarding challenges to the UGO's threshold assessment of the (a) grievants' employment status and (b) proper forum in which the complaint ought to be heard.

(5) The SSP should be dissolved. Final authority should be delegated over all remaining procedural and substantive challenges to the tripartite Phase III hearing panel. Discovery challenges initially would be ruled on at Phase III, but the grievant may appeal the Phase III's discovery decisions to Phase IV for final resolution.

(6) Two (2) pre-hearing "meeting" phases -- Phases I and II -- should be part of the new procedure, each devoted solely to grievance resolution discussions and mediation. Phase I discussions should involve the grievant, responding University administrator and UGO. Phase II discussions should also include a supervisor of the responding University administrator and it may further include advocate representatives. Threshold challenges should be permitted under the new procedure, but they should not be addressed until the later phases of the new procedure.

(7) Two (2) tripartite "hearing" phases -- Phases III and IV should be established. The chairs in both phases should be individuals having expertise in conducting administrative hearings and who are familiar with academic administration and institutions. The Phase III chairs should be from the University Department of Human Resources (which is the Review Committee's name for the organization formed from the planned merger of the Civil Service personnel and Academic Personnel offices). The Phase IV chairs should be selected jointly by the parties from lists of educators who are also outside impartial arbitrators holding membership in the National Academy of Arbitrators.

The grievant and the Academic administration should each have a representative on the Phase III and Phase IV panels. The grievant's representative should be selected from peers who are members of the new UGC. The Academic administration's representatives should be selected by the Vice President in whose domain the grievance arises.

All Phase III panel hearing decisions -- whether procedural or on the merits of the grievance -- should be final and binding on the University administration. Whereas, grievants may appeal Phase III decisions to a Phase IV panel hearing for final and binding resolution.

## FIGURE 1

### CURRENT UNIVERSITY OF MINNESOTA GRIEVANCE PROCEDURE\*

#### Filing a Grievance

Written grievance filed. University Administrator written answer filed within ten (10) days. UGO makes initial threshold (procedural and substantive) decision to accept, dismiss, or refer the case.

#### SSP Hearing

UGO decisions may be appealed to SSP for a hearing at which point deliberations on the grievance may stop.

#### Pre-hearing Conference

First required meeting between the parties is held to simplify the issues, resolve matters of discovery and attend to questions of procedure relevant to the CGC hearing on the grievance.

#### SSP Hearing

The UGO's discovery decisions may be appealed to the SSP for a hearing at which point deliberations on the grievance may stop.

#### The Hearing

All CGC panel hearings follow the parameters of academic due process. The panels' decisions are advisory and may be appealed.

#### The Appeal

The UGC reviews CGC decisions for the proper application of academic due process and accurate interpretation of University policy. The Committee's decisions are advisory.

#### Finality

Panel decisions which are not implemented may result in a reopening of the case and a UGC request that the President implement the recommendation. The President may request the UGC to review a decision. Ultimately, final decision authority lies with the President. If panel recommendations are not fully implemented, an account of the matter will go on the docket of the University Senate.

\*See University of Minnesota Grievance Policy and Memorandum of Understanding, Effective September 16, 1990. Copies are available at the University Grievance Office, 315 Walter Library.

## FIGURE 2

### PROPOSED UNIVERSITY OF MINNESOTA GRIEVANCE PROCEDURE\*

#### Filing a Grievance

Written grievance filed. Threshold issues (procedural, substantive or discovery) are suppressed until the Phase III panel hearing.

#### Phase I Meeting

Informal discussions between the parties and UGO aim at settling dispute. UGO may mediate the dispute. University administrator issues a written answer to the Grievant following the Phase I meeting. Grievant may appeal to Phase II.

#### Phase II Meeting

Formal discussions involving the responding University administrator's supervisor, the respondent (optional), the grievant, the grievant's advocate (optional) and the UGO as facilitator. Discussions focus on settling the grievance. The responding University administrator's supervisor issues a written answer to the grievant following the Phase II meeting. Grievant may appeal to Phase III.

#### Phase III Hearing

A tripartite University panel hears both the threshold and grievance issues. The panel is chaired by a representative from the University's Department of Human Resources. Each party designates a panelist. All panel hearings follow the parameters of academic due process. The panel's decisions are final and binding upon the University. The grievant may appeal the panel's discovery and grievance decisions to Phase IV.

#### Phase IV Hearing

A tripartite Arbitration panel hears only discovery and grievance decisions. The panel is chaired by an impartial educator/arbitrator member of the National Academy of Arbitrators from outside Minnesota and the University. Each party designates a panelist. The tripartite Arbitration panel's decision are final and binding upon all parties.

\* Reference pp. 40 - 46 for a discussion of these phases.

7. Should the role of the Grievance Officer or committees be changed?

(1) The position of the UGO should be made full-time. The role of the UGO should also be changed. The UGO's major tasks should include referring complainants to the procedure designed to remedy their complaint; facilitating grievance settlement through direct negotiations between the parties and, when accepted, through mediated negotiations; and administering or managing the processing of all grievance cases.

(2) The SSP should be eliminated. The SSP's functions should be delegated to Phase III and Phase IV panels. The fact that procedural challenges have been raised and will be heard in Phase III and Phase IV should neither delay nor interfere with Phase I and II grievance settlement discussions.

(3) The 26 CGCs involving approximately 205 individuals ought to be dissolved, along with the UGC. A new UGC should be constituted, providing grievants the peers who may serve as their designees on Phase III and Phase IV panel hearings.

(4) An Employee Advocate service should be established.

### III. EVALUATION OF THE CURRENT GRIEVANCE PROCEDURE

#### A. Coverage

1. University Employees, Students, and Others. The UMGP is currently open to (a) University employees, (b) students, and (c) others having a "close relationship to the University." However, these individuals are prevented from filing certain classes of grievances. These exclusions include grievance cases:

(1) arising under Sections 7, 8, 10 and 11 of the Regulations Concerning Faculty Tenure which are considered by the Judicial Committee;

(2) involving the removal, suspension or denial of continuous appointment of P & A staff which are considered by the Academic Professional and Administrative Staff Advisory Committee;

(3) involving student misconduct which are considered by the Student Conduct and Conduct Code Coordinator;

(4) arising under the Civil Service Rules which are handled under the Civil Service Grievance Procedure;

(5) involving non-academic student employees which are considered under the Student Employment Grievance Procedure;

(6) involving grievances that may be handled under a collective bargaining agreement; and

(7) involving student academic standing, performance and grades per se that fall under the jurisdiction of appropriate department or college academic procedures.

In addition to grievance cases falling into these seven (7) categories, other classes of grievances are either explicitly or implicitly excluded from the UMGP. These include allegations of sexual harassment, other forms of prohibited discrimination and charges of academic misconduct. These charges are reviewed and remedied under procedures initially handled by the Sexual Harassment In-take Office, EO & AA, and by the Science and Scholarly Advisory Board (which is a new board currently under consideration by the University community), respectively.

Further, the UMGP does not reference grievances arising within the jurisdiction of the University of Minnesota Hospital and Clinic. Apparently the practice has been to address these grievances under the Hospital and Clinic's internal grievance policies. Lastly, the UMGP provides only limited review of discretionary decisions.

