

## Policy 705.6 – Grievance: Non-Union Staff

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Approved By:

References: UMW Policy 705.5

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### I. POLICY

The University of Montana Western provides an exclusive University remedy for resolving grievances from employees not covered by a collective bargaining agreement. This policy does not apply to Regents' Contract professionals and administrators. No staff member shall be subjected to demotion, termination, or any other form of retaliation as a result of initiating a grievance under this procedure.

### II. PURPOSE

The purpose of this policy is to establish grievance procedures for non-union employees, with the exception of Regent's Contract professionals and administrators.

### III. PROCEDURE

This procedure does not apply to grievances based solely or primarily on alleged violation of University anti-discrimination policies. The University Discrimination Grievance Committee has jurisdiction over complaints of discrimination. All other grievances are to be channeled through the procedure described herein.

#### A. Definitions

For purposes of this policy:

**Grievance** is defined as a complaint of dispute initiated by an employee concerning terms and conditions of his/her employment at the University.

**Days** shall refer to working days. A working day is defined as all weekdays that are not designated as holidays. In computing any period of time prescribed herein, the date of the act, event, or default for which the designated period of time begins to run shall not be included. Time limits specified herein may be extended by mutual agreement of the parties involved at that step of the procedure.

**Respondent** refers to the representative of the University authorized to respond to the grievance on behalf of the employer.

#### B. Grievance Committee

##### 1. Composition of the Committee

- a. Number of members. The committee shall have six (6) members including the chair.
- b. Representative membership. Of the six members, three (3) shall be staff not covered by a collective bargaining agreement. Three (3) will be members who are contract professionals/administrators (Board of Regents' contracts). Staff Association will nominate at least four (4) persons for the staff positions. No members shall be from the grievant's employing department or office.

The Chancellor will make the appointments. In the event an appointed committee member is unavailable, an alternate will be selected by the Chancellor from the nominees.

Notwithstanding committee membership composition as set forth here, the Chancellor may appoint the same number of staff and Regents' Contract representatives from another University System campus.

2. **Quorum**

The presence of any four of the six members of the Grievance Committee will constitute a quorum.

3. **Appointment of Officers**

The Committee will elect its own chair. Each Committee member, including the chair, shall have one vote.

C. Grievance Procedure for Complaints

1. **Informal Procedure**

Step 1. A complaint shall be presented to the grievant's immediate supervisor within twenty (20) working days of the incident resulting in the complaint. If the supervisor and grievant are unable to resolve the grievance to the latter's satisfaction within five (5) working days after presentation of the grievance, the aggrieved party may proceed with Step 2 of the informal grievance procedure.

Step 2. The grievant shall present the grievance to the Department, Office, or Unit Administrator (i.e., Dean, Director, or Executive Officer) within five (5) working days of the conclusion of the Step 1 informal attempt at resolution. If the grievance is not resolved to the grievant's satisfaction within five (5) working days after presentation of the grievance, the aggrieved party may proceed with Step 3.

Step 3. The grievant shall state the grievance in writing to the Vice Chancellor for Administration & Finance/Student Affairs. If the grievance is not resolved to the grievant's satisfaction within ten (10) working days, the grievant may use the formal procedure.

2. **Formal Procedure**

Step 1. Appeal from the Informal Procedure to the Formal Procedure:

a. Grievant's Statement. The grievant will have five (5) working days after conclusion of Step 3 of the informal attempt at resolution in which to submit a summary of his/her position to the Committee and the respondent. The summary will include:

- 1) A statement of the relevant facts;
- 2) copies of documents to be submitted as evidence;
- 3) the remedy sought by grievant;
- 4) the names, addresses, and telephone numbers of persons grievant will call as witnesses at the hearing; and
- 5) the steps taken to resolve the grievance informally.

The grievant should specifically request in writing either an open or closed hearing and the reasons for that choice. The Committee will give preference to that request if legally permissible. The Vice Chancellor for Administration & Finance/Student Affairs will serve in an advisory/facilitative capacity to the Committee. If the grievant will be represented by

professional or other counsel, the name, address, and telephone number of that person should also be stated in writing at the time of this appeal.

- b. Respondent's Statement. After receipt of grievant's summary, respondent will have five (5) working days in which to submit a summary of his/her position to the Committee and grievant. The summary will include:
  - 1) a statement of relevant facts;
  - 2) copies of documents to be submitted as evidence;
  - 3) a response to grievant's position; and
  - 4) the names, addresses, and telephone numbers of persons respondent will call as witnesses at the hearing.
- c. Legal Counsel Representation. Either party may be represented by counsel. However, if either party elects to have counsel, the opposing party will be so notified in writing.
- d. Hearing Preparation. Preparation of the grievant's summary and preparation for a hearing before the Grievance Committee is to be done during non-working hours. The supervisor may allow a reasonable amount of time to the grievant during working hours to gather information needed for the case.
- e. The Hearing. The Grievance Committee will review the grievance. Within fifteen (15) working days from receipt of respondent's position summary, the Grievance Committee will review the written documents provided by both parties and conduct a hearing.

Testimony may be requested from persons with knowledge of facts relevant to the grievance. The role of the committee is to determine whether there was compliance with all relevant laws, rules, regulations, and policies by the employer and employee alike.

The chair will conduct the hearing but will not apply strict rules of evidence or conduct an adversary proceeding. In order to provide a fair and complete hearing, the grievant will present his or her position first. Questions from a committee member, which do not unduly impede the continuity of the party's presentation, may be entertained at any time during the hearing. However, the chair will be the final arbiter of all procedural matters.

f. The Decision

The Grievance Committee will meet in closed Executive Session to make its determination. Only the members of the Committee (or their duly appointed alternates) may attend this meeting. Any decision reached by the Committee must be approved by a majority of the members present and voting.

The decision of the Committee will be presented to the grievant in writing within five (5) working days after the hearing. The decision will contain the following:

- 1) a summary statement of the grievant's charges;
- 2) a statement of the relief sought;
- 3) a statement of the specific findings of fact and conclusions of the Committee regarding whether the evidence substantiated the grievant's complaint; and,
- 4) recommendations regarding redress of the grievance.

If the grievance is not resolved to the grievant's satisfaction, the aggrieved party may proceed with Step 2 of the formal grievance procedure.

Step 2. Appeal of the Grievance Committee's Decision

The Chancellor, or designee of the Chancellor, will review and respond in writing to the grievance within fifteen (15) working days receipt of the appeal. The response will include any actions that have been or may be taken to resolve the grievance. The Chancellor's decision will be final and binding.

**IV. AUTHORITY**

UMW Policy 705.5

**V. RESPONSIBILITY**

Vice Chancellor for Administration & Finance/Student Affairs, Chancellor, Supervisors