

Policy Number (if applicable):

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Position Responsible for Developing and Maintaining the Policy: Assistant Vice-President, Human Resources Services

Contact Department: Human Resources Services

1. PROCEDURE STATEMENT

This procedure is based on the premise that complaints arising in the workplace are best resolved on an informal basis between an employee in The Management Group (TMG) and his or her supervisor. However, should the matter be of such a nature that it cannot be discussed or resolved with the supervisor, employees will have access to a process that effectively addresses and resolves matters arising within their employment relationship with the University. An employee has the right to withdraw his or her complaint at any point during the Complaint Resolution Procedure. In this event, the complaint will be closed. This policy is not available to employees who choose to resolve a complaint through civil litigation.

2. PRINCIPLES

The TMG Complaint Resolution Procedure adheres to the following principles:

- each employee with a complaint relating to his/her employment should have access to a system to resolve the matter
- the immediate supervisor should have an opportunity to address the matter
- all employee matters should be treated in a confidential manner (i.e., only those who are involved in the case will be brought into the proceedings)
- employees should have the opportunity to invite an individual to accompany them to any proceedings relating to a complaint under this policy
- a clear outcome should be provided from the managerial level responsible for the position
- all matters should be handled in a timely manner

3. DEFINITION OF COMPLAINT

A complaint is defined as a work-related conflict or a specific matter arising out of the interpretation, application, administration or alleged violation of the University's human resources practices or written policies, directives, or procedures. Wherever 'employee' is expressed in the singular, it will also mean 'employees' in the plural when the complaint affects more than one employee.

4. RESOLUTION PROCESS

Informal Complaints

An employee should first discuss the complaint with his/her supervisor as soon as practicable after becoming aware of the problem. If the employee is not satisfied with the outcome or, due to the nature of the issue, does not feel comfortable speaking to his/her supervisor, the employee may consult with the Director, Employee/Labour Relations in Human Resources Services (HRS).

The Director, Employee/Labour Relations will assist the employee to determine the appropriate approach to resolve the complaint. Some possible courses of action may be: mediated or facilitated discussion with the supervisor or other senior management representative, counseling about other avenues of resolution (including the use of the Ombuds Office), referral to the Employee Assistance Program (EAP), impartial review by an agreed-upon senior colleague or an approach designed for the specific needs of the employee. This course of action will include a specific determination of what will comprise the record of the complaint.

Formal Complaints

While it is expected that the informal process will resolve most matters, in the event that the resolution approach does not resolve the matter to the satisfaction of the employee, or the employee does not wish to use any course of action recommended by the Director, Employee/Labour Relations, the employee may choose to file a formal complaint through the Assistant Vice-President, HRS. The complaint must contain the following information:

- a. the date of the alleged incident(s),
- b. the facts (including any witnesses),
- c. the policy, directive, or procedure alleged to have been violated (or the allegation of a work-related conflict),
- d. any steps already taken to resolve the matter,
- e. the remedy sought,
- f. signature(s) of the complainant(s)
- g. date.

HRS will copy the employee's supervisor with this document. The supervisor may provide HRS with a written response to the complaint. In this event, the employee will be copied.

Once an employee has initiated a formal complaint, an HRS representative shall commence an investigation by meeting with the employee to discuss the matter within five (5) business days of the complaint being received. The HRS representative shall then consult with the supervisor and may

COMPLAINT RESOLUTION PROCEDURE FOR TMG

consult with other relevant parties to discuss the matter with a view to identifying potential solutions (including a possible meeting between the parties). The HRS representative will generate a draft fact-finding report with recommendations for potential terms of an outcome normally within ten (10) business days from the meeting with the employee.

Both parties will have five (5) business days to advise the HRS representative of any error(s) in fact contained in the draft fact-finding report. The HRS representative would then have five (5) business days to prepare the final draft. Both parties will then have five (5) business days to indicate in writing whether they accept or reject the fact-finding report and its recommendations.

If both parties accept the recommendations, a letter of understanding identifying the issue in general terms, the terms of settlement, and the signatures of both parties will be completed and placed, if appropriate, into the complainant's human resources file. No other notes and documentation generated as a result of the complaint will be placed in the complainant's human resources file unless so specified in the settlement. If the complaint is not resolved to the satisfaction of either party, the matter will be referred to his or her reporting Vice-President, or designate, for a final and binding decision. If a designate is appointed, either party may object in writing to the choice of the designate. In this event, the President will determine who will be appointed. The Vice-President, or designate, will be provided with the original complaint, any written response made by the supervisor, the final HRS report and recommendations, and the written responses of the parties. The Vice-President, or designate, shall make a written decision in the matter. [If the complainant reports to a Vice-President directly, a different Vice-President will be appointed by the President as designate. If the member of TMG reports directly to the President, a Vice-President will be appointed as designate to hear the matter.]

The employee and supervisor shall be notified of the decision, including reasons and remedy, in writing normally within ten (10) business days of the complaint being received by the appropriate Vice-President, or designate. A copy of the decision will be provided to the HRS representative and the supervisor. This decision will take effect on the date specified in the decision.

The Vice-President, or designate will set out in the decision what document(s), if any, will be retained by the University, which documents, if any, will be placed in the appropriate parties' human resources file, and what other actions, including discipline, need to be taken by the University to appropriately respond to the Vice-President's decision. The appropriate Vice-President, or designate, will remain seized to ensure the terms of the decision are implemented.

5. PROCEDURAL NOTES

The Ombuds Office is also available at any time for assistance in resolving disputes within the University. This policy is not available to employees who choose to resolve a complaint through civil litigation.

If the matter concerns sexual harassment or discrimination, the process provided by Human Rights & Equity Services is the procedure to follow and the employee will be advised as such by HRS. Employees may contact an HRS representative for advice and guidance on how to access this process. In the event that the employee considers that an HRS representative is in a conflict of interest with respect to the complaint, the employee will take his/her concern to either the Vice-President (Academic) or Vice-President (Administration), who will identify an appropriate process to address this concern.

An employee has the right to withdraw his or her complaint at any point during the Complaint Resolution Procedure. In this event, the complaint will be closed. At any point in the resolution process, the employee's supervisor may propose a solution to resolve the matter.

Either party may request a face-to-face meeting to resolve the matter. At any point in either the informal or formal process, the HRS representative will attempt to organize and facilitate such a meeting. If witnesses are so required, they will be treated as such under the terms of the Arbitration Act of Ontario.

An employee may bring a trusted peer to any meetings resulting from the application of the Complaint Resolution Procedure. Similarly, a supervisor may be accompanied by an additional management support person.

Any timelines contained in the Complaint Resolution Procedure may be extended with the explicit agreement of all parties. In the event that HRS, or the Vice-President, requires more time, the parties will be notified of the expected date of the report or decision.

Any question concerning the implementation of an accepted HRS report, or a Vice-President decision, may be directed to the Director, Employee/Labour Relations.

Employees have the right to access this process without reprisal. Any allegation of reprisal following use of this process will be treated as a new complaint.

The Complaint Resolution Procedure is only available to individuals in the employ of McMaster University. The termination of employment is not a matter that falls under the scope of the Complaint Resolution Procedure.

(1) Summary of which will be provided to all parties prior to meeting.