## 2. Evaluation of the UMGP's Coverage.

(1) Employees, Students and Others. The UMGP attempts to serve many different constituencies (employees, students and others) which has led to ineffectiveness. To manage this the procedure limits the types of acceptable grievances. Thus, determining the proper forum with jurisdiction over a given complaint can be confusing. Grievance cases involving matters of student academic standing, performance or grades have been contested and on occasion the students involved have left the procedure angry and frustrated.

Others have questioned the wisdom of processing complaints involving individuals "close" to the University through a grievance procedure rather than passing them directly to University administration for consideration.

Issues raised by students have been complex. Consider, for example, a gender discrimination allegation that also challenges a grade. Technically, the latter challenge is not subject to review by the UMGP (except that perhaps the policies of the college in which the course was offered), and the former allegation falls under the purview of EO & AA. Nevertheless, analogous complaints have been filed and, not surprisingly, have been challenged on jurisdictional grounds. Drawing clear jurisdictional lines that are easily understood and accepted can be an almost impossible job.

Apparently the UMGP intended that student complaints over admission decisions, academic standing, grades and cheating should be reviewed and resolved by the appropriate department, college, campus or University standing committee (e.g., Student Conduct and Conduct Code Coordinator -- Campus Committee on Student Behavior).

The non-employment related grievances students raise seem generally academic in nature, requiring faculty or academic unit consideration. Thus, to include them in this procedure would incorrectly make them subjects for negotiations which is an important part of any grievance resolution procedure. As one spokesperson queried when discussing this issue with the Review Committee: "How can a three member committee set someone's (salary or) grade? We cannot do it. It's the academic responsibility of a faculty or department."

Perhaps the constituent groups who should be covered by the procedure should be narrowed. This adjustment would narrow the procedure's focus and clarify the types of issues that may be grieved under it. One strategy is to narrow coverage to employees (up to but not including the level of Vice President), excluding students, other than academic student employees, and individuals with a "close" relationship to the University.

Under this strategy, six (6) of the student-related grievances filed between September 1990 and March 1992 would have been immediately routed to some other procedure. Regarding individuals with a

"close" relationship to the University, only two (2) grievances have been filed through March 1992: one (1) was filed by an applicant for admission into a University program and the other was filed by an individual having a "clinical" relationship with the University.

(2) Employee Groups Covered by UMGP.

(a) Non-academic Student Employees. The employment-related grievances of non-academic student employees are currently processed under the Student Employment Grievance Procedure (SEGP). The Director of Student Employment reports that this process is working well.

(i) The SEGP Procedure. The SEGP provides non-academic student employees with a three-step grievance procedure. Step-one is an informal meeting between the aggrieved student and/or a designated representative (usually from the Student Advocate Service) and the appropriate supervisor.

The step-two meeting is between the aggrieved student and/or a designated representative, the supervisor at the next management level, and a representative from the Student Employment Center. The Student Employment Center representative chairs the meeting and may offer mediation services.

The Student Employment Center representative chairs a panel of three (3) at step-three. The other panelists are the appropriate unit Vice President or a designee and a University person selected by the grieving student. The panel conducts a hearing and a written decision is issued. The decision of the panel is binding on the parties.

(ii) Review of Cases Decided Under the SEGP. During FY 1989, 1990 and 1991 a total of 29 step-two grievances were filed: four (14%) were denied access to the SEGP on procedural or substantive grounds; twenty (69%) were settled before, during or after the step-two meeting; and three (10%) were decided by a step-three panel -- students winning two (2) and a department winning one (1); and finally, two (7%) grievances are being processed. Step-two resolutions average eight (8) calendar days from the date of filing to the date of resolution; whereas, step-three decisions average 23 calendar days from the date of filing to the date of the decision.

(iii) Conclusion. The SEGP is a *simple* three-step procedure, resulting in *prompt* resolutions to grievances -- most step-two grievances are resolved in around eight (8) days. The SEGP is *efficiently*

administered, drawing mainly on the resources of the principles rather than entangling a host of other individuals in the controversy. Lastly, the SEGP appears to meet the criteria for *justice* and *finality*. Only 10% of the reviewed cases were decided at step-three, suggesting that the threat of binding decisions at this step motivates pre step-three resolutions. Moreover, students prevailed 2:1 in these decisions. Finally, the Review Committee has not heard this procedure criticized on grounds of fairness. As one knowledgeable individual cautioned: "Don't disturb successful situations." Employed non-academic students probably should continue to be exempted from the UMGP.

(b) Academic Student Employees. The employment-related grievances of academic student employees are currently processed under the UMGP.

Clarifying the distinction between employment-related grievances and academic-related complaints - as discussed earlier -- may make the Graduate Assistants' Office's job easier. Referring graduate students with academic complaints to the correct venue should be less taxing.

Finally, in response to concerns raised by the Graduate Assistants Office, the proposed revisions to the UMGP (as subsequently discussed) should be less threatening to academic student employees. It is more informal and fair. Academic student employees probably should continue to be covered by the UMGP.

(c) Civil Service Employees. Civil service employees are not covered by the current UMGP. The Civil Service (CS) Rules contain a grievance procedure.

(i) Current Civil Service Grievance Procedure. The CS grievance is a four-step procedure.

Step-one is informal involving only the supervisor and grievant.

The step-two meeting is administered and chaired by a designee from the Personnel Department. Also present are the grievant and/or a representative and the charged supervisor's superior and, at the latter's request, the supervisor. The Personnel Department representative facilitates grievance resolution and is specifically authorized to mediate the grievance.

The step-three meeting is administered by the Personnel Department. This meeting involves a hearing conducted by a Grievance Review Board comprised of the appropriate unit Vice President or designee, a representative of the grievant and the Director of Personnel or designee who chairs the hearing.

The Board's decisions are written and binding on the University. Dissatisfied -- non-union -- civil service employees, however, may move their grievances (except those based on discrimination) to a step-four hearings before a single impartial (non-academic) arbitrator. Arbitrators' decisions are written and final and binding on the parties. Arbitrator expenses and fees are split equally between the University and the appealing civil service employee.

(ii) Review of Cases Decided Under the Civil Service Grievance Procedure. In calendar 1991, 46 civil service step-two grievances were filed -- nearly half involving cases of discipline or discharge. All 46 grievances were resolved at step-two or decided by a step-three Board. Not a single 1991 grievance went to arbitration. A review of 32 of the 46 grievances filed suggests that from time of filing to a step-two resolution averages approximately 46 days and to a step-three decision approximately ninety (90) days.

(iii) Conclusions. The criteria of *simplicity, speed, efficiency, justice* and *finality* are apparently being met. A step-four hearing before an impartial outside arbitrator is available, but step-four is seldomly used (from zero (0) to three (3) times a year). Under the CS grievance procedure only civil service employees may appeal cases to arbitration. However, they face an economic disincentive to frivolously exercise this option. Nevertheless, when believing that a step-three decision is unjust, civil service employees may have their grievances judged by an impartial arbitrator. Approximately 41 percent of step-two grievances were settled at that step, within approximately 46 days. The threat of proceeding beyond step-two appears to be enough encouragement for the parties to settle at step-two. Justice is swift. At step-three, justice is relatively quick and usually final. All panel members sitting on the step-three Board are well aware of the fact that the Board's decision may be open to arbitral review. Thus, the merits of the grieving employee's case, and not whim or politics are controlling under the CS grievance procedure. Moreover, there should be less incentive for grievants to undercut the grievance procedure with political end-runs to upper level University administrators, members of the Board of Regents or others, because the procedure appears to be fair and its decisions are final.

