

A photograph of a classical building with columns and pink flowers in the foreground. The building has a prominent portico with several tall, fluted columns. In the foreground, there are branches of a tree with many pink, five-petaled flowers. The sky is blue with some light clouds. The overall scene is bright and clear.

Office for Conflict Resolution

Annual Report

2013-14

UNIVERSITY
OF MINNESOTA



The Office for Conflict Resolution is a resource for non-bargaining unit University faculty, staff, and student workers to help them resolve workplace disputes—either through informal problem-solving initiatives or a peer hearing process. By listening to faculty, staff, and student employment concerns and offering a range of processes to respond to concerns, the office promotes a University culture of engagement and achievement.





Board of Regents policy: *Conflict Resolution Process for Employees* and the implementing administrative procedures require that the office prepare an annual report about the work of the office, including a summary of issues raised, decisions rendered in the hearing process, and the instances in which the Senior Vice President for Academic Affairs and Provost declined to accept the recommendations of a peer panel. The policy and procedures also require that this report be distributed to senior administrators and governing councils for faculty, staff, and students.

This annual report covers the period July 1, 2013, through June 30, 2014 (FY14).

SUMMARY DATA ON CONFLICT RESOLUTION PROCESSING IN 2013-2014

Consultations and Informal Assistance

Informal conflict resolution matters are the largest part of the office workload. Consultations are face-to-face meetings (or telephone conferences, particularly with employees on system campuses) about workplace concerns or problems. The following statistics count the people who came to the office for one or more consultation meetings in FY14. In some cases, a matter involved several meetings over many months. Referral calls are not counted in the total number of consultations.

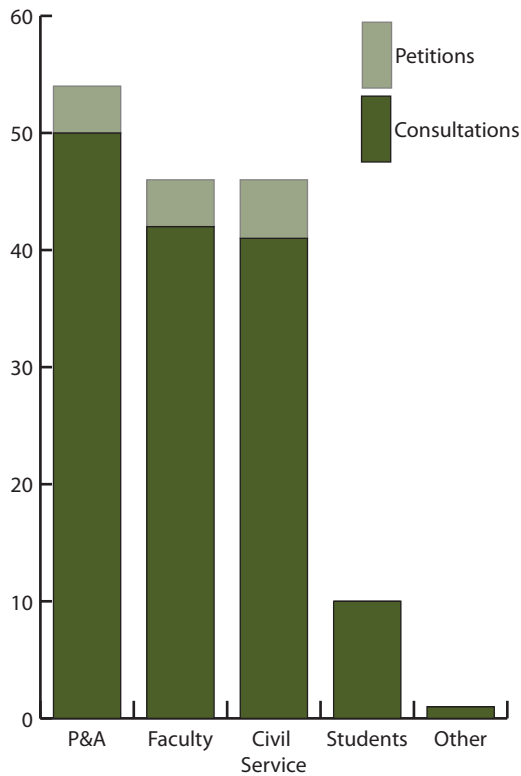
In FY14, office staff had 144 consultation matters, compared to 136 in FY13. Of these 144 matters, 42 were with faculty; 48 with P&A employees; 42 with Civil Service employees; nine with student workers; and three with people in other employment categories. Eight of the 144 consultation matters resulted in the employee filing a petition.

Petitions

Petitions are formal complaints that allege a violation of a University rule, regulation, policy, or practice. A three-person peer panel conducts a hearing and makes recommendations to the Senior Vice President for Academic Affairs and Provost, who makes the final University decision.

During FY14, there were 24 open petitions—13 newly filed ones and 11 from FY13 that were continued for processing in FY14. Of the 13 new petitions, five were by Civil Service staff, four by faculty, and four by P&A staff. There were no petitions filed by students this year.

Of the 24 open petitions processed in FY14, 17 settled or were withdrawn without a hearing, three went to a hearing, and four were carried forward for processing in FY15.



Jurisdictional Challenges and Advisory Determinations

Informal consultations are available to faculty and staff without jurisdictional thresholds. There are jurisdictional requirements, however, for initiating a formal petition requesting a peer hearing.

The Conflict Resolution Policy provides a procedure for determining if a particular matter is within the jurisdiction of the peer hearing process. When there is a jurisdictional challenge, the Director makes an advisory determination on the jurisdictional issue, which is subject to review by the Senior Vice President and Provost.

In FY14, the Director issued two advisory jurisdictional determinations.

In the first matter, a Civil Service employee filed a petition after he was terminated from his employment.

The jurisdictional issue was whether the petitioner could challenge two prior complaints against him and the resulting disciplinary actions as part of his petition challenging his termination. The petitioner had failed to file a petition on the two prior disciplinary actions within the Office’s jurisdictional time requirements. The petitioner contended that he should nevertheless be permitted to challenge the two prior disciplinary actions as part of his petition because the respondent considered those prior disciplinary actions in making the decision to terminate the petitioner’s employment after a third complaint was made against the petitioner.

The Director decided that the petitioner could challenge prior complaints, processes, and disciplinary actions, but only to the extent that they were referenced in the investigation of the third complaint, the termination letter, or the respondent’s hearing presentation.

