

OCADFA GRIEVANCE POLICY

Grievance Committee

- Composition:
 - Two Grievance Co-Chairs (who shall alternate chairing responsibilities)
 - President
 - Negotiations Chair
 - Executive Director (non-voting)
 - Other members as consensually appointed by the Grievance Co-Chairs
 - A member may be appointed on a case-specific purpose

- Meetings:
 - The Grievance Committee shall meet at least every other month from September to April, and at least once from May to August.
 - At each meeting, the Grievance Committee shall receive a report on every outstanding grievance, and grievances resolved or withdrawn since the last meeting. When required, the Grievance Committee shall vote on requests to refer grievances to arbitration, or any other relevant motions put forward by a member of the Grievance Committee. Such decisions shall be made in accordance to the principles of the duty to fairly represent OCADFA bargaining unit members, and shall be decided upon by simple majority.
 - Quorum at meetings: At least two out of three of the Grievance Co-Chairs and President, Executive Director, and at least one other appointee (for a minimum of three voting members)

General Grievance Protocol

- Intake
 - When a member believes they have a complaint that may warrant a grievance the first step is to contact a member of the OCADFA Board of Directors or Executive Director. Simple questions may be handled via email, but for most inquiries that could result in a grievance the member will be asked to meet with a member of the Grievance Committee and/or Executive Director for confidential consultation.

- Informal
 - OCADFA may represent members regarding a broader scope of issues may in the informal process than what is formally grievable

- Members may be required to engage in an informal process before a formal grievance is filed, in accordance with the grievance policy provided for in Article 13.3 of the *Memorandum of Agreement*.
- The member may initiate and represent themselves in an informal process. In some cases, a representative of the Grievance Committee or the Executive Director may act on behalf of the member, in continued dialogue and consultation with the member.
- If a matter is not resolved informally, the member may request (or be advised) to file a formal grievance.
- Formal
 - There are many workplace situations wherein a member may feel aggrieved, but there is no grievance to file. OCADFA may try assist members on a variety of issues in the informal process, but may only file a formal grievance if there is a reasonable reason to believe a violation of *Memorandum of Agreement*, an established past practice or policy, or provincial labour laws (such as the *Employment Standards Act*, the *Labour Relations Act*, the *Occupational Health and Safety Act*, or the *Human Rights Code*).
 - A member's request to file a grievance may be denied if there is no reasonable reason to believe any of the above has been violated, or if the timeline for filing a grievance (established in Article 13.4.2 as "21 calendar days of the date of the act or omission giving rise thereto, or of the date on which the Grievor first knew, or ought reasonably to have known, of such act or omission" which constitutes the violation). If a request to file a grievance is not approved, the member will be informed of the reason(s) it was denied.
 - Normally one member of the Grievance Committee shall be assigned to each formal grievance.
 - All formal grievances will be filed by the Executive Director and copied to the assigned member of the Grievance Committee. It will then be forwarded to the grieving member, where applicable.
 - In most cases, the remedy requested will be to "make the grievor whole," but OCADFA may request specific remedies in consultation with the member, and will likewise engage in good faith efforts to resolve the grievance in satisfaction of the member, and in accordance with the *Memorandum of Agreement* and relevant labour laws.
- Arbitration
 - If the grievance process is exhausted without resolving the grievance, the member may request the grievance be referred to arbitration.