The CS grievance procedure is working well. However, there are persuasive reasons for merging it with the UMGP. First, many of the central elements in the recommended revisions to the current procedure

are derived from the CS procedure. Therefore, merger will not reduce the grievance process benefits currently enjoyed by civil service employees.

Second, merger is recommended for reasons of efficiency. Unlike non-academic student employees, neither academic nor civil service employees have access to an Employee Advocate resource. Further, civil service employees cannot avail themselves of the services of the University Grievance Officer (UGO). The costs of establishing an Employee Advocate resource -- which is later recommended -- could be spread over more employees if both groups had access to it. Moreover, establishing one (1) employee grievance procedure would further spread UGO overhead, centralize record keeping and it is consistent with the planned merger of the civil service personnel and academic personnel offices into a Department of Human Resources.

Third, a single grievance procedure available to the academic and civil service staffs would eliminate employee confusion resulting from having multiple procedures.

(d) The University of Minnesota Hospital and Clinic Employees. Currently, the Hospital and Clinic employees have an autonomous personnel system, including various due process procedures and by-laws set up for its different internal constituencies. The Office of the Hospital Attorney recommended continuing to exclude the Hospital and Clinic from the UMGP. Time constraint prevented the Review Committee from inquiring further into this matter.

(e) Employees Covered by Collective Bargaining Agreements; Complaints Currently Brought Before the Judicial Committee, Academic Professional and Administration Staff Advisory Committee; Allegations Regarding Sexual Harassment, Other Forms of Prohibited Discrimination and Academic Misconduct. The referenced employees and issues are currently not covered by the UMGP. Following lengthy discussions about these areas, the Review Committee ultimately favored maintenance of the status quo rather than recommending changes in these areas. As a housekeeping matter, however, the revised UMGP should make it clear that, as with allegations of sexual harassment, allegations of EO & AA violations and academic misconduct should be processed under the University procedure designed to handle such cases. However, it should be equally clear, that in the event an employee covered by the UMGP procedure is found guilty

and disciplined for such allegations, said employee may then grieve under the UMGP or applicable Judicial Committee or P & A Staff Advisory Committee procedures.

## B. Definition of a "Grievance"

1. Current Definition of a Grievance. The UMGP presently defines a grievance as a "serious" violation of University rules, regulations, policies, established practices, or violations of "state or federal law," and said violation must involve "substantial harm." Further, the UMGP permits University administrators to file grievances alleging violations of University policies.

### 2. Evaluation of UMGP Definition of a Grievance.

(1) Serious Violation/Substantial Harm. The current definition of a grievance requires that the UGO must make judgement calls regarding the seriousness of a charge and the degree of harm sustained by the covered employee. What a grievant may believe is serious or harmful, the UGO may not. Grievances dismissed on the grounds of seriousness or harmfulness causes the grievant to feel twice injured.

The intent of the "serious" and "substantial harm" terms is to limit the number of frivolous grievances that are filed. However, to pull the UGO into the dispute by making unpopular technical calls like this probably does more harm than good. The UGO's appearance of neutrality may be compromised. Still further, frivolous cases are usually quickly disposed of by most grievance procedures. By reserving employment-related grievances to the domain of the UMGP while referring academic-related issues to other fora, the concern that the procedure is overly exposed to frivolous complaints should be considerably reduced.

On balance, attempts to limit frivolous grievances through the referenced language adds little and may be very costly. If either party, the grievant or the University administrator, challenges the UGO's serious violations/substantial harms decisions, the matter must necessarily be appealable -- adding delay.

(2) Violations of State or Federal Law as Grievances. In areas where University "policy" and public "law" coincide, employees should have the right to grieve, alleging violation of the former. But there need not be an internal "policy" to parallel every external "law." In these instances, external law should not be grievable. Internal grievance procedures are neither designed nor authorized to interpret and apply external law. This job is typically left to the courts.

For these reasons allegations that the University is acting in violation of State and Federal law, probably should be left to the courts to review and remedy.

(3) Grievances Filed by University Administrators. The Review Committee is under the impression that this provision of the procedure has never been used. This is not surprising. University administrators are able to correct alleged violations of University policy without grieving. If corrective action should arguably violate the employment rights of covered employees, it is they who, in turn, should grieve. The UMGP would not be weakened by the elimination of this unusual provision.

### C. Grievance Review of Discretionary Decisions

1. Current Policy on Grieving Discretionary Decisions. The current UMGP protects the discretionary decision-making authority of University administrators. Discretionary decisions per se may not be directly challenged. What may be challenged, however, is: (a) whether the exercise of discretion was within the University administrator's scope of discretion, (b) whether it was taken in accordance with relevant University policies, procedures, and criteria as well as applicable provisions of this policy, and (c) whether it was taken in a rational and evenhanded way.

2. Evaluation of the Policy on Grieving Discretionary Decisions. The discretionary case the Review Committee considered was that of salaries. Salary grievances per se are excluded from the procedures. However, the criteria or procedures used to reach a salary decision may be reviewed and if they are flawed or if they were not followed, the University administrator would be required to reconsider the challenged

decision. What the grievant must show is that the salary decision (1) resulted from the flawed or improper application of the rules or procedures governing salary determination, or (2) resulted from an abuse of discretion. Grievances alleging that a salary decision was motivated by gender or some other form of prohibited discrimination should be referred to the EO & AA for resolution and remedy.

Following careful consideration, the Review Committee ultimately concludes that the present policy with respect to grieving discretionary decisions is a good policy. Arbitrary, discriminatory and capricious decisions abuse discretion and, as such, are open to challenge. The same holds for decisions that do not flow from otherwise fair and evenhanded application of established procedures and criteria.

D. The Current UMGP: Do its Provisions and Practices Permit the Simple, Prompt, Efficient, Final and Just Resolution of Alleged Grievances?

1. Filing of Grievances. Grievants initiate the current procedure by filing a written statement of the grievance with the University Grievance Officer (UGO) within thirty (30) calendar days of receiving notice of the grieved action.

Apparently strict adherence to this time limit has created problems. However, as one person observed, to lengthen this time limit probably would continue to lead to filing delays slightly beyond the permitted time.

Others have pointed out the problem of using calendar days when many individuals covered under the procedure are often off-campus for extended periods of time. They reference those on B appointments, single quarter leaves, sabbaticals, and unpaid leave. Thus, it may make better sense to require that grievances are filed within twenty (20) work days: the latter defined as non-holiday week days during which the grievant is on University payroll and in residence.

2. The Discretionary Authority of the UGO. The current procedure authorizes the UGO to alter Time Lines, and to rule on motions to dismiss grievances due to untimely filings. Further, it authorizes the UGO to rule

on a range of other procedural, substantive and discovery challenges. Any of these threshold decisions may be appealed to the SSP: a three-person subcommittee whose decisions are final.

The Review Committee believes that granting this discretionary authority to the UGO and, on appeal, to the SSP puts the procedure in jeopardy, reducing its effectiveness. Foundation for this conclusion is presented in sections (1), (2) and (3) below.

(1) How Are Grievances Currently Processed When There Are No Threshold Issues to be Decided?

(i) The parties may informally address their grievance through discussions or mediation-assisted discussions. The choice is the parties' to make. Nothing in the current procedure requires that the parties must sit together to attempt grievance resolution. Table 1 shows that between September 1990 and March 1992, 37 grievances have been filed under the UMGP. Significantly, only seven (7) grievances out of 37, or 19 percent were settled or withdrawn as a result of direct discussions between the parties or discussions mediated by a third party.

