



UNIVERSITY OF MINNESOTA

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**CONFLICT
RESOLUTION
POLICIES &
PROCEDURES**

for Faculty, P&A, Civil Service,
and Student Employee Complaints

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OFFICE FOR
CONFLICT RESOLUTION
— — — — —
OPTIONS FOR WORKPLACE DISPUTES



UNIVERSITY OF MINNESOTA

CONFLICT RESOLUTION PROCESS FOR EMPLOYEES



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Introduction

A comprehensive review of conflict resolution processes began in 2009. This review culminated in the adoption of several substantive changes in the policies and procedures.

A prohibition on retaliation was added to Board of Regents Policy: *Conflict Resolution Process for Employees*. The policy was amended on December 10, 2010, and supersedes the Board of Regents Policy dated February 11, 2005.

A new Administrative Policy, which was approved in February 2011, implements the Board of Regents Policy. This framework for resolution of workplace conflicts promotes early resolution of conflicts.

The Administrative Procedures were revised to encourage the use of Minnesota arbitrators and streamline the arbitration process. An estimated Minnesota arbitrator fee of \$5,000 (\$3,500 shared equally by the University and the employee) was established. A process for University payment of arbitration fees exceeding \$5,000 was added.

The Conflict Resolution policies and procedures are administered by the Office for Conflict Resolution.

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Regents Policy



UNIVERSITY OF MINNESOTA BOARD OF REGENTS POLICY

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Human Resources
**CONFLICT RESOLUTION PROCESS FOR
EMPLOYEES**
Adopted: July 12, 2002
Amended: February 11, 2005; December 10, 2010
Supersedes: (see end of policy)

CONFLICT RESOLUTION PROCESS FOR EMPLOYEES

The University of Minnesota shall have an internal process for the good faith review and resolution of employment-related conflicts.

Subd. 1. Scope. The conflict resolution process shall apply to the employment conflicts of faculty, academic professional and administrative staff, civil service staff, and student employees, including graduate student teaching and research assistants. The process also shall apply to complaints of faculty emeriti in accordance with the terms of the administrative procedures implementing the policy. This process shall not otherwise apply to non-employees or to employees represented by labor organizations.

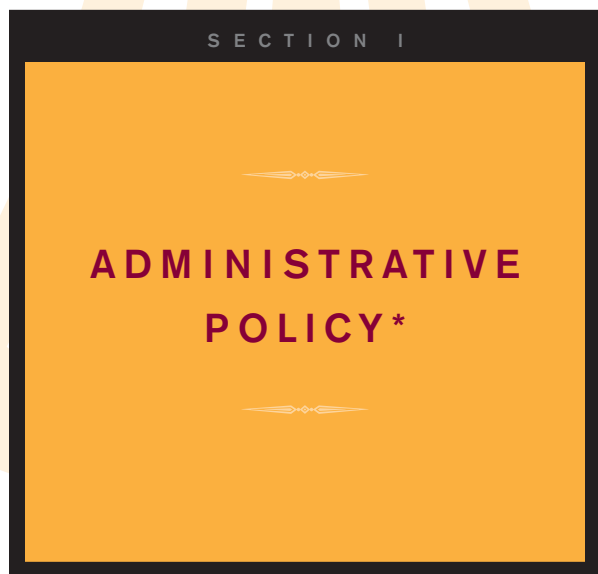
Subd. 2. Delegation of Authority. The following delegations shall govern the administration of this policy:

(a) Except as provided in subd. 2 (b), the Board of Regents (Board) delegates to the president authority to administer this policy. The president, after consultation with the University Senate and the Conflict Resolution Advisory Committee, is authorized to adopt and amend administrative procedures to implement this policy; and

(b) Complaints alleging that the president personally engaged in a challenged action shall be referred to the chair of the Board, who shall determine whether the conflict resolution process must be adjusted to ensure fair consideration of the matter.

Subd. 3. No Retaliation. Retaliation against any person for using the conflict resolution process is prohibited.

SUPERSEDES: GRIEVANCE PROCEDURE DATED APRIL 16, 1993.



* The full text of the Administrative Policy is at <http://policy.umn.edu/Policies/hr/Rules/CONFLICTRESOLUTION.html>. It contains helpful definitions, FAQs, and additional contacts.

SECTION I. ADMINISTRATIVE POLICY

POLICY STATEMENT

Faculty, P&A, Civil Service, and student employees may access the University's carefully coordinated network of options for the good faith review and resolution of workplace conflicts. These options include:

- Informal services to encourage prompt resolution of disputes, to include consultation, problem solving, facilitated discussion, and mediation; and/or
- A formal petition process reserved for conflicts not resolved through informal efforts, including a peer hearing, a final University decision by the Senior Vice President for Academic Affairs, and the opportunity to elect binding outside arbitration.

Scope

The conflict resolution process applies to employment-related conflicts of non-bargaining unit faculty, academic professional and administrative (P&A) staff, civil service staff, and student employees, including graduate student teaching and research assistants. In some circumstances, it applies to faculty emeriti and to recently terminated employees.

Arbitrations

The University will maintain procedures that promote the fair, efficient, and cost-effective arbitration of employment conflicts at the election of the employee. The amount of, and responsibility to pay, arbitrator fees will depend on the source of the arbitrator chosen by the employee:

- If the employee selects an arbitrator from the National Academy of Arbitrators, the employee and the University will share equally in paying the entire arbitrator fees.
- If the employee selects an arbitrator from a roster maintained by the Minnesota Bureau of Mediation Services, with the agreement of the arbitrator the total fees will be capped at \$5,000, unless fees in excess of that amount are approved by the Senior Vice President for System Academic Administration upon a showing of good cause by the arbitrator. The employee and University will share equally the arbitrator fees up to \$3,500. The University will pay the arbitrator fees over \$3,500.

