



UNIVERSITY OF MINNESOTA



CONFLICT RESOLUTION POLICIES & PROCEDURES

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

CONFLICT RESOLUTION PROCESS FOR EMPLOYEES

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INTRODUCTION

A comprehensive review of the conflict resolution processes was completed in 2019-2020. This review resulted in the adoption of substantive changes in the policies and procedures.

The Administrative Policy was revised to reflect the University's updated policy on Sexual Harassment, Sexual Assault, Stalking and Relationship Violence. OCR's revised Administrative Policy states that a formal petition may not be filed with OCR that alleges violation of the Administrative Policy on Sexual Harassment, Sexual Assault, Stalking and Relationship Violence or that challenges findings or decisions resulting from a violation of that policy.

The Administrative Procedures were updated to encourage the use of Minnesota arbitrators and streamline the arbitration process. The fees for arbitration were increased to reflect increased arbitration costs since the last policy review update of 2009.

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

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BOARD OF REGENTS 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.

REVISION HISTORY

Adopted: July 12, 2002

Amended: February 11, 2005; December 10, 2010

Supersedes: Grievance procedure dates April 16, 1993.



SECTION I

ADMINISTRATIVE POLICY*

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

POLICY STATEMENT

Faculty, P&A, Civil Service, and student workers 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 Executive Vice President and Provost, and the opportunity to elect binding outside arbitration, or where applicable, appeal to the Minnesota Court of Appeals.

Exception

A formal petition may not be filed with OCR that (1) alleges a violation of the Administrative Policy: Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence or (2) challenges findings related to or disciplinary decisions resulting from violations of the Administrative Policy: Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence.

Scope

The conflict resolution process applies to employment-related conflicts of non-labor represented faculty, academic professional and administrative (P&A) staff, civil service staff, and student workers, including graduate student teaching and research assistants. In some circumstances, it applies to faculty emeriti and to recently terminated employees. This conflict resolution policy does not apply to labor-represented faculty and staff because their workplace concerns are governed by applicable collective bargaining agreements.

Arbitrations

The Office of Conflict Resolution (OCR) maintains 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, the arbitrator will be requested to cap their total fees at \$10,000, unless fees in excess of that amount are approved by the Vice President for Equity and Diversity upon a showing of good cause by the arbitrator. The employee and University will share equally the arbitrator fees up to \$7,000. The University will pay the arbitrator fees over \$7,000.

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.

Retaliation

No member of the University community may retaliate against an individual because of the individual's good faith participation in:

- reporting or otherwise expressing opposition to, suspected or alleged misconduct;
- participating in any process designed to review or investigate suspected or alleged misconduct or non-compliance with applicable policies, rules, and laws; or
- accessing OCR services.

A causal relationship between the good faith participation in one of these activities and an adverse action is needed to demonstrate that retaliation has occurred.

Reporting Retaliation Concerns

Individuals who believe that retaliation is occurring or has occurred, as a result of their good faith participation in one of the above referenced activities, should follow the reporting options available to them in the Administrative Policy: *Reporting Suspected Misconduct*.

Reports of retaliation will be reviewed and investigated in the same manner in which other concerns of misconduct are handled. Any University member who engages in retaliation may be subject to disciplinary action up to and including termination of employment or expulsion.

Intentionally False Reports/Information

Individuals who, knowingly or intentionally, file a false report or provide false or misleading information in connection with an investigation may be subject to disciplinary action up to and including termination of employment, or expulsion.

