

## **Article 11 – Grievance Process and Arbitration Procedure**

### **11.01 General**

- a) The Parties will make every reasonable effort to resolve disputes arising from this Agreement promptly, justly, and equitably.
  - i. Unless otherwise stated in an offer of settlement or a settlement, all offers of settlement and settlements are without prejudice or precedent with respect to any other matter arising under this Agreement.
  - ii. There shall be no reprisals of any kind taken against any Teaching Faculty Member because of the Teaching Faculty Member's participation, or lack thereof, in the grievance process and arbitration procedure under this Agreement.
  - iii. The Association shall have carriage of all grievances. No grievance may proceed to Step 1 unless it has been assumed by the Association.

### **11.02 Definitions**

- a) A grievance is any dispute or difference between the Parties that has not been resolved informally (as described in Article 11.05) arising from the application, interpretation, administration, or alleged violation of this Collective Agreement, including any question as to whether the matter is arbitrable.
- b) For the purposes of interpretation of this Article, the meaning of "circumstance" shall include the occurrence of those specific facts that give rise to the disputed application, interpretation, administration, or alleged violation of this Collective Agreement, including any alleged failure to apply or administer this Collective Agreement.

### **11.03 Types of Grievance**

- a) An individual grievance is a grievance initiated by the Association on behalf of an individual Teaching Faculty Member, who is solely affected. Only one (1) grievance concerning the same circumstance will be recognized. Where grievances are similar, the Parties may agree to make the necessary arrangements to hear the grievances as a group grievance.

- b) A group grievance is a grievance involving the same issue in dispute initiated by the Association on behalf of two or more Teaching Faculty Members, who are similarly affected. The grievance shall name the Teaching Faculty Members who are included in the group.
- c) A policy grievance is a grievance initiated by either Party involving the interpretation, application or alleged violation of this Collective Agreement that has implications generally for Teaching Faculty Members. A policy grievance cannot be initiated when the substance of the grievance could have been initiated as an individual grievance. A policy grievance by the Employer can only name the Association. Policy grievances shall be filed at Step 2 of the grievance process.

#### 11.04 Time Limits

- a) Any time limits in this Article may be extended by agreement between the Parties in writing.
- b) If the grieving Party fails to act within the time limits set out at any of the steps of the grievance process and/or arbitration procedure, and has not within that period requested and been granted an extension of time, the grievance will be considered abandoned or resolved on the basis of the responding Party's last response, as the case may be.
- c) If the responding Party fails to reply to a grievance within the time limits set out at any of the steps of the grievance process and/or arbitration procedure, and has not within that period requested and been granted an extension of time, the grieving Party may submit the grievance to the next step of the grievance process or arbitration procedure, as the case may be.
- d) One or more steps in the grievance process may be omitted upon the written agreement of both Parties.

#### 11.05 Pre-grievance Informal Resolution

- a) It is the mutual desire of the Parties that the issues, concerns and complaints be addressed as quickly as possible. Accordingly, it is preferable that (a) Teaching Faculty Member(s) bring such matters to the attention of his/her/their Dean, as soon as possible after becoming aware of the matter, to allow an opportunity for resolution before engaging in the grievance process. Similarly, the Dean shall

address such matters raised with him/her as expeditiously as possible. The Teaching Faculty Member(s) raising such matters have the right to have an Association representative present at a meeting addressing such matters.

- b) Instead of the informal procedure set out in Article 11.05 (a), the Teaching Faculty Member(s) has/have the right to contact the Association directly to raise an issue on his/her/ their behalf. The Association may raise an issue on behalf of (a) Teaching Faculty Member(s) with Human Resources within ten (10) Days of when the Teaching Faculty Member(s) knew or reasonably ought to have known of the circumstance(s) giving rise to the issue. These Parties may resolve the issue or make suggestions that may resolve the issue.
- c) Human Resources shall respond to an issue raised under Article 11.05 b) within ten (10) Days of it being brought forward by the Association.