Relief Available

When warranted, resolution of conflicts under this policy may include corrective action for the benefit of the employee, including reinstatement of back pay and restoration of benefits actually lost. Relief does not include attorneys' fees, damages for pain and suffering or emotional distress, or punitive damages. Resolution may not direct disciplinary action against an employee.

No Retaliation

Employees are prohibited from retaliating against any individual for using the conflict resolution process. Retaliation may be the subject of a petition.

Exclusions

Employees who are represented by a labor organization are excluded from services. Bargaining unit employees may pursue their concerns through the process established in their collective bargaining agreements.

Persons who are not employed by the University, even if their work is physically located at the University, such as employees of University of Minnesota Physicians, are excluded from services.

REASON FOR POLICY

This administrative policy implements Board of Regents Policy: *Conflict Resolution Process for Employees*. This framework for resolution of workplace conflicts promotes early resolution of workplace conflicts and promotes the engagement of valued University faculty, P&A, Civil Service, and student employees.



SECTION II

ADMINISTRATIVE
PROCEDURES

ADMINISTRATIVE PROCEDURES

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SECTION II. ADMINISTRATIVE PROCEDURES

INTRODUCTION AND PURPOSE

The procedures described here implement Board of Regents Policy: *Conflict Resolution Process for Employees* and the related Administrative Policy: *Conflict Resolution for Faculty, P&A, Civil Service, and Student Employees*. They apply to all campuses in the University system.

The goal of these policies, taken together, is to provide accessible and fair internal conflict resolution processes for employment-related conflicts affecting those University faculty, staff, and student workers who are not represented by a union. Conflict Resolution processes include both informal services and a formal process.

University employees are eligible for informal services for employment-related problems with few jurisdictional limits. For the formal peer hearing process, additional jurisdictional limits must be satisfied. (See Appendix: *Jurisdictional Guidelines*, p. 28.)

INFORMAL RESOLUTION PROCESSES

Employees who are not represented by a union are encouraged to contact the Office for Conflict Resolution with employment-related conflicts as soon as they emerge and local efforts to resolve them are not productive.

There is no fixed time limit for using informal processes. Conflict resolution staff may decline to process issues that are too stale to permit current resolution, that have been processed appropriately within the Office for Conflict Resolution or other offices, or that are unfair to others involved.

Consultations during the informal processes are confidential, except in very unusual circumstances, such as imminent threat of bodily harm to oneself or others. While conflict resolution staff are employees of the University and subject to its policies, the office strives to be both neutral and independent. It reports directly to the Senior Vice President for System Academic Administration. It is independent of collegiate units, the Office of Human Resources, and the Office of the General Counsel.

- A** A Faculty, P&A, Civil Service, or Student Employee Schedules a Consultation. The initial meeting is to discuss the circumstances, explore University policies and resources, identify options, and assist the employee's decision making. Several additional consultations may follow.
- B** The Office Takes Steps to Resolve the Conflict. At the request of the employee, conflict resolution staff may contact others involved to exchange information, to promote understanding, and to identify resolution options. In appropriate circumstances, office staff may facilitate face-to-face discussions among the involved parties or mediate using a more structured format.
- C** Supervisors and Managers Participate. If a University employee asks a supervisor or manager to participate in an informal conflict resolution process, the supervisor or manager is expected to participate as part of the supervisor's or manager's role. If the employee identifies a dispute with a co-worker who is not a supervisor or manager, the co-worker is encouraged to participate in the informal process, but is not required to do so.
- D** Informal Information Is Not Submitted in Formal Processes. Statements made and actions taken by either party in informal meetings under this policy are not submitted at any subsequent peer hearing.

If informal efforts to resolve the conflict are unsuccessful, an employee may submit a formal petition. In order to meet the time limits of the formal process, the employee must submit the issue to the Office for Conflict Resolution within six weeks of the occurrence of, or notice of, the challenged action and the petitioner must file a written petition during the two months following initial contact with the office.

FORMAL RESOLUTION PROCESSES

In order to use the formal peer hearing process, a University employee must meet certain jurisdictional guidelines. These are described in Appendix: *Jurisdictional Guidelines*, p. 28.

There are three stages in the formal resolution process: A) a peer hearing and panel decision, B) the final University decision of the Senior Vice President for Academic Affairs, and C) arbitration or judicial review of the final University decision. In order to provide a fair hearing process for all parties and a well-informed peer panel, the formal resolution process may take several months to complete. (See Appendix: *Timeline for the Petition Process*, p. 32.)

Settlements of petitions may occur at any point in the formal process and are contingent on final approvals required by Board of Regents Policy: *Legal Claims and Settlements*.

In the formal process, each party is responsible for presenting to the panel its own information, arguments, and witnesses. The Office for Conflict Resolution does not investigate facts or prepare or present cases. The role of the office is to help administer a fair hearing process. It maintains a list of advisors who volunteer to assist parties in preparing for hearings.

A Peer Hearing and Panel Decision

1. **The Employee Files a Petition.** An employee must file a written petition with the Office for Conflict Resolution.

The petition must identify the following:

- the petitioner and his/her employment status;
- the action being questioned;
- a specific University rule, regulation, policy, or practice pertaining to employment, (or provision of petitioner's employment contract), alleged to have been violated;
- the person(s) responsible for the action, if known, and the unit; and
- a proposed remedy that is within the authority of the University to grant.