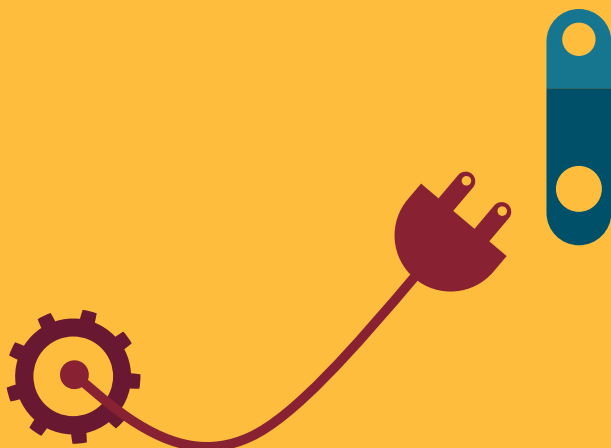
Exclusions

Employees who are represented by a labor organization are excluded from services. Labor-represented 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 not eligible for these services. Volunteers, fellows, or other individuals who work with the University, but are not paid by the University, are generally not eligible for 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.

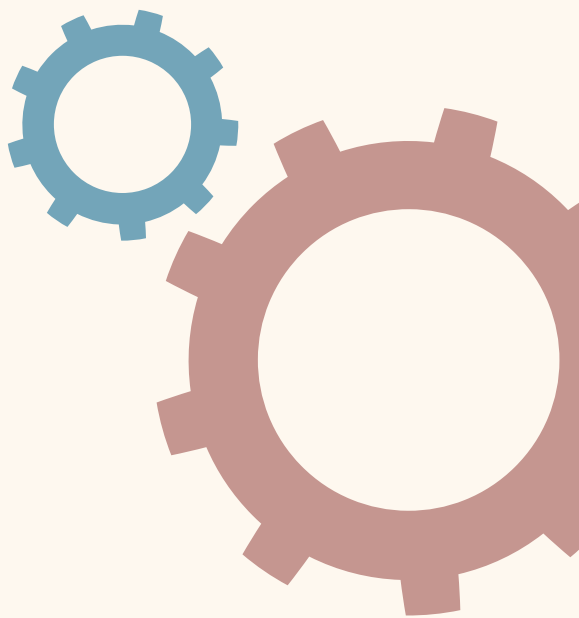


SECTION II

ADMINISTRATIVE PROCEDURES

ADMINISTRATIVE PROCEDURES

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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 and time limits must be satisfied. (See Appendix: *Jurisdictional Guidelines*.)

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, but there are time limits for the formal peer hearing process. 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 administrator of the Office for Equity and Diversity. It is independent of collegiate units, the Office of Human Resources, and the Office of the General Counsel.

- A** **A faculty member, P&A or civil service employee, or student worker 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 coworker 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 and time limits. 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 Executive Vice President and Provost, 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 their 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, the administrator's 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 Executive Vice President and Provost 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*, 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 the petitioner's 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 respondent also appoints a panelist. The respondent'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 Executive Vice President and Provost 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 reason-

able 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 Executive Vice President and Provost 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 Executive Vice President and Provost.

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 Executive Vice President and Provost

1. The Office for Conflict Resolution forwards the panel decision to the executive vice president and provost.

The Office for Conflict Resolution will send to the executive vice president and provost copies of the petition, response, panel decision, and exhibits submitted to the panel. The executive vice president and provost may review any other parts of the hearing record and may discuss the panel decision with the hearing officer and the panelists.

2. The executive vice president and provost submits a final University decision.

Within two weeks of the receipt of the panel report, the executive vice president and provost will issue their decision to the Office for Conflict Resolution. The executive vice president and provost has full discretion to accept, modify, or reject the panel decision. If the executive vice president and provost modifies or rejects the panel's decision, the executive vice president and provost must state their reasons and rationale in writing the reasons why. The Office for Conflict Resolution will distribute the decision of the executive vice president and provost 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 executive vice president and provost, 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 decision 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 \$10,000, unless fees in excess of that amount are approved by the vice president for Equity and Diversity 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 \$7,000. The University will pay the arbitrator fees over \$7,000.

The party canceling a scheduled arbitration will be solely responsible for any cancellation fee, which will not be included in the \$7,000 share limit.

The Conflict Resolution Advisory Committee will annually review the operation of the \$7,000 share limit and \$10,000 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.



