



Grievances and Appeals

Grievance Handling Policies and Appeal Procedures

Revised 14 February 2019

Preamble

Under the Labour Relations Code, the Faculty Association has sole carriage of a grievance and is the sole representative of the employee on employment-related matters. Only the Association can determine whether a matter is a grievance or refer a grievance to arbitration. The Association is one of the two parties (the other being the Administration) at all grievance meetings and arbitration hearings. The Association’s responsibilities and obligations follow from the “duty of fair representation” as defined by Section 12 of the Labour Relations Code.

Under the duty of fair representation the Faculty Association “*shall not act in a manner that is arbitrary, discriminatory or in bad faith in representing any of the employees*” in the bargaining unit. The duty of fair representation does not require the Association to process every grievance to arbitration. The duty of fair representation means every grievance must be thoroughly and seriously investigated and the Association cannot act

ABOUT

[Executive Committee](#)

[Standing Committees](#)

[Staff](#)

[Constitution and Bylaws](#)

[Privacy and Protection of Personal Information](#)

[Grievances and Appeals](#)

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[Contract Faculty Info & Events](#)

[Salaries](#)

[Benefits](#)

[Contact Us](#)

capriciously or give only superficial attention to a grievance or complaint. In exercising its discretion regarding the advancement of cases to arbitration, the Association has an obligation to review the matter thoroughly, act in good faith, objectively and honestly, and take into consideration the significance of the grievance and its consequences to the member and balance those with the legitimate larger interests of the Association.

All members of the bargaining unit are entitled to fair representation through each step of the grievance or arbitration procedure. The Association must keep records to demonstrate that it has taken appropriate steps to discharge its obligation of fair representation. Individual members are not entitled to bring forward grievances on behalf of their colleagues. Only members who are directly affected by the interpretation, application, or any alleged violation of the Collective Agreement or workplace policies have the right to bring forward a request for a grievance.

I. Procedures for Grievances & Arbitrations

The following outlines the procedures for cases that require formal action.

A. Grievances

- i. Formal grievances are the responsibility of the Faculty Association's Member Services and Grievance Committee (MSGC) and professional staff. The Constitution & Bylaws, Committee Terms of Reference, relevant Association Policies, the BC Labour Relations Code, and other relevant legislation guide the work of this Committee.
- ii. The Executive Committee can initiate policy grievances.
- iii. If a grievance is not resolved, the MSGC will vote on whether to recommend to the Executive Committee to

advance the case to arbitration.

- iv. If the recommendation of the MSGC is positive, the case will be forwarded to the Executive Committee for determination.
- v. If the recommendation of the MSGC is negative, the Chair of the MSGC will provide written reasons for the decision to the member, as well as the procedures to appeal.

B. Arbitrations

- i. Cases proceeding to arbitration normally require a positive recommendation from the MSGC to the Executive Committee. The Executive Committee has ultimate authority on whether a case proceeds to arbitration.
- ii. When making a determination to take a case to arbitration, Executive Committee members will receive copies of any relevant documents to be considered including the case summary, legal opinion(s) and official correspondence between the Faculty Association and UBC. At the meeting, the professional staff person responsible for the file will present the history of the case and answer any questions. After hearing submissions, the Executive Committee will deliberate *in camera*. The President will provide written reasons for the decision to the member, as well as the procedures for appeal, should the decision be negative.
- iii. The Executive Committee can also initiate policy arbitrations after considering relevant documents such as those described in B.ii.

II. Procedures for Appeals of Decisions Not to Proceed to Arbitration

Members have the right to appeal any negative recommendation or decision regarding their case. The body to which the member appeals is the Executive Committee. Members are urged to bring all relevant information forward at the appeal hearing. During the course of this process, should the member become aware of new and relevant material, he or she has a right to submit that material to the appropriate appeal body while the appeal process is ongoing.

Source of negative recommendation/decision	Appeal Body
Member Services and Grievance Committee	Executive Committee
Executive Committee	Executive Committee

The appeal process is similar at each appeal. Members must inform the Association that they wish to appeal within 7 calendar days of receiving the decision. The Faculty Association will make every effort to schedule a meeting of the Executive Committee to hear the appeal within ten (10) working days from the date of notification by the member that they wish to appeal, and the member will be informed of the date and time. The member will be provided with a copy of the case summary¹ and any official correspondence between the Faculty Association and UBC if these have not been previously provided. The member may appear in person to make an oral presentation of approximately 15 minutes and/or may make a written submission of no more than 10 double-spaced pages (roughly 2500 words) no later than 7 days in advance of the meeting.