The petition must be submitted within the following time limits:

- The issue in dispute must be submitted to the Office for Conflict Resolution within six weeks from the occurrence of, or notice of, the action being challenged, whichever is later. Once submitted, the employee may file a written petition to proceed in the formal process during the two months following submission. Only those disputes that are initially submitted within the six-week time limit and are followed by a written petition within the two months following the initial submission are eligible for the formal process.

Additional jurisdictional guidelines that apply to formal petitions are detailed in Appendix: *Jurisdictional Guidelines*, p. 28. The Director reviews the petition to determine if it meets these requirements.

Some employment claims must proceed through the formal process prior to seeking review by a court. Others may proceed directly to court without exhausting the formal process. (See Appendix: *Relationship Between Internal Conflict Resolution Processes and Court Review*, p. 31.)

2. **A Respondent is Appointed and Provides a Written Response.** The Director will forward the petition promptly to the senior administrator of the unit in which the petitioner is employed. The senior administrator will appoint a respondent who must submit a written response to the petition within two weeks of the senior administrator's receipt of the petition.

If a petition identifies the senior administrator of the unit as the responsible party, and that administrator has responsibilities for appointments or decisions under the petition process, his or her superior will make the necessary appointments and decisions.
3. **The Petition Must Be Timely Processed.** Time limits in the formal conflict resolution process can be modified by the mutual consent of the parties involved or by the Director of the Office for Conflict Resolution if there are compelling reasons for delay. Compelling reasons for delay include, but are not limited to, absences due to sickness, disability, vacation, family leave, business travel, or University recess during holidays or the summer.

If the petitioner or the respondent fails to participate in the formal process in a timely way, the Director will refer the case to a hearing officer who will decide whether a party has unreasonably delayed in the process and, if so, what the result should be. If the hearing officer's decision results in dismissal of the petition, it will be forwarded to the Senior Vice President for Academic Affairs for a final University decision in accord with the procedures in Section B.2. below.

4. **Advocates and Attorneys.** A non-attorney advisor is welcome to accompany a petitioner or respondent. A list of University employees who volunteer to serve as advisors is available from the Office for Conflict Resolution. If a petitioner is an attorney or chooses to be represented in proceedings by an attorney (a person with a J.D. law degree), the respondent may be represented by an attorney from the Office of the General Counsel. If the petitioner is not an attorney and is not represented by an attorney, then the respondent will not be an attorney or be represented by an attorney. This policy does not restrict either party from private consultations with an attorney.
5. **The Parties Try to Resolve the Matter Informally.** After the Office for Conflict Resolution receives the response, the Director or delegate will conduct a facilitated discussion with the parties unless informal processes have been previously exhausted. The facilitated discussion will be scheduled within thirty days of the filing of the petition. The petitioner and respondent must participate in a facilitated discussion before proceeding to a peer hearing, except in unusual circumstances, and then only with the mutual consent of the parties.
6. **A Hearing Panel is Appointed.** If there is no informal resolution and the petitioner requests a peer hearing, a three-member hearing panel will be appointed to hear the petition. The Office for Conflict Resolution maintains a roster of hearing officers from the faculty, P&A, and Civil Service employee groups. (Refer to Appendix: *Administrative Responsibilities*, p. 23, which describes in section 4 how hearing officers are appointed to the roster.) A hearing officer, who must be from the same employee group as the petitioner, will be appointed to lead the hearing panel. If the petitioner is a student employee, the hearing officer will be from the faculty employee group. The hearing officer will direct the course of the hearing and is

a voting member of the panel. The petitioner or respondent may reject a hearing officer selection within one week of being notified of the selection by notifying the Office for Conflict Resolution. A party may do this only once. The Director will then select another hearing officer from the roster.

The petitioner and respondent each choose a panelist. The petitioner appoints one panelist from a roster of panelists maintained by the Office for Conflict Resolution. The petitioner's choice is not restricted to his or her same employee group. A student employee petitioner may select as a panelist either a panelist from any category on the panelist roster or a student representative from the University Senate's Student Behavior Committee (CCSB). The senior administrator for the unit in which the petition originates also appoints a panelist. The senior administrator's choice is not restricted to a roster.

Panelists serve as neutrals, not advocates, and none will have a direct interest in the dispute. Panelists will give the petitioner and the respondent's case open-minded, fair consideration. Panelists will not have private conversations about the petition with the parties, their advisors, or attorneys.

7. **A Pre-hearing Conference Is Scheduled.** Prior to a peer hearing, the Office for Conflict Resolution will schedule a pre-hearing conference. The hearing officer conducts the pre-hearing conference. The purpose of the pre-hearing conference is to clarify issues and requested remedies, arrange for information exchange, and prepare for and schedule the hearing. The peer hearing will be held within one month following the pre-hearing conference unless there are compelling reasons for delay.

The parties may request information from each other in order to prepare for the hearing. They will comply with all reasonable requests for information relevant to the petition and consistent with law. Hearing officers cannot require disclosure of information that is inconsistent with law, particularly the Minnesota Government Data Practices Act and the Federal Family Educational Rights and Privacy Act. To comply with confidentiality obligations of the University, a party, advisors, and panel members may be required by the University, at its discretion, to sign and abide by a confidentiality agreement before certain information may be released for the limited purpose of a hearing.

Any disputes over access to documents or information will be referred to the hearing officer. The hearing officer will issue a written decision which is reviewable by the Senior Vice President for Academic Affairs when the hearing panel's decision is reviewed.