(ii) Under the UMGP the parties to a grievance are not necessarily required to come together to seek an informal resolution to the dispute. However, they are necessarily required to meet when the UGO calls them to a pre-hearing conference at which the grievance issue is clarified, matters of discovery are addressed, witness lists are exchanged, and protocol regarding the forthcoming panel hearing are discussed.

(iii) The centerpiece of the current UMGP is the CGC. There are 26 CGCs in the University, involving 205 individuals. It is axiomatic that a tremendous amount of time and energy is required to organize, schedule hearings and otherwise maintain such a large structure.

The Review Committee was advised by everyone who commented on the current UMGP's operations to abandon this structure. Most of the CGCs have never been called into service; and when they have been, a concern invariably surfaces over the CGC panel chair's preparation in the proper conduct of an administrative hearing.

(iv) The second time the parties necessarily meet under the procedure is before a three-person CGC panel, chaired by a peer from a different unit than that of the grievant. Panel membership may be challenged by the parties. Following accepted hearing procedures, the CGC panel takes evidence and tenders a written decision based on the record. The CGCs' decisions may be appealed for review to a nine-person UGC. The President may request that a panel or the UGC reconsider a decision. All panel and UGC decisions are advisory to the President.

(2) A Review and Evaluation of UMGP Cases: With and Without the Exercise of UGO/SSP Discretionary Authority.

(i) Table 1 shows that 23, or 62 percent, of the grievances filed between September 1990 and March 1992 went to hearing or have hearings pending. More than one-half (1/2) of these cases -- thirteen (13) -- require threshold SSP hearings arising out of challenges to the UGO decisions. Table 2 shows that the SSP has decided nine (9) of the thirteen (13) cases. The SSP ruled in favor of the grievants on five (5) occasions and all five (5) cases have been passed on to relevant CGC panels for pending hearings. Significantly, not a single one has been heard.

Ten (10) grievances have gone directly to CGC's for disposition: four (4) have been decided, and three (3) of these decisions are now on appeal and pending before the UGP. Significantly, not a single one has been heard.

Crediting the current procedure for the seven (7) cases that were settled or withdrawn before formal proceedings began, only three (3) other grievances have been resolved under the UMGP. Table 2 shows that two (2) were settled in the midst of SSP proceedings, and one (1) case was decided by a CGC and the matter ended there. Beyond these successes, three (3) complaints were dismissed as non-grievable after about four (4) months of delay, and seventeen (17) are still not resolved -- after the lapse of several months. Excluding the six (6) cases "referred" to other fora and the three (3) dismissed cases, these seventeen (17) grievances represent 61 percent of probative grievances being processed under the current procedure.

(ii) Since the current procedure's implementation in September 1990, the UGO has made numerous threshold decisions. It is impossible to come up with a precise count because only disputed decisions are

recorded. Nevertheless, as suggested by data in Table 2, UGO rulings were challenged on thirteen (13) occasions, involving no fewer than 35 percent of all cases filed, and 57 percent of all cases going to hearing.

To date the SSP has heard ten (10) of these challenged decisions. One (1) case, involving discovery, was subsequently settled. Among the other nine (9) cases, five (5) have been passed on to CGCs for hearings on their merits -- on average it has taken four (4) months to bring these cases to this point and, doubtlessly, several more months will pass before they will be heard and ultimately decided. The remaining four (4) SSP decisions resulted in dismissing the claims -- three (3) of these dismissals were appealed to the President (all three (3) appeals were denied), and one (1) is currently under reconsideration by the SSP. Regarding the former three (3) cases, several months passed before these complaints were dismissed, and, under the current procedure, formal discussions between the grievants and University administrators involved were not required.

(iii) The UGO has been given considerable discretionary authority over threshold questions, subject to appeal to the SSP, in the hope that this strategy would prove to be an effective and efficient way of keeping frivolous and unintended complaints out of the procedure. But efficient it is not. Numerous people were involved in most of these cases -- including the President -- tying up hundreds of hours because the UGO's decisions are often appealed to the SSP. In fact, according to one source, the decisions of the UGO are "...almost automatically appeal[ed]...." Further, four (4) months seems much too long to wait to learn whether one's complaint is grievable. Delays of this length are bewildering and constitute an injustice even among the most tolerant.

The impartiality of the UGO has also been challenged. Apparently, in judging threshold issues, the UGO sometimes leaves an imprint of bias on the losing party. The UGO's larger task of facilitating grievance resolution is naturally compromised. The procedure also has placed the SSP's members in an impossible position. In this respect, note the words of one commentator:

Grievants are led to believe that their cases will be given a hearing before a panel of their peers, that they will at least be given an opportunity to explain their side of the controversy. Then suddenly they are given only ten minutes [before the SSP]. They are not permitted to present evidence. They can only argue

about jurisdiction. They seldom understand this subtle legal distinction. The hearing is before a fixed panel that is not intended to be a panel of peers. The decision to dismiss is based on legalistic technicalities that the Grievant does not understand, and there is not an opportunity for appeal. The result is that the Grievants are confused, hurt and angry. They do not get their day in court, and they have no recourse whatever.

3. Is the Current Procedure as Simple, Prompt, Efficient, Final and Just as one might hope it could be?

(1) **Simplicity:** The current procedure is too complex. Too many constituencies are served and none very well. Further, 26 CGCs, a UGC and the SSP add to the procedure's apparent and real complexity. Still further, the procedure's bifurcated treatment of threshold and merit issues, and the reliance on "hearings" rather than on grievance resolution "meetings" institutes needlessly threatening and court-like proceedings.

(2) **Promptness:** The current procedure considers threshold issues first, followed by hearings on the merits. This adds delay upon delay. It takes a great deal of time and effort to coordinate the schedules of a score of people -- often on two separate occasions -- to hold these hearings. In contrast, meetings involving the schedules of fewer people are easier to arrange. Indeed, under the current UMGP, even cases not involving the delay attached to a SSP hearing averaged more than nine (9) months to the point of a hearing, and the typical case that has had a CGC hearing and is now on appeal to the UGC is thirteen (13) months old.

(3) **Efficiency:** The current procedure's complex of CGC, SSP and UGC panels, its provisions for appeals and the advisory nature of panel decisions necessarily involve several hundred people to operate and maintain. Given the handful of grievances that were filed between September 1990 and March 1992, the procedure is not particularly cost effective.

Another indicator of inefficiency is found in the relatively small share of grievances settled early-on, before hearings are initiated. It was noted earlier that in 1991 about 41 percent of civil service grievances were settled before it became necessary to call for a step-three hearing and the remaining 59 percent were settled at step-three. The comparable percent under the SEGP is near 70 percent. Not counting the six (6)

complaints that were referred to other fora, only eight (8) (= 7 settled/withdrawn + 1 settled before a SSP hearing was held) out of 31 complaints or 26 percent were settled without a hearing under the UMGP.

Lastly, efficiency also includes reference to the speed at which grievances are resolved. Relative to the civil service and the non-academic student employee grievance procedures where it normally takes less than three (3) months to remedy complaints, the UMGP can average twelve (12) plus months to resolve complaints.