The respondent appealed the Director’s decision to the Senior Vice President and Provost. The Provost



decided that the Office did not have jurisdiction to hear the petitioner’s challenges to the two prior complaints or the resulting investigations, processes, and disciplinary actions. The petitioner later withdrew the petition and the peer hearing was not conducted.

In the second matter, the Director determined that the Office did not have jurisdiction over a faculty member’s challenge to a reduction in salary made by University of Minnesota Physicians (UMP). The Director reasoned that faculty members working for UMP are not University employees for purposes of the Conflict Resolution Policy and therefore are not eligible for the office’s services. The petitioner did not appeal the jurisdictional decision.

Peer Hearings and Decisions of the Senior Vice President for Academic Affairs and Provost

A peer hearing on a petition is conducted before a three-person panel of University faculty or staff. A hearing officer is selected from a roster of hearing officers nominated by faculty and staff committees

and appointed by the Vice President for Equity and Diversity. A second panel member is selected by the petitioner from a roster of panelists appointed by representative employee committees. A third is appointed by the responsible senior administrator. After the hearing, the panel prepares a written recommendation that is distributed to the parties and to the Senior Vice President and Provost, who makes the final University decision on the matter.

In FY14, there were three peer hearings of Civil Service employees. There were no hearings held in FY13.

In the first matter, a Civil Service employee filed a petition alleging that her termination of employment did not satisfy the just cause requirement of the Civil Service Employment Rules. The hearing panel agreed and recommended reinstatement. The Senior Vice President and Provost agreed that the termination was not consistent with Civil Service Rule 13.2.1 and that the petitioner should be reinstated with full benefits

and back pay, minus a two-week suspension.

The second hearing involved a Civil Service employee who had been terminated after several disciplinary meetings. The employee alleged that the termination did not satisfy the just cause requirement of Rule 13.1 of the Civil Service Employment



Rules. A settlement agreement was later reached, but was never signed by Human Resources. The panel decision stated that the respondent demonstrated that the standards of just cause were followed in the discipline and termination of the employee, and that the petitioner did not prove there was a violation of a policy, rule, or procedure regarding the settlement agreement. The Senior Vice President for Academic Affairs and Provost agreed that the petitioner should not be reinstated.

A third Civil Service employee, who was reclassified and subsequently laid off, alleged that his reclassification constituted an abuse of discretion and that he was denied bumping rights in violation of Civil Service Employment Rules 2.3, 3.4, and 12.3.2. The hearing panel decided that the petitioner failed to show that there was an employee he could bump or that there was a clear abuse of discretion regarding his reclassification. The hearing panel found in favor of the respondent on all issues, and the Provost accepted the panel’s decision.

Arbitration Hearings

If a petitioner receives an unfavorable decision from either a peer hearing panel or from the Senior Vice President and Provost, the petitioner may elect to proceed to binding arbitration. To proceed to arbitration, the petitioner waives rights to pursue the claim in another forum.

During FY14, there were no arbitration hearings, nor were there any in FY13.

System Campuses

The Conflict Resolution Policy applies to all campuses. In FY14, there were ten consultation matters and four petitions involving faculty, P&A staff, and Civil Service staff on system campuses.

Issues and Trends

It is difficult to provide an accurate general picture of the issues raised in FY14, since several issues may fuel an individual complaint. Nonetheless, some observations emerge. One that continues in all employee categories concerns disrespectful working behaviors. The policy most often cited in informal consultations was Board of Regents policy: *Code of Conduct*.

Issues were raised this year regarding the job family classification studies. Some employees felt that they had been reclassified into an incorrect employment category or job code, or that there was insufficient communication for an employee to make an informed decision when there was a choice to remain a Civil Service employee or be reclassified to P&A.

For faculty, concerns regarding promotion, tenure, and academic freedom go to the Senate Judicial Committee. Most other issues can be brought to the

Issues Raised Most Frequently	Consultations	Petitions
Disrespectful work environment	47	0
Difficult working relationships	12	0
Termination of employment	11	8
Compensation	6	4
Discipline	4	1

Policies Most Frequently Alleged to Have Been Violated	Consultations	Petition
Code of Conduct	54	0
Civil Service Employment Rules	22	7
P&A policies	14	5
Compensation policies	5	2
Employment contract	2	2

Office for Conflict Resolution. This year, the most common concerns raised by faculty were about salary equity, teaching assignments, academic freedom, lab space, governance, and work environments. Medical School faculty concerns about administrative decision-making regarding financial support and compensation continued into FY14.

For Civil Service employees, concerns were raised about discipline, benefits, difficult working relationships, performance issues, poor supervision, and violation of Civil Service Employment Rules regarding termination of employment. Some employees expressed dissatisfaction with salary after the results of the job family classification study.

Most P&A employees are on annually renewable contracts and are often cautious about raising concerns. P&A employees raised the following concerns: non-renewal, poor working communication and relationships, violation of a P&A contract when reclassified to the Civil Service category, salary equity, removal from an administrative position, and receipt of incorrect information about a promised contribution to a retirement plan.