8. **Burden of Proof.** In cases involving the imposition of discipline on the petitioner, the respondent has the burden of demonstrating, by a preponderance of information presented, that the discipline was warranted under the petitioner's governing employment policies, or contract. In other cases, the petitioner has the burden of demonstrating, by a preponderance of the information presented at the hearing, that there was a violation of a University rule, regulation, policy, or practice. In cases challenging discretionary actions as an abuse of discretion, the petitioner has an additional burden of demonstrating that the challenged action constitutes a clear abuse of discretion.
9. **The Hearing Panel Hears the Petition.** The hearing panel will review the petition, the response, the exhibits submitted by the parties, and the information provided at the hearing. The hearing panel will provide a fair opportunity for the petitioner and the respondent to present their views and information from witnesses. Panel hearings are not court cases, and the rules of evidence do not apply. The panel will exercise reasonable judgment in deciding what information to permit, and to rely on, in making a decision.

Members of the University community are strongly encouraged to cooperate if they are requested to provide information at a peer hearing. Witnesses are present only during their own presentation.

The Office for Conflict Resolution will make an audio recording of the peer hearing and will maintain a file of pertinent documents.

10. **The Hearing Panel Prepares a Written Decision.** After the hearing, the panel will prepare a written decision, including a statement of the issues, contentions of the parties, findings of fact, opinion and award, if any. The decision will be sufficiently detailed to assist the Senior Vice President for Academic Affairs in reaching a final University decision. A majority of two panelists is required to reach a decision. A dissenting panelist may submit a written dissent. The panel's decision will be issued within one month of the conclusion of the hearing, and will be promptly distributed by the Office for Conflict Resolution to the parties and to the Senior Vice President for Academic Affairs.

11. **Certain Remedies are Available.** If the petitioner is successful, non-financial remedies may be appropriate, such as modification or removal of discipline letters or granting benefits previously withheld. Financial remedies are limited to back pay, benefits actually lost, and reinstatement. The panel may not recommend pain and suffering and emotional damages, attorneys' fees, punitive damages or penalties. Panels do not have authority to recommend disciplinary action against an employee.

B Final University Decision by the Senior Vice President for Academic Affairs

1. **The Office for Conflict Resolution Forwards the Panel Decision to the Senior Vice President for Academic Affairs.** The Office for Conflict Resolution will send to the Senior Vice President for Academic Affairs copies of the petition, response, panel decision, and exhibits submitted to the panel. The Senior Vice President for Academic Affairs may review any other parts of the hearing record and may discuss the panel decision with the hearing officer and the panelists.
2. **The Senior Vice President for Academic Affairs Submits a Final University Decision.** Within two weeks of the receipt of the panel report, the Senior Vice President for Academic Affairs will issue his or her decision to the Office for Conflict Resolution. The Senior Vice President for Academic Affairs has full discretion to accept, modify, or reject the panel decision. If the Senior Vice President for Academic Affairs modifies or rejects the panel's decision, the Senior Vice President for Academic Affairs must state in writing the reasons why. The Office for Conflict Resolution will distribute the decision of the Senior Vice President for Academic Affairs to the petitioner and the respondent.
3. **The Petitioner May Choose Review of the Final University Decision.** If the petitioner is dissatisfied with the final University decision of the Senior Vice President for Academic Affairs, the petitioner may choose to proceed to arbitration. Alternatively, the petitioner may have a right to appeal the decision to the Minnesota Court of Appeals by a "writ of certiorari." The statute that describes the right of certiorari review is Chapter 606 of Minnesota Statutes. The timelines for seeking certiorari review are set by that statute. To the extent that a petition from a regular faculty member alleges violations of Board of Regents Policy: *Faculty Tenure*, employees may have a right to review by the Faculty Senate Judicial Committee. Refer to the Faculty Senate Judicial Committee Rules of Procedure.

C Arbitration

- 1. The Petitioner Submits Written Notice.** A written notice of request for arbitration must be submitted to the Office for Conflict Resolution within two weeks of petitioner's receipt of the decision of the Senior Vice President for Academic Affairs.
- 2. The Petitioner Signs a Waiver and Release.** To proceed with arbitration, the petitioner must sign a waiver and release of all rights to pursue substantially the same claim in any other forum, including the right to seek certiorari review at the Court of Appeals. The arbitration decision is final and binding.
- 3. The President Appoints a Respondent.** The President will appoint an appropriate respondent in arbitration unless the petition identifies the President as having personally engaged in a challenged action, in which case the Chair of the Board of Regents will make the appointments and decisions called for in the formal process.
- 4. The Parties Select an Arbitrator.** The arbitrator is selected by the parties from a roster of arbitrators.

At the request of the Office for Conflict Resolution, the Minnesota Bureau of Mediation Services will select randomly the names of five arbitrators from the roster of eligible arbitrators and will forward those names to the Office for Conflict Resolution, which will forward the names to the parties. Current University of Minnesota employees are excluded. Arbitrators on the roster will meet the professional criteria of the Minnesota Bureau of Mediation Services, the American Arbitration Association, or the Federal Mediation and Conciliation Service.

Regular faculty and P&A employees may request, as an alternative to the panel of arbitrators described above, a list of five arbitrators in the National Academy of Arbitrators holding either tenured faculty rank or emeritus status in a university located in the United States, other than the state of Minnesota.

The petitioner and the respondent will alternate in striking names from the list of potential arbitrators until a single arbitrator's name remains. The party to strike first will be determined by the party who wins the toss of a coin.