(4) **Finality:** The current procedure is advisory to the President. It appears that either threshold issues or questions of merit may be brought to the President. As long as the University administrator or the grieving employee believes that victory may lie at these levels in the University's hierarchy, serious efforts to settle grievances early-on may be undermined. The grievance procedure is open to end-runs and politicalization.

(5) **Justice:** Any grievance procedure which allows the decisions of a lower-level administrator to be given final review by the higher-level administrator is suspect. It lacks face validity. Impartiality is the main ingredient to any system of justice.

**TABLE 1**  
**UNIVERSITY OF MINNESOTA GRIEVANCE PROCEDURE**  
**CASES FILED AND DISPOSITION**  
**(SEPTEMBER 1990 - MARCH 1992)**

<u>CASES AND DISPOSITION</u>			<u>FREQUENCY</u>	<u>PERCENT</u>
<b>A. CASES WITHOUT HEARINGS</b>			<b>14</b>	<b>38</b>
	<u>#</u>	<u>%</u>		
(1) Referred	6	43		
(2) Settled/Withdrawn	7	50		
(3) Settlement under discussion	1	7		
Total:	<u>14</u>	<u>100</u>		
<b>B. CASES WITH HEARINGS</b>			<b>23</b>	<b>62</b>
	<u>#</u>	<u>%</u>		
(1) Cases with subcommittee hearing	13	57		
(2) Cases without subcommittee hearing	10	43		
Total:	<u>23</u>	<u>100</u>		
<b>TOTAL NUMBER OF CASES FILED</b>			<u>37</u>	<u>100</u>

**TABLE 2**  
**UNIVERSITY OF MINNESOTA GRIEVANCE PROCEDURE**  
**CASES REQUIRING HEARINGS, DISPOSITION AND LAPSED TIME**  
**(SEPTEMBER 1990 - MARCH 1992)**

<u>CASES</u>	<u>LAPSED</u>	<u>%</u>	<u>#</u>	<u>%</u>	<u>MEAN MONTHS FROM DATE CASE FILED</u>
<b>CASES REQUIRING HEARINGS</b>	<b>23</b>	<b>100</b>			
<b>A. CASES WITHOUT SUBCOMMITTEE HEARINGS</b>					
<b>COLLEGE PANELS:</b>	<b>10</b>	<b>43</b>			
<b>(1) Hearings Pending</b>			<b>6</b>	<b>60</b>	<b>9</b>
<b>(2) Cases decided &amp;     appealed to UGC</b>			<b>3</b>	<b>30</b>	<b>13</b>
<b>(3) Cases decided &amp;     closed</b>			<b>1</b>	<b>10</b>	<b>5</b>
<b>B. CASES WITH SUBCOMMITTEE HEARINGS</b>					
<b>SUBCOMMITTEE PANEL:</b>	<b>13</b>	<b>57</b>			
<b>(1) Hearings Pending</b>			<b>2</b>	<b>15</b>	<b>6</b>
<b>(2) Cases settled     before hearing</b>			<b>1</b>	<b>8</b>	<b>6</b>
<b>(3) Cases settled     after hearing</b>			<b>1</b>	<b>8</b>	<b>7</b>
<b>(3) Cases decided</b>			<b>9</b>	<b>69</b>	<b>4</b>
<b>C. SUBCOMMITTEE CASES DECIDED</b>					
<b>(1) Grievant sustained</b>			<b>5</b>	<b>56</b>	<b>4</b>
<b>(a) Pending college         panel hearing</b>			<b>5</b>	<b>—</b>	<b>4</b>
<b>(2) Respondent sustained</b>			<b>4</b>	<b>44</b>	<b>4</b>
<b>(a) Appealed to the         UM President</b>			<b>3</b>		<b>Denied</b>
<b>(b) Reconsideration by         subcommittee</b>			<b>1</b>		<b>Pending</b>

#### IV. RECOMMENDED CHANGES TO THE UNIVERSITY GRIEVANCE PROCEDURE

Following the careful consideration and analysis of the record, the Review Committee concluded that the UMGP should be revised. The Review Committee's recommendations for change aim at: (1) making the use and operation the procedure simpler; (2) reducing the average length of time it takes to settle a grievance; (3) increasing the procedure's operating effectiveness by simplifying its structure and procedures and setting up incentives for grievance resolution early-on in the grievance process; (4) making the formal resolution of grievances final and not merely advisory; and (5) building into hearings procedural fairness and competency, and increasing decisional justice via the use of outside impartial arbitrators.<sup>2</sup>

The remainder of the report sets forth the Review Committee's recommendations.

##### A. Redefining the Procedure's Purpose and Defining a "Grievance"

1. Purpose. The UMGP's purpose should read as follows: The UMGP is an internal University process providing for the (a) review and remedy of employment-related grievances filed by faculty, professional and administration staff, civil service staff and academic student employees, and (b) review of decisions made by University administrators.

2. Grievance/University Administrator. The UMGP should define a "grievance" and "University administrator" as follows: A grievance is an alleged violation by a University administrator of the correct application or interpretation of University of Minnesota policies, procedures, rules, regulations and practices governing employee relations; and a University administrator is any University employee having decision-making

---

<sup>2</sup> It is significant that currently all of the University of Minnesota's collective bargaining agreements -- covering blue collar, technical, clerical, professional and academic personnel -- provide for final and binding impartial arbitration. The UMD faculty enjoy this benefit. So too do the non-union civil service employees covered by Civil Service Rules. In all of these instances, the fees and expenses of the arbitrator are shared equally by the University and the Union or the individual as in the case of non-union civil service employee.

authority (e.g., adjust pay, assign work, evaluate other employees, promote, layoff, or discipline) over the employment conditions of any other University employee.

Complaints arising out of a University administrator's decisions reached through the fair and evenhanded exercise of discretion, as authorized by University policy, should continue to be excluded under the procedure. However, employees may challenge the criteria or procedures used in the exercise of administrative discretion. Grievances sustained on the grounds that the administrator's decision resulted from incorrectly applied or failed criteria or procedures shall result in the University administrator's reconsideration of the decision.

## B. ADMINISTRATIVE STRUCTURE

### 1. University Grievance Officer

(1) Qualifications and Appointment of the UGO. The UGO should continue to be appointed by the President, but the President should first meet and confer with the Employee Advocate Committee (EAC) before making an appointment. The UGO should have full-time responsibility with ultimate reporting responsibility to the President, but should be independent of direct administrative control or direction with respect to individual cases.

Candidates for the UGO should possess the following qualifications: extensive knowledge of and experience in a University setting; knowledge of employee relations and administrative procedures and of their application in an academic setting; knowledge of methods of conflict resolution; demonstrated ability to work in a cooperative and productive manner with others; demonstrated ability to clearly understand conflict situations and identify the most effective methods of resolution; and evidence of previous experience and success in organizing resources and people to resolve complex issues.

(2) Responsibilities of the UGO. The responsibilities of the UGO should include (but not be limited to) the following:

(a) Direct the Complaint to the Appropriate Forum. The UGO should review each complainant's written statement to determine whether it is a "grievance" as defined above. The UGO should direct employee complaints not appropriate for consideration under the UMGP to the correct forum. Grievances that are probative under the UMGP should be processed as described below.

If questions or differences should arise about the complainant employment status or the proper forum in which the complaint ought to be heard, the UGO should forward said questions/ differences to the Senior Vice President for a final disposition. Timeliness and all other procedural, substantive or discovery objections should not be decided by the UGO.