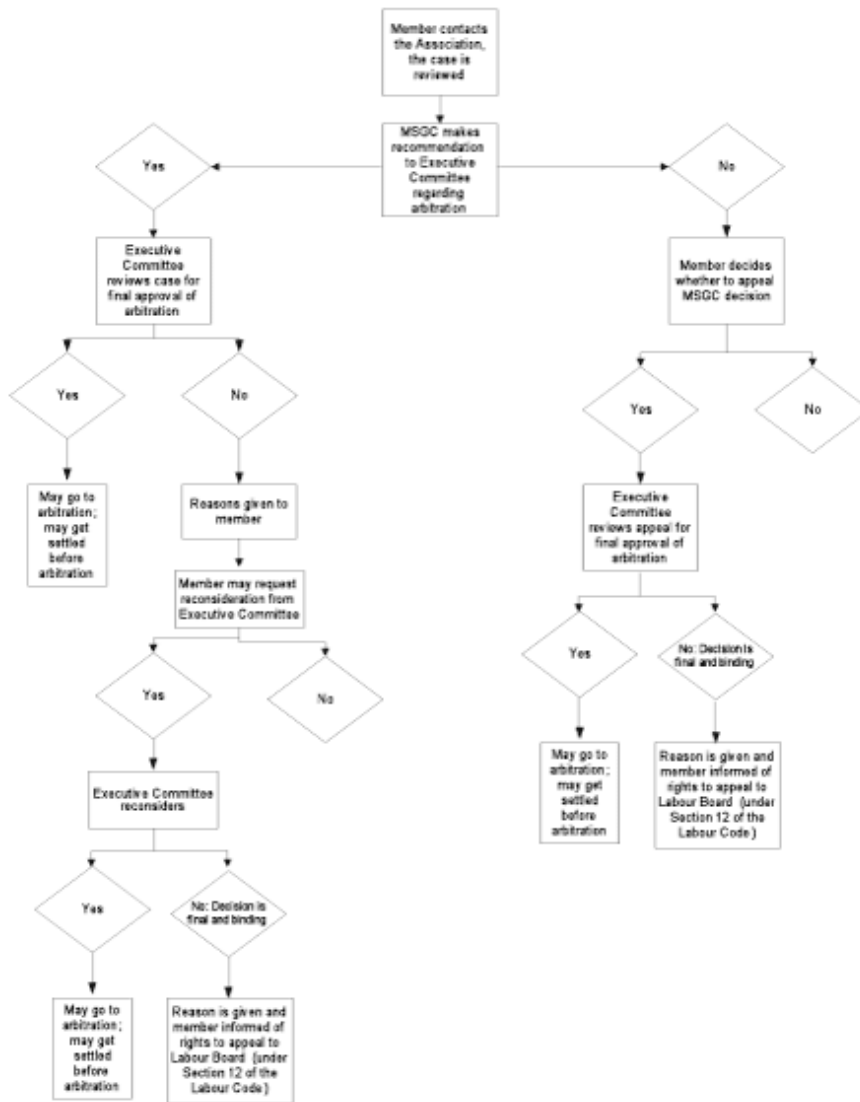
In advance of the meeting, the Executive Committee will be provided with the information as outlined in I.B.ii. above as well as the submission by the member, if any. Prior to the member being invited into the meeting, the professional staff person responsible for the file will present the history of the case (if this has not been done at a prior meeting). The member will then be invited in to present their appeal

and then be asked to leave the meeting. The relevant body will deliberate *in camera*. The President will provide written reasons for the decision to the member.

The Executive Committee's negative decision on an Executive Committee reconsideration shall be final and binding and will be the final step in the internal appeal process. Members shall be informed of their right to appeal to external bodies when receiving written notification of the Executive Committee's decision.

¹*The case summary is the property of the Faculty Association and shall be treated as a confidential document by the member. It is not to be distributed publicly.*

Arbitration Decision Tree



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Executive Committee
Standing Committees

Services & Assistance

Workplace Problems
Advocacy
Housing

Members

Research Stream
Faculty

WorkLife

Tenure/Tenure-Track
Librarians
Sessionals

Collective Agreement

Bargaining 2022
Bargaining 2019

Staff	Programs and Events	Educational Leadership Stream Faculty	Promotion & Tenure Process	Bargaining 2016
Constitution and Bylaws		Lecturers	Leaves	Bargaining 2014
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Grievances and Appeals		Program Directors	Benefits	Bargaining 2010
Annual Reports		Heads and Directors	Career Development	Bargaining Blog Index
Faculty Focus				Legal Decisions
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