- 5. The Parties Select Panel Members.** In addition to the arbitrator, the arbitration panel will consist of a panel member selected by the petitioner from the panelist roster and a panel member selected by the President or a delegate. The parties may not select the same panelist who served at the peer hearing.

All panelists will serve as neutrals, not advocates, and none will have a direct interest in the dispute. All panelists will give the petitioner and the respondent's case open-minded, fair consideration. Panelists will not have private conversations about the petition with the parties, their advisors, or attorneys.

- 6. Role of the Office for Conflict Resolution.** The Office for Conflict Resolution will convene the arbitration panel, notify the panel members of their selection, and, at the request of the arbitrator, coordinate scheduling of the arbitration hearing and conferences.

The Office for Conflict Resolution will forward records to the arbitration panel members. These will include copies of the Waiver and Release, petition, response, exhibits submitted to the peer panel, panel decision, and the final University decision. The parties are responsible for submitting any other materials to the arbitration panel.

- 7. The Arbitration Panel Hears the Matter.** The arbitrator will direct the course of the hearing and decide all preliminary issues. The hearing will be conducted by the arbitrator to most expeditiously permit full presentation of the evidence and argument of the parties. The arbitrator is responsible for setting a schedule that allows for a fair, full, and expeditious hearing for the parties. This can normally be achieved in one to two hearing days. Normally, there will be no post-hearing briefs. At the request of either party, the arbitrator may issue subpoenas as provided by law. In performing these roles, the arbitrator will follow professional arbitration practice, as applicable, and these procedures.
- 8. The Arbitration Panel Issues a Final and Binding Decision.** The award will be signed by a majority of the panel. The written opinion supporting the award should be brief, but sufficient to explain the basis for the decision. If the arbitration panel accepts the findings of the peer hearing panel, it need not issue a separate written opinion. The arbitration panel will issue a decision

within four weeks of the close of the hearing. The award will be sent to the Office for Conflict Resolution, which will distribute it to the parties promptly. The arbitration decision is final and binding, subject to the provisions of Minnesota's Uniform Arbitration Act found at Chapter 572 of Minnesota Statutes.

9. Each Party Contributes to Payment of the Arbitrator's Fees. Arbitrator fees are incurred if the petitioner elects to proceed to arbitration. The amount of, and responsibility to pay, arbitrator fees will depend on the source of the arbitrator chosen by the employee:

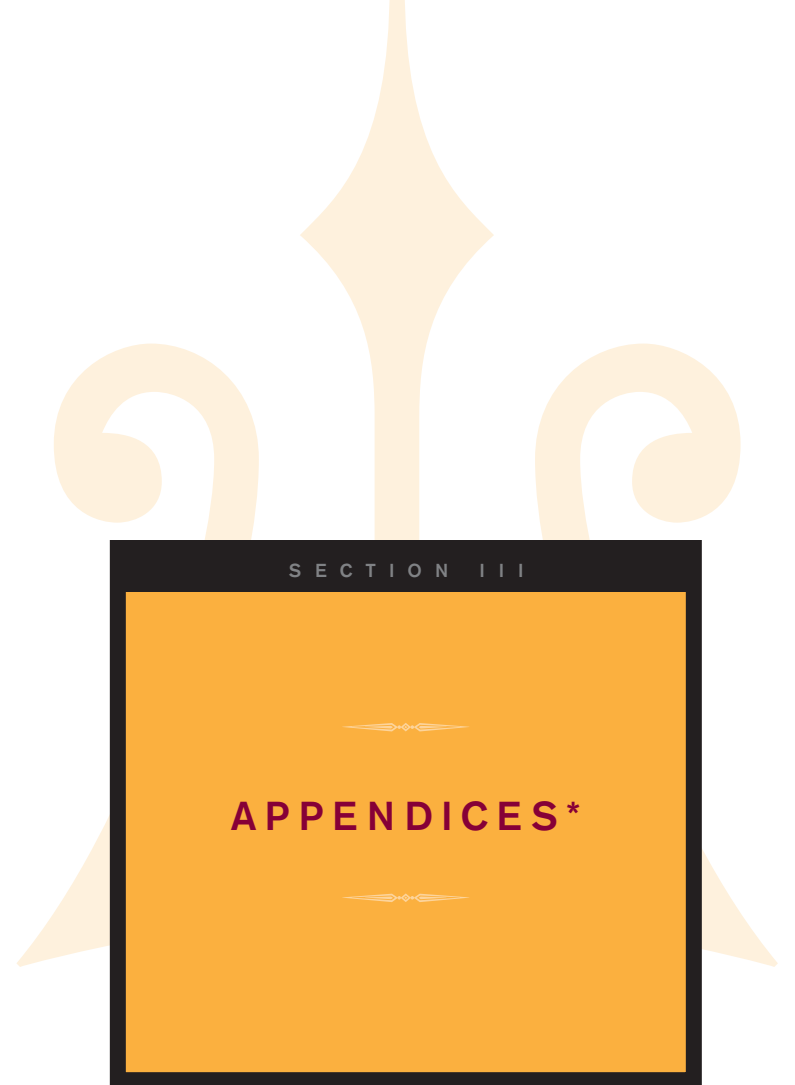
- If the employee selects an arbitrator from the National Academy of Arbitrators, the employee and the University will share equally in paying the entire arbitrator fees.
- If the employee selects an arbitrator from a roster maintained by the Minnesota Bureau of Mediation Services, with the agreement of the arbitrator the total fees will be capped at \$5,000, unless fees in excess of that amount are approved by the Senior Vice President for System Academic Administration upon a showing of good cause by the arbitrator. The employee and University will share equally the arbitrator fees up to the share limit of \$3,500. The University will pay the arbitrator fees over \$3,500.

