

**Appeal Process Regarding Decisions of the Association Grievance Committee
- Acadia University Faculty Association –**

Preamble

Article 18.20 of the collective agreement defines a grievance as “any complaint arising out of the interpretation, application, administration or alleged violation of this Collective Agreement or existing and approved practice if not in conflict with Articles of this Agreement, in which case the latter have precedence.”

Article 18.30 makes clear that only the Association and the Board may grieve; individuals may not. Article XI 1(v) of the AUFA Constitution explains that should an individual’s request to launch a grievance be denied by the Association Grievance Committee (AGC), the individual can choose to appeal that decision to the Grievance Appeal Committee (GAC):

Should the AGC rule that a complaint is not a viable grievance, the complainant may appeal that decision to the Grievance Appeal Committee (GAC). The GAC is empowered either to uphold the AGC decision or to direct the AGC to move forward with a grievance filing. The ruling of the GAC is final and terminates the right of appeal.

Natural Justice and Duty of Fair Representation

The core principles of natural justice require that individuals be provided the right to be heard in a dispute and that their case be judged with complete objectivity and impartiality. As a result, conflict-of-interest situations shall be avoided at all cost. The Association has a specific legal duty to represent members fairly and not in a manner that is arbitrary, discriminatory, or in bad faith with respect to their rights under the collective agreement.

Process

If at the end of its investigation the AGC determines that a member’s complaint does not constitute a viable grievance, the member shall be informed by the AGC of the right to appeal and provided with a copy of the present document at the same time that the member is provided with the AGC’s decision. This decision shall be in writing and include reasons for the decision. If the member wishes to appeal the AGC’s decision, they shall advise the President of the Association in writing within five (5) working days of receiving the AGC’s decision.

Once advised of a member’s request to appeal a decision of the AGC and after consultation regarding availability with both parties (the appellant and the AGC), the GAC shall schedule the appeal hearing. The hearing shall take place within five (5) working days of the appellant’s filing the appeal.

Unless otherwise agreed by the parties, there shall be no communication between the GAC and the parties relating to the merits of the appeal.

No later than 2 working days before the date of the hearing, the appellant shall submit in writing the arguments they wish the GAC to consider. As with all appeals, the purpose of this hearing is not

to provide an additional opportunity for an appellant to have a complaint considered by another body. Rather, the onus is on the appellant to demonstrate why the existing decision should be overturned. As a result, the appellant must present a case based on specific grounds for why the AGC has erred in its decision, either in its reasoning or in its failure to consider relevant information or principles.

The GAC shall consider as well the AGC's rationale for determining that the member's complaint does not constitute a viable grievance. The GAC shall rely on the AGC's written decision, and may consult evidentiary materials collected by the AGC during its investigation of the complaint. The GAC shall maintain the confidentiality of any information of a confidential nature collected in interviews or accessed in personal files.

The appellant may at any time during the appeal process withdraw the appeal. Once withdrawn, no further appeal of the case may be launched.

The Appeal Hearing

Unless a conflict of interest is declared, the Association President shall act as non-voting chair of the appeal hearing. The GAC shall convene in camera before the hearing to confirm procedures and determine whether members are in conflict of interest. Should there be a conflict, the Executive shall substitute a suitable replacement.

Parties to the appeal have a right to be present throughout the hearing. Each party will be offered an initial opportunity to summarize their case orally, keeping their remarks to no more than 15 minutes; the order of speaking will be the SGO followed by the appellant. The hearing is intended primarily to offer the members of the GAC an opportunity to ask questions they may have of either party, so that the GAC's deliberations may be as informed as possible. Hence members of the GAC will have an opportunity unrestrained by any time limit to ask questions of the parties. To add clarity to proceedings, the Chair may invite a party to respond to statements made by the other party. When the GAC has completed its questioning process, the parties will be offered an opportunity to present brief closing remarks, of no more than 5 minutes. The hearing shall then adjourn.

When hearing an appeal, the GAC's scope of authority shall be no greater than that of the AGC. The GAC may decide only to void or to confirm the decision of the AGC. The GAC shall determine its decision by majority vote.

The GAC Chair shall communicate to the parties as soon as practicable after the hearing whether the decision of the AGC has been voided or confirmed. Within five (5) working days of the hearing, the GAC shall issue its written decision, with reasons, and a copy of the decision shall be provided to each of the parties.

Record of the Hearing

All documents received from the parties and the written decision of the GAC shall be maintained in AUFA files.