

Grievance Appeals Policy

Approved by Grievance Committee, April 2017

Approved by QUFA Executive Committee & QUFA Council, May 2017

Preamble

QUFA is committed to defending the rights of its members as bargained with Queen's University. With regard to individual members, this defence ranges from providing advice and accompaniment during informal resolution processes, to filing and arguing formal grievances with the employer, to bringing formal grievances before Arbitrators for third party adjudication. Policies and protocols governing these services and decisions are posted here:

<http://qufa.ca/member-services/main/grievances/>.

This policy affords Grievors (members for whom QUFA has filed a formal grievance) processes to appeal QUFA committee decisions to abandon grievances. Normally, these decisions arise when a grievance has been put before the Provost at a Step 1 meeting and the Provost denies the grievance. At this point, QUFA must decide whether to take the grievance to an Arbitrator as Step 2 of the process or abandon it.

The Grievance Committee is the first body that considers this question and makes a recommendation to the Executive Committee. The Executive Committee makes the final decision to proceed to arbitration. QUFA is responsible to ensure that these decisions are made in a non-arbitrary, non-discriminatory and good faith manner in recognition of QUFA's duty to fairly represent its members. Factors that may be taken into account in these decisions include Collective Agreement limits and impacts, impact on the Grievor, legal merits, cost to the bargaining unit, and possible remedy. These decisions are considered at Special single-purpose Executive meetings.

This policy affords QUFA Grievors one opportunity to appeal a decision to abandon a grievance (not take it to Step 2, Arbitration) either in the case that the Grievance Committee does not recommend taking the grievance to arbitration or, if the Grievance Committee has recommended arbitration, in the case that the Executive Committee does not concur. If this internal appeal is unsuccessful, the Grievor will be informed of their rights to file an external complaint against QUFA with the Ontario Labour Relations Board.

Process

1. Appealing a Decision to Abandon the Grievance by the Grievance Committee

- a. In the event that the Grievance Committee does not recommend taking a grievance to Step 2, Arbitration, the member on whose behalf the grievance was filed, the Grievor, will be informed in a timely fashion, normally by the next business day.
- b. The Grievor will have 10 business days to notify the Grievance Committee Chairperson that they wish to appeal this decision to the Executive Committee. The Grievance Chair will inform the President.

- c. The President will call a Special Executive Committee meeting and will inform the Grievor of the date of the meeting.
- d. The Executive Director will inform the University that there is an internal appeal process in effect so as to hold in abeyance timelines for informing the University of QUFA's intention to proceed to Step 2.
- e. The Grievance Committee will provide the Executive Committee with the same background information they would have received had the Grievance Committee made a positive recommendation to proceed to Arbitration.
- f. The decision of the Executive Committee will be communicated to the Grievor in a timely fashion, normally by the next business day following the Special Meeting.
- g. If the Executive Committee agrees with the Grievance Committee, the Grievor will be informed of their right to file a complaint with the Ontario Labour Relations Board and the University will be informed that QUFA will not be taking the grievance to arbitration.

2. Appealing a Decision to Abandon the Grievance by the Executive Committee

- a. In the event that the Executive Committee does not decide to take a grievance to Step 2, Arbitration, following a positive recommendation from the Grievance Committee, the Grievor will be informed in a timely manner, normally by the next business day.
- b. The member will have 10 business days to notify the President that they wish to appeal this decision to an Ad Hoc Appeals Committee. The President will inform the Executive Director.
- c. The Executive Director will select two names from a pre-determined pool of QUFA members not currently serving on either Grievance or Executive Committees to form an Ad Hoc Appeals Committee.
- d. The Executive Director will inform the University that there is an internal appeal process in effect so as to hold in abeyance timelines for informing the University of QUFA's intention to proceed to Step 2.
- e. The Ad Hoc Committee will be instructed to review the case to determine if there have been any procedural errors or if there is any indication of bad faith, arbitrariness or discrimination in the actions taken by QUFA in coming to this decision. If they find any of these, they may recommend that the Executive reconsider its decision. The Appeals Committee will not be asked to decide, based on the substance of the grievance, whether it should be arbitrated.
- f. The Ad Hoc Committee will have access to the full grievance file. They may confer with one another. They may issue separate recommendations or a single recommendation and they do not have to reach consensus.
- g. The Ad Hoc Committee will have 15 working days to conclude its work and will inform the Executive Director of its findings.
- h. The Executive Director will inform the member and the President of the decision(s).

- i. In the event that the Appeals Committee finds no procedural error, bad faith, arbitrariness or discrimination, the matter will close and the University will be informed that QUFA will not be taking the grievance to arbitration.
- j. In the event that one or both members of the Appeals Committee finds procedural error, bad faith, arbitrariness or discrimination, the President will call a second Special Executive Meeting to consider the Committee's findings and to reconsider the decision to abandon the grievance.
- k. The President will convey this second and final decision to the member in a timely fashion.
- l. If the Executive Committee does not reverse its decision, the Grievor will be informed of their right to file a complaint with the Ontario Labour Relations Board.