(b) Administer the Process. The UGO should schedule all meetings between the grievant, respondent and relevant others. The UGO should be responsible for receiving and forwarding formal written grievances, responses and other relevant documents between the parties and relevant hearing panelists. The UGO should chair the Phase I meeting between the parties and attempt to mediate the dispute. With the consent of the grievant and the respondent, the UGO may function in this same manner at the Phase II meeting. Informal bilateral negotiations between the grievant and the respondent during Phases I and II do not require UGO involvement.

(c) Mediation. The UGO should be available to serve as a mediator between the grievant and the respondent in Phases I and II. Such mediation is voluntary and the mediator's suggestions for dispute resolution are non-binding upon the parties.

(d) Evaluation. The UGO should conduct an evaluation of the Grievance Procedure on an annual basis. The evaluation report should include (but need not be limited to) information about each Phase of the grievance procedure by type of grievance and status of the grievant (e.g., faculty, P & A, Civil Service, Academic Student Employee) and respondent (e.g., Department Head, Civil Service Administrator, Faculty Supervisor). Individual confidentiality should be protected in all reporting. The information to be reported should include at least the following:

(i) The number of complaints presented to the UGO, their routing, phase of settlement, and mean lapsed time to final disposition (e.g., the number referred to other fora, withdrawn/settled prior to being

discussed in a Phase I meeting, discussed and settled in a Phase 1 meeting with time lapsed reports at each juncture; and the same accounting for Phase II).

(ii) The number of Phase III decisions favoring the grievant and University administrators, number/time lapse of Phase III cases withdrawn/settled prior to, during and after a Phase III hearing, and the number/time lapse of grievances sent on to Phase IV.

(iii) The number of Phase IV decisions favoring the grievant and University administrator, number/time lapse of Phase IV cases withdrawn/settled prior to, during and after a Phase IV hearing. Average total cost of the outside impartial arbitrator's fees and expenses.

(iv) The UGO should also examine the records of previous year(s) to determine whether there are implications for needed policy changes; unique patterns of complaints warranting particular attention from University administration; and whether specific units or employment groups are experiencing discernable employment-related problems. These observations should be part of the evaluation report.

(e) Reporting. The UGO should make an annual report of the evaluation described above to the President and the Employee Advocate Committee (EAC). A summary of this report should be published for the University community (e.g., in The Minnesota Daily). Such reporting is intended to make the procedure understandable and open to all University employees.

## 2. A Reconstituted University Grievance Committee.

(1) The SSP, 26 CGC and UGC should be eliminated. A new UGC should be formed on an University wide basis comprised of at least ten (10) full-time University individuals drawn from each of the following groups: faculty, P & A staff, civil service staff, and academic student employee groups. Responsibility for making assignments of variable fixed terms to the new UGC should rest with the EAC.

(2) The purpose of the new UGC is to make available to grievants a set of peers from each of the covered UMGP employee groups. Grievants shall select a peer from the UGC to serve as the grievant-designated member of the tripartite Phase II and Phase III hearing panels.

### 3. Employee Advocate Committee.

An Employee Advocate Committee should be established consisting of six (6) full-time University employees and one (1) graduate assistant, appointed for appropriately staggered fixed length terms. Two (2) University employees should be appointed by and from each of the following employee groups: Faculty Affairs Committee, Academic Staff Advisory Committee, and Civil Service Committee. The Council on Graduate Students should appoint the graduate assistant member to the Committee. The EAC chair should be selected from among the full-time University employee members of the Committee.

The EAC has four (4) main tasks: (1) to be consulted by the President before any UGO is appointed; (2) to assign members to the newly constituted UGC; (3) to establish and provide oversight to the Office of Employee Advocate (OEA); and (4) to review reports prepared by the UGO and OEA.

### 4. Office of Employee Advocates (OEA).

#### (1) Qualifications and Appointment of the OEA.

(a) An Office of Employee Advocates (OEA) should be established and maintained on the Twin Cities campus under the auspices of the EAC. The OEA should include the current responsibilities of the Faculty/Academic Staff Advocacy and Grievance Advisory Program. The Twin Cities' OEA shall serve all employees with grievances covered by the UMGP regardless of campus location. The OEA's staff, initially equal to one (1) FTE, shall be paid University employees.

(b) Employee Advocates should possess qualifications identical to those enumerated above for the UGO.

(c) Employee Advocates should report to the Department of Human Resources. However, the Employee Advocates should be independent of direct control or direction with respect to individual cases.

#### (2) Responsibilities of Employee Advocates.

(a) The purpose of the OEA is to provide employees with advocacy under Phases II, III and IV of the proposed procedure. The Employee Advocate should assist the grievant in resolving the grievance in each of these phases, and represent the grievant in Phase III and IV hearings. With each new contact, the

conflict resolution methods of self-help, negotiation, mediation, and/or formal hearings should be discussed as to the procedure, effectiveness, costs, and anticipated outcome for the employee's unique situation.

(b) It should be understood that the Employee Advocate's primary responsibility is to the employee, not to the University administration. Discussions between employees and the OEA should be confidential.

(c) The Employee Advocate should have knowledge of employment conditions characteristic of the four constituent groups (faculty, P/A, civil service, academic student employees), and should be able to prepare and effectively present evidence and argument at Phase III and Phase IV hearings. This service should be available to covered employees without charge.

### C. Grievance Procedure.

The UMGP should provide for the simple, prompt, efficient, final and just resolution of grievances. The recommended UMGP consists of the filing of the grievance and four (4) resolution phases.

1. Filing of Grievances. Grievants initiate the procedure by filing a written statement of their grievance with the UGO within twenty (20) working days of the action being grieved.

### 2. Phases of Grievance Resolution.

#### **Phase I. Informal Communications and Mediation**

Phase I provides for informal and oral communication between the parties (i.e., the grievant and the responding academic or civil service employee's University administrator). The UGO assists them in exchanging information relevant to the grievance and its resolution, and, if requested by the parties, the UGO can mediate communications and grievance resolution. Specifically:

(1) The UGO shall forward the written statement of the grievance to the responding University administrator having first-level or immediate responsibility for the employment-related action(s) being grieved.

Next, the UGO shall set a mutually convenient time for an informal meeting between the grievant, the first-level University administrator and the UGO. Advocate representatives are not permitted during Phase I meetings. Unless there are unavoidable circumstance, hardship, or other compelling reason, the informal grievance resolution meeting shall be held within ten (10) working days from the date the grievance was filed.

(2) The Phase I meeting is designed to facilitate grievance resolution through discussions and negotiations between the parties. The UGO shall initiate discussions by explaining:

(a) the purpose of the Phase I meeting and the procedural phases that may follow;

(b) the procedure assumes that all participants will act voluntarily and in good faith -- freely exchanging relevant information and working toward the resolution of the grievance;

(c) one side's refusal to share requested information, forecloses the use of the contested information by either party in Phases III or IV;

(d) resolving the grievance is the central role of the Phase I and II meetings;

(e) procedural and substantive challenges to the grievance or motions demanding greater discovery rights are not implicitly waived because the parties participated in Phase I and Phase II grievance settlement discussions;

(f) procedural and substantive issues may ultimately be presented at a Phase III hearing along with the issue being grieved. The Phase III panel's procedural and substantive decisions are final, however, its decision on merits of the grievance may be appealed by the grievant to Phase IV where the decision is final;

(g) discovery and grievance issues may ultimately be presented at a Phase III split-hearing where the discovery issue is first taken up and decided, and then the grievance issue is heard and decided. The Phase III panel's discovery and grievance decisions are final on the University but both may be appealed by the grievant to a Phase IV split-hearing sequence where the decisions are final; and

(h) the UGO's job partly involves assisting the parties through voluntary mediation. As mediator the UGO should facilitate the communication of information between parties, and may even make grievance settlement proposals but that the latter are strictly advisory and non-binding on the parties.