#### 11.06 Grievance Process

- a) Step 1
  - i. A grievance must be filed with the Teaching Faculty Member's(s)' Dean in writing within thirty (30) Days of when the Teaching Faculty Member(s) knew or reasonably ought to have known of the circumstance giving rise to the grievance. For clarity, this period shall include any time spent using the process set out in Article 11.05 a) or b).
  - ii. The grievance shall set out the details of the circumstance giving rise to the grievance, specify the Article(s) which allegedly has or have been breached, and identify the remedy sought.
  - iii. The Dean, who may be accompanied by another representative of the Employer, shall meet with an Association representative and the Teaching Faculty Member(s) within ten (10) Days from the receipt of the grievance.
  - iv. The Dean shall forward his/her written decision to the Association with a copy to Human Resources within five (5) Days of such meeting.
  - v. If the Grievance is resolved at Step 1, such settlement shall be reduced to writing and signed by the Association representative and the Dean within five (5) Days after the Step 1 meeting or the response of the Dean, as the case may be.

b) Step 2

- i. A grievance filed at Step 2 shall be submitted in writing to the Provost through Human Resources, or in the case of a University policy grievance, to the President of the Association.
  - a) Failing a resolution at Step 1, a grievance may proceed to Step 2 within five (5) Days of receipt of the decision at Step 1.
  - b) A grievance arising under Article 23.02(d) must be filed within ten (10) Days of the Dean's decision under Article 23.01(f).
  - c) Policy grievances initiated at Step 2 must be filed within fifteen (15) Days of the date upon which the submitting Party knew or ought reasonably to have known of the circumstance giving rise to the grievance.
- ii. The Provost, who may be accompanied by another representative of the Employer, shall meet with an Association representative and the Teaching Faculty Member(s) affected within ten (10) Days from the receipt of the grievance.
- iii. The Provost shall forward his/her written decision to the Association with a copy to Human Resources within ten (10) Days of such meeting.
- iv. If the grievance is resolved at Step 2, such settlement shall be reduced to writing and signed by the Association representative and the Provost within ten (10) Days after the date of the Step 2 meeting or the response of the Provost, as the case may be.
- v. In the case of a University policy grievance, the President of the Faculty Association shall within ten (10) Days after the date of the last meeting forward his/her written decision to the Provost with a copy to Human Resources.
- vi. The Provost shall advise the Faculty Association within ten (10) Days of receiving its decision under v. whether or not the grievance can be considered resolved on the basis of its decision.
- vii. In the event that arbitration is commenced under Article 23.02 d) and the arbitration hearing date is scheduled prior to completing Step 2, the arbitration hearing date shall take precedence over completion of Step 2.

#### 11.07 Arbitration Procedure

- i. If the grievance is not resolved at Step 2 of the grievance process, and either Party wishes to proceed, the matter must be submitted to arbitration within fifteen (15) Days of the Step 2 response.
- ii. The Parties shall select one arbitrator from the list of arbitrators in Appendix "C" of this Agreement. Unless otherwise agreed, arbitrators shall be selected on a rotating basis from the list.
- iii. Alternatively, the Parties, by mutual agreement, may agree that the grievance will be referred to a Board of Arbitration. The Parties shall then exchange names of their respective nominees to a Board of Arbitration within ten (10) Days of first being notified of the desire to proceed to a Board of Arbitration. The two (2) nominees shall then attempt to select a third person as a chairperson for the Board of Arbitration. If they are unable to agree on a chairperson within ten (10) Days of their appointment to the Board of Arbitration then either party shall have the right to request that the Ministry of Labour appoint a chairperson for the Board of Arbitration.
- iv. An arbitrator or Board of Arbitration has the powers of an arbitrator under the Ontario Labour Relations Act, but shall not have the power to alter, amend, add to or subtract from this Collective Agreement or to render a decision inconsistent with its terms.
- v. A decision of an arbitrator or Board of Arbitration shall be final and binding on the Parties.
- vi. Each Party shall pay fifty percent (50%) of the fees and expenses of the single Arbitrator or Chairperson for the Board of Arbitration, as the case may be. In the case of a Board of Arbitration, each Party will also pay the fees and expenses of its nominee.
- vii. Any grievance initiated or in process during the statutory extension between the expiry date of this Collective Agreement and the ratification of a new Collective Agreement between the Parties may proceed to arbitration under the terms of this Collective Agreement.