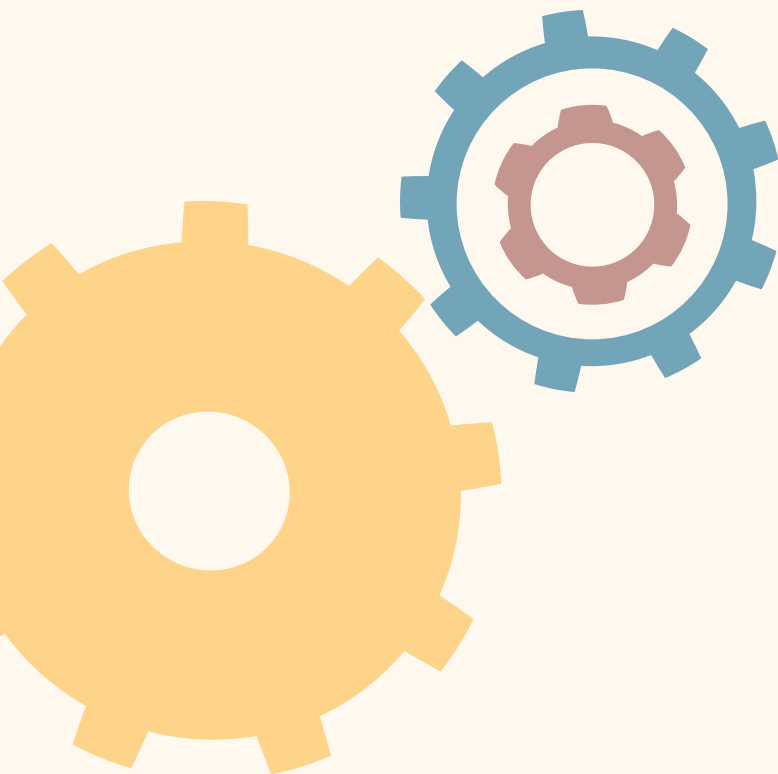
SECTION III

APPENDICES*

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

APPENDICES TO ADMINISTRATIVE POLICY

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ADMINISTRATIVE RESPONSIBILITIES

Vice President for Equity and Diversity

The vice president for Equity and Diversity, 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 administrator within the unit within the Office of Equity and Diversity, who will supervise the office in consultation with the Conflict Resolution Advisory Committee.

The vice president for Equity and Diversity will appoint hearing officers to the Hearing Officer Roster after they are nominated by representative employee committees.

The vice president for Equity and Diversity will determine whether to approve payment of arbitrator fees exceeding the \$10,000 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 executive vice president and provost declined to accept the recommendations of a peer panel, and any exceptions to the \$10,000 cap on arbitrator fees. The report will be distributed to the vice president for Equity and Diversity, executive vice president and provost, the president's executive team, vice president for Human Resources, Conflict Resolution Advisory Committee, Faculty Consultative Committee, P&A Consultative Committee, Civil Service Consultative Committee, Student Consultative Committee, and Senate Judicial Commit-

tee and Senate Judicial 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, P&A 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 vice president for Equity and Diversity 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 vice president for Equity and Diversity, 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 P&A employees, and four civil service employees.

The Senate Committee on Committees, P&A 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 vice president for Equity and Diversity 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 P&A employees, and four civil service employees. The Senate Committee on Committees, P&A 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, including but not limited to, diverse professional community and life experiences.
- 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) except that petitions may not be filed with OCR alleging violation of the Administrative Policy: Sexual Harassment, Sexual Assault, Stalking and Relationship Violence. A petition alleging discrimination in the employment relationship, 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
<p>Scope extends to all employment-related matters that allegedly violate a University policy/practice with the exception of alleged violation of the Administrative Policy: <i>Sexual Harassment, Sexual Assault, Stalking and Relationship Violence.</i></p>	<p>Scope is limited to reports of:</p> <ul style="list-style-type: none"> • sexual misconduct committed by students, staff, faculty and third parties who are engaged in any University activity or program, or who are otherwise interacting with the University, including, but not limited to, volunteers, contractors, vendors, and guests. • discrimination, or discriminatory harassment that is based on, a protected characteristic (race, color, creed, religion, national origin, gender, age, marital status, familial status, disability, public assistance status, membership or activity in a local commission created for the purpose of dealing with discrimination, veteran status, sexual orientation, gender identity, or gender expression) and that is committed by staff, faculty and third parties who are engaged in any University activity or program, or who are otherwise interacting with the University, including, but not limited to, volunteers, contractors, vendors, and guests. • related retaliation.
<ul style="list-style-type: none"> • Accepts complaints from non-labor represented unit faculty, staff, and student employees. • Services are not available to labor represented employees. 	<p>Accepts complaints from both non-labor represented employees and labor represented faculty, staff, students, and third parties who are engaged in any University activity or program, or who are otherwise interacting with the University, including, but not limited to, volunteers, contractors, vendors, and guests.</p>