(3) By mutual consent, the Phase I meetings between the parties may be continued over a period of time. Moreover, the parties must serve notice on the UGO of their intent to continue the Phase I meeting(s).

(4) Within five (5) working days from the concluding date of the Phase I meeting(s), the responding University administrator shall submit to the UGO a written answer or response to the grievance, including reference to procedural, substantive and discovery challenges which may exist. The UGO is responsible for serving said written answer to the grievant.

(5) If the grievant is not satisfied with the Phase I response to the grievance, the grievant shall submit to the UGO a written statement of intent to move the grievance to Phase II: the grievant must express this intent in writing to the UGO within five (5) working days from the date the grievant received the Phase I response.

#### **Phase II. Formal Communications and Employee Advocate**

The UMGP provides for a second opportunity for the parties to communicate and resolve the grievance.

(1) The UGO shall schedule and convene a Phase II meeting within ten (10) working days from the date of receipt of the grievant's request for appeal. After reviewing the grievance, responsibilities and procedures involved under the UMGP, the UGO shall turn the meeting over to the parties. However, the grievant and respondent may jointly request that the UGO continue to serve in a settlement facilitating role.

(2) In addition to the UGO, the parties in attendance at the Phase II meeting shall include the grievant and the Phase I respondent's administrative superior. The grievant may request an Employee Advocate, hired legal counsel, or any other designated representative from the University community to attend the meeting. The first-level respondent may appear at the request of his or her administrative superior.

(3) If an attorney represents the grievant or if the grievant is an attorney, the University administrator may chose to be represented by legal counsel.

(4) Questions regarding the identification of the first-level respondent's administrative superior shall be conclusively resolved by the appropriate Vice President (as determined by the unit in which the grievant resides) on behalf of the administration. The intent of this adaptation is to involve higher University administration in the Phase II grievance resolution meeting to facilitate genuine grievance settlement negotiations, and to inform the higher administration of subordinate decisions affecting University personnel.

(5) The Phase II meeting between the parties may be continued upon their mutual consent, and upon having served notice of their intent on the UGO. Within ten (10) working days from the date the Phase II meeting(s) are concluded, the responding University administrator's superior shall submit to the UGO a written answer or response to the grievance, including reference to threshold challenges which may exist. The UGO shall be responsible for serving said written answer on the grievant.

(6) If the grievant is not satisfied with the Phase II response, the grievant shall submit to the UGO a written statement of intent to appeal the grievance to Phase III: provided, however, that the written appeal is delivered to the UGO within ten (10) working days from the date the grievant was served the Phase II response.

(7) Upon receipt of the grievant's statement of intent to appeal to Phase III, the UGO will forward a copy of the case's record to the Department of Human Resources, the respondent and the respondent's superior.

### **PHASE III. TRIPARTITE UNIVERSITY PANEL HEARING**

The proposed UMGP provides for a tripartite University panel to hear unresolved threshold issues and grievances. Discovery hearings will necessarily precede hearings on other threshold issues and on the merits of the grievance issue. Evidence on these other threshold and grievance issues may be presented at one (1) hearing to the Phase III panel. All Phase III procedural and substantive decisions are final and binding on the both parties. Discovery decisions are final and binding on the University administration, but not on the grievant. Decisions and remedies dispositive of the grievance itself are final and binding on the University administration but not on the grievant.

(1) The UGO shall organize the Phase III University panel and schedule the Phase III hearing within thirty (30) working days from the date of receipt of the grievant's written request for appeal.

(2) The Phase III University panel shall be chaired by a trained hearing personnel from the Department of Human Resources. The responding University administrator shall be represented on the panel by a designee of the appropriate Vice President (to be determined by the unit in which the grievant resides). The grievant shall be represented by a person chosen from among members on the UGC. A two-thirds (2/3) panel majority is required to reach decisions.

(3) After the Phase III hearing on procedural, substantive and grievance issues, the tripartite University panel shall prepare a "decision" consisting of a statement of the issues, facts, contentions of the parties, opinion and award. The decision, which shall be issued within thirty (30) working days of the close of the record, shall be sent to the UGO who is responsible for its prompt distribution, implementation, and follow-up to determine whether implementation was completed in a timely fashion. Phase III panels may not award fees and expenses of the parties' advocate representatives, nor may damages other than back pay be awarded. In cases involving split-hearings, discovery decisions shall be handled within ten (10) working days of the close of the hearing, and within thirty (30) working days of the UGO's notice of the discovery decision to the parties, a Phase III hearing on the grievance shall be held. Thereafter, the above-noted rules shall apply.

(4) Procedural, substantive, discovery and grievance issue determinations handed down by the Phase III University panel are final and binding on the University administration. Only Phase III panel decisions pertaining to procedural and substantive jurisdiction challenges are final and binding on the grievant.

(5) If the grievant is not satisfied with Phase III discovery and/or grievance decisions, the grievant shall submit to the UGO a written statement of intent to appeal the grievance to Phase IV: the written appeal must be filed within ten (10) working days from the date the UGO notified the grievant of the Phase III decision.

(6) All hearings of the panel will be closed to the public.

#### PHASE IV. TRIPARTITE ARBITRATION PANEL HEARING

The UMGP provides for a tripartite Arbitration panel to hear grievant appeals of Phase III's discovery and grievance awards. The Phase IV arbitration panel's decisions are final and binding on both the grievant and University administration.

(1) The UGO shall initiate the Phase IV tripartite Arbitration panel process within ten (10) working days from the date of receipt of the grievant's request for appeal. The UGO shall assemble the parties as rapidly as possible, provide a list of five (5) impartial arbitrators from which one (1) arbitrator will be chosen, and schedule the hearing date.

(2) The tripartite Arbitration panel shall consist of the Phase III University panel hearing designees of the appropriate Vice President and the grievant. If, however, either or both cannot serve or decline to serve the said designee or designees shall be replaced in the manner outlined in Phase III above. If either the University administration or the grievant wishes to select a different Phase IV individual to sit on the panel they may do so. A two-thirds (2/3) panel majority is required to reach panel decisions.

(3) The grievant and appropriate Vice President shall jointly select the impartial arbitrator from a list of five (5) names provided by the State of Minnesota Bureau of Mediation Services. The Bureau of Mediation Services should be asked to maintain and periodically update a roster of no fewer than fifty (50) out of state members of the National Academy of Arbitrators holding either tenured faculty rank or emeritus status with an university located in the United States other than the University of Minnesota. The Bureau of Mediation Services' list of five (5) names shall be randomly drawn from this roster. The grievant and appropriate Vice President shall alternate in striking names from the list until a single arbitrator's name remains. Deciding who shall strike first shall be determined by the toss of a coin. The UGO shall notify the impartial arbitrator/educator of the selection, and request that a time and location for a hearing be set. The UGO will carry the assignment of coordinating schedules, including those of the parties' designees to the Phase IV panel. In the case of split (discovery and grievance) hearings two (2) hearing schedules will be arranged.