The party canceling a scheduled arbitration will be solely responsible for any cancellation fee, which will not be included in the \$3,500 share limit.

The Conflict Resolution Advisory Committee will annually review the operation of the \$3,500 share limit and \$5,000 cap to determine if adjustment is needed based on arbitrator fees, inflation, or other factors.

CONFIDENTIALITY

The Office for Conflict Resolution and hearing panels will not disclose individually identifiable documents or information concerning an informal or formal process except as necessary to comply with procedures for conducting the hearing, or as required by law. All hearings will be closed to the public.



* The appendices are located in the administrative policy at <http://policy.umn.edu/Policies/hr/Rules/CONFLICTRESOLUTION.html#700>.

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SECTION III. APPENDICES

ADMINISTRATIVE RESPONSIBILITIES

Senior Vice President for System Academic Administration

The Senior Vice President for System Academic Administration, after consultation with the Conflict Resolution Advisory Committee, will appoint the Director of the Office for Conflict Resolution. The Director will report to the Senior Vice President for System Academic Administration, who will supervise the Office in consultation with the Conflict Resolution Advisory Committee.

The Senior Vice President for System Academic Administration will appoint hearing officers to the Hearing Officer Roster after they are nominated by representative employee committees.

The Senior Vice President for System Academic Administration will determine whether to approve payment of arbitrator fees exceeding the \$5000.00 cap.

Director

The Director will provide conflict resolution services described in these procedures. The Director will administer these procedures so that they are accessible, competent, and fair to all participants. In administering the formal conflict resolution processes, the Director reviews a petition to determine whether the petitioner has satisfied the jurisdictional requirements of the formal process, adjusts time limits when appropriate, and informs the parties of the procedures to be followed.

The Director will communicate with University faculty and staff about the services of the office and offer educational programming about conflict resolution to University faculty and staff.

The Director will prepare an annual report on the work of the Office for Conflict Resolution, including a summary of issues raised in petitions, decisions rendered, the instances in which the Senior Vice President for Academic Affairs declined to accept the recommendations of a peer panel, and any exceptions to the \$5,000 cap on arbitrator fees. The report will be distributed to the Senior Vice President for System Academic Administration, Senior Vice President for Academic Affairs, the President's Executive Team, Vice President for Human Resources, Conflict Resolution Advisory Committee, Faculty Consultative Committee, Professionals and Administrators Consultative Committee, Civil Service Consultative Committee, and Student Consultative Committee. It will be posted on the website of the Office for Conflict Resolution. Following up on this report, the Director will meet at least once annually with each of these entities.

Conflict Resolution Advisory Committee

- A** **Members.** The Conflict Resolution Advisory Committee will consist of a Chair who will be a regular faculty member appointed by the Senate Consultative Committee, two administrative representatives appointed by the President, and one member appointed by each of the following groups: Senate Committee on Committees, Professionals and Administrators Consultative Committee, Civil Service Consultative Committee, and Student Senate Committee on Committees. Appointments may be for terms of up to three years.
- B** **Duties.** The Conflict Resolution Advisory Committee will advise the Senior Vice President for System Academic Administration regarding the selection of the Conflict Resolution staff, its performance, and the operation of this program. The committee has no role in the disposition of individual petitions.
- C** **Five-year Review.** The committee will undertake a thorough review of the functioning of this program every five years and report its findings and recommendations to the Senior Vice President for System Academic Administration, President, and University Senate.

Rosters

Conflict resolution staff will train all members of these rosters for their roles. Appointments may be for terms of up to three years. If a student employee petitioner selects as a panelist a student representative from the University Senate's Student Behavior Committee (CCSB), the student panelist will be trained in the Conflict Resolution Procedures.

- A** **Hearing Officer Roster.** A roster of hearing officers will be maintained by the Office for Conflict Resolution. It will include twelve individuals eligible to serve as hearing officers—four regular faculty members, four Academic Professional and Administrative employees, and four Civil Service employees. The Faculty Senate Committee on Committees, Professionals and Administrators Consultative Committee, and the Civil Service Consultative Committee will nominate two individuals for each opening on the hearing officer roster for each respective employee group. The Senior Vice President for System Academic Administration will select one of the two nominees for each opening or will request additional names.
- B** **Panelist Roster.** It will include twelve individuals eligible to serve as panelists—four regular faculty members (two of whom may be administrators), four Academic Professional and Administrative employees, and four Civil Service employees. The Faculty Senate Committee on Committees, Professionals and Administrators Consultative Committee, and Civil Service Consultative Committee will appoint individuals for each opening on the roster for each respective employee group. The appointees in each category should be from broadly varied backgrounds.
- C** **Advisor Roster.** A roster will be maintained by the Office for Conflict Resolution identifying University employees willing to serve as advisors to parties in conflict resolution proceedings.

FILING AN INTERNAL DISCRIMINATION COMPLAINT*

Employees who believe they have been discriminated against and wish to file a complaint within the University can either file a petition with the Office for Conflict Resolution (OCR) or file a complaint with the Office of Equal Opportunity and Affirmative Action (EOAA). A petition alleging discrimination in the employment relationship, including sexual harassment, may be submitted to the Office for Conflict Resolution or submitted to the University's Office of Equal Opportunity and Affirmative Action (EOAA), but not both. The comparisons below will help employees decide where to file an internal complaint.