CONFLICT RESOLUTION	EOAA
<p>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.</p>	<p>EOAA responds to reports through either 1) an informal problem-solving process or 2) a formal investigation to determine whether University policy has been violated. After gathering information through either of these processes, EOAA may make recommendations to the unit for rehabilitative, restorative, and/or monitoring measures. EOAA may additionally recommend disciplinary measures if a formal investigation is conducted and a policy violation is found.</p>
<p>A peer panel relies on the information presented to them in a panel hearing, which normally takes one day.</p>	<p>EOAA determines whether University policy was violated.</p>
<p>A peer panel makes the initial determination of whether a University policy/practice was violated.</p>	<p>EOAA determines whether University policy was violated.</p>
<p>The panel determination goes to the executive vice president and provost who may accept or reject it and decides what action to take.</p>	<p>EOAA sends its policy violation determinations and recommendations for responsive action, if any, to the appropriate University authority (dean or supervisor, and HR representative). The University authority determines which responsive actions to implement.</p>
<p>The petition process often takes from 4-8 months.</p>	<p>The EOAA process generally takes from 2 to 7 months.</p>
<p>If the petitioner disagrees with the decision of the panel or the executive vice president and provost, the petitioner can proceed to binding arbitration, or seek judicial review in the Minnesota Court of Appeals.</p>	<p>There is no internal appeal of an EOAA finding of whether a policy violation occurred. However, employees may be able to grieve discipline that is imposed on them as a result of an EOAA investigation through processes based on their employee classification. P&A and civil service employees may be able to grieve their discipline through the OCR petition process. Labor-represented employees may be able to grieve their discipline through their collective bargaining agreements. Faculty may be able to grieve their discipline under the Faculty Tenure Code or through the OCR petition process. An employee may also have opportunities to pursue a complaint with outside agencies or the court.</p>
<p>*Employees may file complaints with city, state, or federal agencies or the courts.</p>	

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. Labor represented 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. Volunteers, fellows, or other individuals who work at the University, but are not paid by the University, are generally 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, and there are time limits

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 who file a petition challenging the termination of employment within six weeks of its effective date may be eligible for formal conflict resolution services. Eligibility to challenge termination of employment depends on the terms of the employee's governing employment contract. Former employees who challenge an employment termination 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 may be resolved informally in accordance with the terms of Board of Regents Policy: *Faculty Emeriti*.

Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence.

A formal petition may not be filed with OCR that (1) alleges a violation of the Administrative Policy: *Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence* or (2) challenges findings related to or disciplinary decisions resulting from violations of the Administrative Policy: *Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence*.

Note: These exclusions do not prevent employees concerned about or impacted by sexual harassment, sexual assault, stalking or relationship violence from using the informal services offered by OCR. However, informal services may not (1) result in discipline or a change in previously-imposed discipline pursuant to the Administrative Policy: *Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence*. or (2) result in a waiver to pursue a complaint with the campus Title IX office.

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.