- In consultation with the Executive Director, the Grievance Committee representative will make a determination on whether to refer the grievance to arbitration. They may also choose to defer the request to the Grievance Committee, who shall then make a determination.
 - Decisions to refer a grievance to arbitration will consider a variety of factors including: the merits of the case and likelihood of success; the expected costs and impact on the Association's financial health; the significance of the grievance and its consequences for the member(s) either involved in the particular matter or in whole; and the legitimate interests of the Association.
- Appeal Process
 - A member may appeal the denial of a request to file a formal grievance to the Grievance Committee. The member must inform either the Executive Director or a Grievance Co-Chair of their intent to appeal within 7 calendar days of being notified of the denied request.
 - The Grievance Committee will make every effort to schedule an emergency meeting to hear the appeal within 10 working days from the date of notification of intent to appeal.
 - The member will be provided up to 15 minutes of time to present their request to the Committee to reconsider the decision not to grieve, and present the reason(s) why they believe a grievance is warranted.
 - The Grievance Committee member assigned to the member, and/or the Executive Director, may also present why they do not believe a grievance is warranted;
 - The Committee will then deliberate in camera, and the member will be notified of the decision immediately following the meeting, along with rationale.
 - The decision of the Grievance Committee shall be final.
 - A member may appeal the denial of a request to refer a grievance to arbitration to the Board of Directors. The member must inform either the Executive Director or a Grievance Co-Chair of their intent to appeal within 7 calendar days of being notified of the denied request.
 - The Board of Directors will make every effort to schedule an emergency meeting to hear the appeal within 10 working days from the date of notification of intent to appeal.
 - The member will be provided up to 15 minutes of time to present their request to the Board of Directors to reconsider the Grievance Committee's decision not to refer the

grievance to arbitration, and present the reason(s) why they believe arbitration is warranted.

- The Grievance Committee member assigned to the member, and/or the Executive Director, may also present why they do not believe a referral to arbitration is warranted;
- The Board of Directors will then deliberate in camera, and the member will be notified of the decision immediately following the meeting, along with rationale.
- The decision made by the Board of Directors shall be final.

Legal Advice and Representation:

- As the Grievance Committee or Representative, or Executive Director, deems warranted, advise of retained OCADFA legal counsel may be sought on a particular matter. Normally this advice is not sought until a grievance is referred to arbitration, or when the Grievance Committee is considering a request to refer a grievance to arbitration.
- Legal representation will be retained for a particular case at the sole discretion of the Association
- Members should be made aware that legal counsel retained by OCADFA maintain a solicitor-client relationship with OCADFA, and not individually with the member. As such, member's should not expect to meet with a lawyer retained by OCADFA without the presence of a member of the Grievance Committee

Duty of Fair Representation

- In all matters, the Association will represent members in accordance to the duty of fair representation as established by the *Labour Relations Act*

Carriage

- OCADFA retains carriage on all grievances it files. Carriage means that OCADFA decides on the strategy, mode, substance of representation and advocacy, and the extent to which it will pursue the grievance

Confidentiality

- Members of the Grievance Committee shall strictly protect confidentiality. All communications between the member and their Grievance Committee representative(s) about a grievance or a potential grievance shall not be disclosed to any other individual without the consent of the member.
- Information about a particular grievance may be shared and discussed at Grievance Committee meets as required, but shall not divulged outside the Committee, except to and on the advice on the Association's legal counsel. In all deliberations of the Grievance Committee, efforts will be made to keep the identity of grievors, or potential grievors, confidential.
- All members of the Grievance Committee shall return to OCADFA, upon leaving the Committee, any confidential information they have in regards

- to a member or policy grievance. All copies or materials in their personal position must thereafter be destroyed.
- All records of the Grievance Committee, including past grievances, shall be maintained by the Executive Director in a secure fashion.

Member-to-member issues

- OCADFA has a duty to fairly represent all bargaining unit members in matters of employment with the University. As such, in matters where a complaint involves allegations pertaining to another member, particularly allegations concerning workplace harassment and discrimination, particularly emphasis will be placed on maintaining a separation of representation for each member. The matter shall not be discussed between the members respective representatives on the Grievance Committee, and the Executive Director shall not disclose confidential or privileged information divulged from one member to the representative of the other member.
- The Executive Director shall retain a coordination role in all member-to-member complaints, and as such shall facilitate legal representation when required. The Executive Director may also file and present grievances as required, and help negotiate potential resolutions when appropriate.