Conflict Resolution	EOAA
Scope extends to all employment-related matters that allegedly violate a University policy/practice.	Scope is limited to alleged discrimination, harassment, and retaliation for a complaint due to protected class status (race, color, creed, religion, national origin, gender, age, marital status, disability, public assistance status, veteran status, sexual orientation, gender identity, or gender expression).
Accepts complaints from non-bargaining unit faculty, staff, and student employees. Services are not available to bargaining unit employees.	Accepts complaints from both non-bargaining unit and bargaining unit faculty, staff, and student employees. (In addition, accepts complaints from students about discrimination in academic matters.)
OCR uses a hearing process. The petitioner and the respondent themselves collect and present their information to a peer panel. The petitioner must prove to the panel that discrimination occurred. If the panel finds that discrimination occurred, it recommends actions to remedy the discrimination. The panel does not decide whether the employee who engaged in discrimination will be disciplined.	The EOAA process is investigative. EOAA staff conducts an investigation and determines whether discrimination or harassment has occurred in violation of University policy. If EOAA finds discrimination or harassment has occurred, it makes recommendations to the unit, which may include discipline of the employee who engaged in discrimination and a remedy for the employee who suffered discrimination.
A peer panel relies on the information presented to them in a panel hearing, which normally takes one day.	EOAA staff relies on information from interviews and documents when making its determination and recommendation.

Conflict Resolution	EOAA
A peer panel makes the initial determination of whether a University policy/practice was violated.	EOAA staff makes the determination of whether the University's EOAA policy was violated.
The panel determination goes to the Senior Vice President for Academic Affairs who may accept or reject it and decides what action to take.	The EOAA determination and recommendations go to the unit head who decides what action to take.
The petition process often takes from 4-8 months.	The EOAA process takes from 2 to 9 months.
If the petitioner disagrees with the decision of the panel or the Senior Vice President for Academic Affairs, the petitioner can proceed to binding arbitration, or seek judicial review in the Minnesota Court of Appeals.	An employee complaining of discrimination has no internal appeal from an EOAA determination. An employee may have opportunities to pursue a complaint with outside agencies or the court.

*Employees may file complaints with city, state, or federal agencies or the courts.

JURISDICTIONAL GUIDELINES

General Jurisdictional Guidelines

The conflict resolution policy covers current University administrators, faculty, P&A, civil service, and student workers (including research and teaching assistants). A person is considered a University employee if the person receives a University paycheck. Employees who are represented by a labor organization are excluded from services. Bargaining unit employees may pursue their concerns through the process established in their collective bargaining agreements.

Persons who are not employed by the University, even if their work is physically located at the University, such as employees of University of Minnesota Physicians, are excluded from services.

The conflict resolution process is for employment-related issues and conflicts. Informal services are available for a broad range of employment-related issues. Formal conflict resolution services are available for some, but not all, workplace disputes.

There are no fixed time limits for raising an issue informally, although conflict resolution staff may decline to process issues that are so stale that efforts would be futile, that have been processed previously in this or other offices, or that would create unfair surprise or prejudice.

Additional Jurisdictional Guidelines for Formal Conflict Resolution Processes

Former employees may file a petition challenging the termination of their employment, or challenging other employment decisions relating to or arising from the termination of their employment, within six weeks from the termination or the occurrence of the action being challenged, whichever is later. Eligibility to challenge termination of employment depends on the terms of the employee's governing employment contract. Former employees who challenge an employment action may not challenge employment actions occurring more than six weeks prior to the petition filing date.

Regular faculty. Complaints by a regular faculty member will be heard in accord with the terms of Board of Regents Policy: *Faculty Tenure*. The Senate Judicial Committee takes original jurisdiction over some employment-related issues, and defers to the conflict resolution process on others.

Faculty emeriti. An emeritus faculty member who is not currently an employee of the University may submit a petition alleging a covered violation only: 1) if such violation occurred prior to termination of employment; or 2) if a written contract signed by the authorized University official during the employment period is violated after the employment terminates; provided, however, that the remedy in such a case will be limited to a financial remedy. A dispute arising under Board of Regents Policy: *Faculty Emeriti* may not be the basis of a petition, but will be resolved informally in accordance with the terms of Board of Regents Policy: *Faculty Emeriti*.

Covered Subject Matter in the Formal Process

An allegation of a violation of a specific University rule, regulation, policy, or practice pertaining to employment is required. Examples include alleged violations of the civil service rules, P&A policies, and human resource policies.

A petition alleging discrimination in the employment relationship, including sexual harassment, may be submitted to the Office for Conflict Resolution or submitted to the University's Office of Equal Opportunity and Affirmative Action (EOAA), but not to both offices. Discipline imposed at the conclusion of an EOAA investigation can be the subject of a petition. Appendix: *Filing an Internal Discrimination Complaint*, p. 26, compares the process for filing an internal discrimination complaint in the Office for Conflict Resolution vs. EOAA.

Subject Matter Not Covered in the Formal Process

Academic misconduct. Issues of academic misconduct are not within the scope of this policy. For further information, refer to Board of Regents Policy: *Academic Misconduct* and related Administrative Policy: *Academic Misconduct*. Discipline imposed on an eligible employee, including discipline imposed as a result of academic misconduct proceedings, may be the subject matter of a petition under this policy.

Termination of Civil Service employment during probation. Civil Service employees may not use this process to challenge involuntary termination of employment during the probationary period if a written performance appraisal was provided and there is no allegation of discrimination.

Non-renewal of a fixed-term or annual appointment. P&A employees may not use this policy to complain of non-renewal of a fixed-term or annual appointment if the non-renewal is consistent with Administrative Policy: *Non-Renewal of Appointment for Academic Professional and Administrative Employees* and not in violation of some other University policy.