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

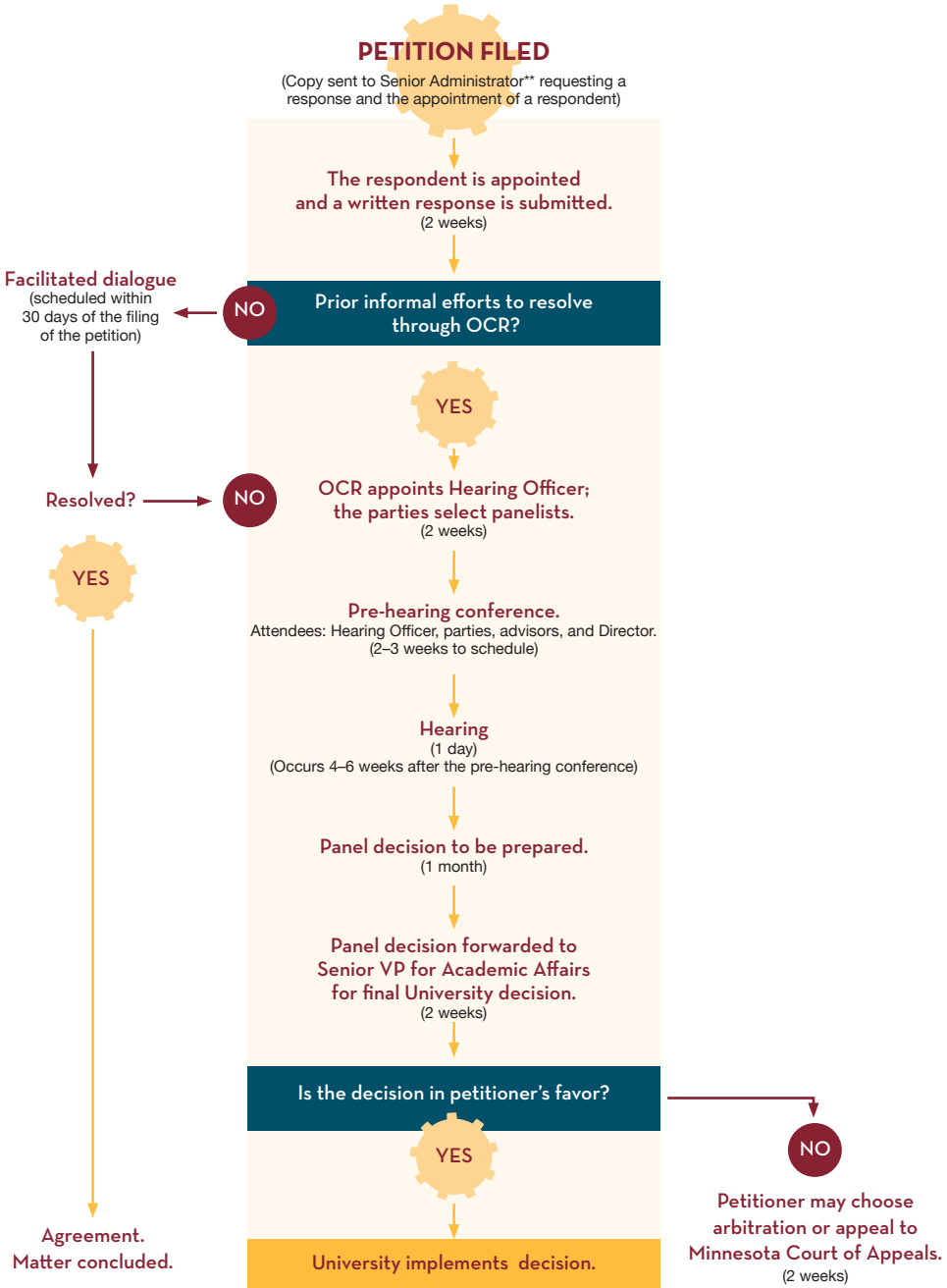
Certain employment claims (sometimes referred to as common-law claims) against the University may be required to proceed through the internal formal petition process prior to seeking review by a court. For these claims, if an employee does not proceed in the petition process or fails to file a timely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



* 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.

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