(4) The impartial arbitrator shall chair the Phase IV arbitration panel. The panel shall hold hearings on both discovery and grievance issues and shall issue a decision(s) within thirty (30) calendar days from

the date of the close of the record of the hearing. The panel's decision shall be in writing and will include the findings of facts, reasoning and conclusions on the issues. The Phase IV arbitration panel's decisions shall be final and binding on all parties. A copy of the Phase IV panel's decision will be sent to the UGO who shall promptly deliver the decision to both the grievant, respondent and respondent's superior.

(5) All hearings of the panel shall be closed to the public.

(6) The grievant and University administration shall each be responsible for one-half (1/2) of the impartial arbitrator's fee and expenses. The grievant and University administration will each be responsible for the costs each incurs in preparing and presenting their case. There will be no charge for participation by the peer representatives on the Phase IV panel.

(7) Phase IV panels may not award fees and expenses to the parties' advocate representatives, nor may damages other than back pay and benefits be awarded.

#### D. Impartial Arbitrator's Costs

Concerns have been raised about employee out-of-pocket costs of taking a case to Phase IV impartial arbitration. The Review Committee recommends that the impartial arbitrator's total expenses and fees be split evenly between the grievant and University administration.

This formula is well established in University rules and collective bargaining agreements. Under civil service rules, personnel not covered by the University of Minnesota and AFSCME Collective Bargaining Agreement must presently share one-half (1/2) of the costs of advancing their grievance to impartial arbitration. For University employees covered by collective bargaining agreements, monthly union dues are used to pay for the grievant's share of impartial arbitrator costs.

Regarding the UMGP, the traditional formula for cost sharing is appealing on three (3) counts: first, the University administration may not advance adverse Phase III decisions to Phase IV's arbitration -- only the grievant may; second, fee and expense sharing should limit the number of cases that will be arbitrated. Only grievants who feel strongly that their Phase III decisions are unjust will appeal to Phase IV, given the

economic disincentive; and third, if only one (1) side paid the arbitrator, the principle of impartiality could be compromised.

Appendix I is a recent compilation of per diem and per case charges assessed by national arbitrators carried on the roster of the Federal Mediation and Conciliation Service. These costs, divided into two (2) equal parts, seem to be reasonable. However, the charges reported in Appendix I probably understate what it would cost to retain the highly qualified Arbitrator recommended. To optimize real and perceived impartiality the arbitrator chosen should be from out of state. This will require travel, say, from Illinois or Wisconsin. The Arbitrator should also be an educator to ensure he or she is familiar with the academic culture. In addition, the Arbitrator should be a member of the National Academy of Arbitrators, thus maximizing the integrity and acceptability of the decision. Even if the equally divided costs shown in Appendix I were to double, the Review Committee concludes that this is an expected price worth paying.

#### E. Concluding Remarks and Time Line

The recommended changes to the present UMGP should prompt fair and early resolutions to grievances. Up-front settlement meetings and provision for voluntary mediation assistance are a part of the procedure's recommended structure. To enhance the UGO's effectiveness as a neutral, the UGO would be removed from making threshold decisions. The Senior Vice President would be empowered to ultimately decide whether a complainant is an covered "employee" and whether the complaint should be heard under the UMGP or some other University procedure.

The Review Committee believes that by immediately resolving these issues and delaying final action on all other threshold issues (until Phase III and also Phase IV in the case of discovery) should free the parties to address ways to remedy the grievance. Grievants should no longer be frustrated by the inordinate delays caused by first holding hearing on procedural matters and then, if at all, holding hearing on the grievance itself.

Discovery conflicts occur less often than procedural and substantive challenges to grievances. This generalization is consistent with UMGP experience. Thus, discovery aside, by opening the Phase III panel to hearing both threshold and grievance issues during the same session should greatly accelerate the pace at which grievances are heard and ultimately decided. The composition of the Phase III panel should make it relatively easy to schedule hearings. Further, Phase III chairs should know how to proceed and conduct a hearing. These changes should both reduce delay and improve the hearing process.

Phase III panel decisions are final and binding on the University. This feature should speed-up grievance resolution. Too, if the employee loses on a point of discovery while prevailing on the grievance, Phase III would probable end the case. It is anticipated that the vast majority of grievances will be resolved before or at Phase III. Of course, a final Phase IV hearing would be available to grievants, but as a "safety valve." The possibility of a Phase IV hearing should cause the Phase III hearing panel to carefully weigh the evidence and to reach just conclusions. Grievants are not likely to incur the time and expense of appealing Phase III decisions unless their case is terribly compelling.

Under the proposed structure, both sides will be assured that grievances not settled bilaterally may ultimately be settled by an outside impartial with the authority to issue final and binding awards. Politics or making end-run appeals to the President should become less attractive to both sides since the President is now out of the decisional loop. Grievances would be judged impartially on their merits. On average this should add incentive to settle early in the process.

Appendix II lays out a time line for grievance resolution under the proposed procedure.

## TIME LINE

<u>ACTION</u>	<u>LIMIT</u>
Grievance Filed <i>From notification of grieved action</i>	20 working days*
<b>Phase I</b>	
Informal grievance resolution meeting** <i>From date grievance filed</i>	10 working days
Written response from Administration <i>From date of last Phase I meeting</i>	5 working days
Written Appeal to Phase II <i>From receipt of the written response</i>	5 working days
<b>Phase II</b>	
Formal grievance resolution meeting** <i>From receipt of appeal</i>	10 working days
Written response from Administration <i>From date of last Phase II meeting</i>	10 working days
Written Appeal to Phase III Hearing <i>From receipt of the written response</i>	10 working days
<b>Phase III</b>	
Tripartite Hearing Panel <i>From receipt of appeal</i>	30 working days
Written Panel Decision <i>From date of last day of hearing</i>	30 working days
Written Appeal to Phase IV Arbitration <i>From receipt of panel decision</i>	10 working days
<b>Phase IV</b>	
Initiate Tripartite Arbitration Panel Process <i>From receipt of appeal</i>	10 working days
Panel Hearing <i>Dependent on Panel Member Schedules</i>	ASAP
Written Decision <i>From date of last day of Arbitration hearing</i>	30 <u>calendar</u> days

\* working days = non-holiday weekday, while on University payroll and in residence.

\*\* At the consent of both parties may meet on more than one occasion over a period time in an effort to settle the dispute.

**FEDERAL MEDIATION AND CONCILIATION SERVICE  
ARBITRATION STATISTICS  
FISCAL YEAR 1991**

**AVERAGES**

**Average Dollar Amounts (based on all awards):**

Per Diem Rate	\$ 470.95
Fee	\$ 1,747.37
Expenses	\$ 228.45
Total Charge	\$ 1,975.82

**Average Days Duration (based on all awards):**

Hearing Time	1.06
Travel Time	.37
Study Time	2.27
Total Time	3.70

**Average Days Duration (based on sampled awards):**

Between Grievance Filed/Panel Request	112.30
Between Panel Request/Panel Sent	3.94
Between Panel Sent/Appointment	80.67
Between Appointment/Hearing	106.81
Between Panel Request/Award	252.56
Between Hearing/Final Brief	41.64
Between Hearing/Award	80.31

**Panel Averages (based on sampled awards):**

Number Panel Lists Sent to Parties	1.27 (Total = 750)
Total Number Award Cases Sampled	586