Violation of Board of Regents Policy: Code of Conduct. By its own terms, Board of Regents Policy: *Code of Conduct* does not create substantive or procedural rights and cannot be the basis of a petition.

Deciding Jurisdictional Challenges

The University may raise a jurisdictional challenge to a petition at any point in the petition process.

On receipt of a jurisdictional challenge, the Director will ask both parties to present their views on jurisdiction. The Director then will make a written determination whether the petition meets the jurisdictional requirements for the formal process.

Either party may object to the Director's determination by notifying the Director in writing within two weeks of the party's receipt of the determination. The Office for Conflict Resolution will forward the Director's decision to the Senior Vice President for Academic Affairs who may accept, modify, or reject it in accord with the procedures for the Senior Vice President's review of panel decisions.

RELATIONSHIP BETWEEN INTERNAL CONFLICT RESOLUTION PROCESSES AND COURT REVIEW

Certain employment claims (sometimes referred to as common-law claims) against the University may be required to proceed through the internal formal petition process prior to seeking review by a court. For these claims, if an employee does not proceed in the petition process or fails to file a timely petition, the employee may forfeit the opportunity to have a court review the claim.

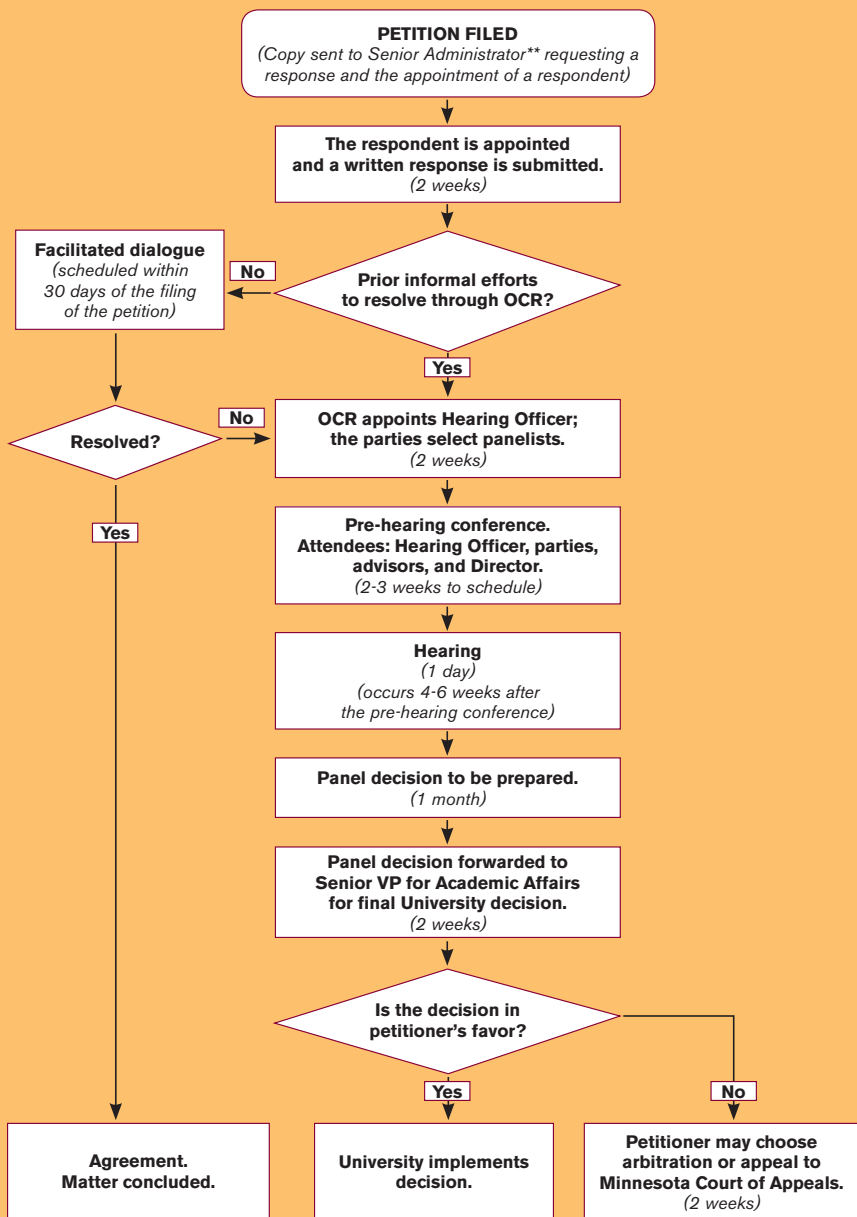
For other employment claims where a statute provides a remedy, sometimes referred to as statutory claims, a petitioner may have the option of proceeding directly to the courts without proceeding through the internal formal petition process.

In a petition, a petitioner may include all subject matter that is covered by this policy. If a petitioner chooses not to include all subject matter, the opportunity for court review of the omitted subject matter may be forfeited.

If a petitioner chooses arbitration of any issue, the petitioner is forfeiting the right to court review of the issue.

TIMELINE FOR THE PETITION PROCESS*

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Office for Conflict Resolution
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 271 – 19th Avenue South
 Minneapolis, MN 55455
 612-624-1030
 conflict.resolution@umn.edu
 http://www.umn.edu/conflictresolution



* If the formal petition requires all steps, the process often takes between 4-8 months. ** "Senior Administrator" refers to the President, Chancellor, Senior Vice President, or appropriate Vice President for the unit in which the petitioner is employed.

UNIVERSITY OF MINNESOTA

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