ADDITIONAL ACTIVITIES BY THE OFFICE FOR CONFLICT RESOLUTION AND THE ADVISORY COMMITTEE

Educational Initiatives

The Office for Conflict Resolution designed and delivered educational programming to faculty on issues of navigating conflict, responding to abrasive faculty conduct, and promoting a local culture of engagement. This programming was focused on faculty for two main reasons: Human Resource offerings are not pedagogically appropriate for faculty and faculty largely do not participate in them. Perhaps more importantly, faculty are very influential in setting the tone for the local work climate. Illustrative educational programs in FY14 included a panel of leading faculty and administrators in November 2013 for an audience

of about 100 on “Thriving Departmental Cultures” and a round table in the spring of 2014 for CLA Chairs and Directors of Graduate Studies on strategies for responding to abrasive faculty conduct.

These initiatives emphasize the need for leadership at the local level and help those leaders feel confident that there are things they can do to intervene in abrasive faculty conduct to promote an environment where all feel welcome.

Program partners and sponsors included OED leadership, the Dean’s Office in the Medical School, the Conflict Resolution Advisory Committee, CLA Interim Dean Duvall and his staff, and undergraduate

Design students from Professor Stephen McCarthy's Design 3351 class, Text and Image.

OCR Programming

The Office for Conflict Resolution has been one of the leaders of the Academic Civility Workgroup. This group is convened by the Student Conflict Resolution Center. In FY14, the workgroup expanded the Working Better Together website, <http://wbt.umn.edu>. The Director of the Office for Conflict Resolution highlighted articles of interest on the website and, with the input of the workgroup, developed new tools and tip sheets and participated in several trainings designed to promote this effort and these tools. Mari Magler, Assistant Director, also participated in the workgroup.

This initiative demonstrates that a grassroots collaboration of faculty, staff, and students working together to promote change in University culture can shine a light on abrasive behaviors (which disproportionately affect minorities) and provide useful tools to people who want to address these abrasive behaviors.

In addition to the Student Conflict Resolution Center, other units active in this group include the Center for Teaching and Learning, the Graduate and Professional Student Assembly, Boynton Health Service, Equal Opportunity and Affirmative Action, International

Student and Scholar Services, and several schools and colleges in the Academic Health Center.

OCR Outreach and Engagement

In January 2013, the Office for Conflict Resolution joined the Office for Equity and Diversity. This was an opportunity to expand awareness of our office and its services and to extend our services to individuals and units within OED.

Our office provided services to two work groups within OED. Mary Tate, Consultant and AHC Liaison, and Director, Minority Affairs and Diversity, Medical School, was designated to be available for consultations with individual OED employees. Mary does not report to the Vice President for Equity and

Diversity, which helps assure confidentiality, independence, and neutrality.

Mari Magler, Assistant Director in the office, joined the OED training team and gave several presentations with that program during FY14. These included workshops on Being an Ally in the Work of Equity and Diversity, Engaging Universal Design Concepts to Increase Access and Inclusion, and Educating about Equity and Diversity: Facilitating Challenging Conversations. These

and other OED workshops are open to all University students, staff, and faculty.

An educational program about the services of the



Office was presented at an OED all-staff meeting in the fall of 2013.

Advisory Committee and Annual Surveys

An Advisory Committee oversees the work of the Office for Conflict Resolution. It addresses policy concerns and reports on the work of the office to the Vice President for Equity and Diversity, Katrice Albert. Rod Squires, Associate Professor, Geography, Environment, and Society, served as Chair of the Conflict Resolution Advisory Committee in FY14.

A survey to petitioners and those who consulted with this office was sent by email in FY14. The survey solicited anonymous responses.

Survey results are reviewed by the Advisory Committee and are forwarded with an annual report on the performance of the Office to the Vice President for Equity and Diversity.

Participants reported that they found it helpful to have a neutral and private office available to discuss their concerns. Participants appreciated having help in identifying and reviewing their options and expressed satisfaction with the overall quality of the Office's services. Some expressed dissatisfaction about the office's perceived lack of authority to make changes.

A separate email survey was sent to respondents, advisors, and others to solicit their input on conflict resolution policies and procedures. One respondent felt that the Office was not neutral, but an advocate for employees. Another, who had filed a jurisdictional challenge to a matter, noted that there were differences of opinion on the interpretation of the challenge process among Office staff. All responses will be taken into account in the policy review that will be conducted in FY15.



Staffing

Carolyn Chalmers, Director; Mari Magler, Assistant Director (also Associate Director, Disability Services); and Jean Henrichsen, Program Coordinator, staffed the Office for Conflict Resolution in FY14. Mary Tate, Director, Office of Minority Affairs and Diversity, Medical School, served as Consultant and Academic Health Center Liaison.

Office for Conflict Resolution
662 Heller Hall
271 – 19th Avenue South
Minneapolis, MN 55455
612-624-1030
612-625-0889 (fax)
ocr.umn.edu

© 2014 Regents of the University of Minnesota. All rights reserved.

The University of Minnesota shall provide equal access to and opportunity in its programs, facilities, and employment without regard to race, color, creed, religion, national origin, gender, age, marital status, disability, public assistance status, veteran status, sexual orientation, gender identity, or gender expression.

