



## First Steps

Members should know that there are times when they might feel aggrieved, but there is no grievance. This is because, by definition, a grievance is a violation of the legal terms and conditions of work. That means a formal grievance can be filed only if there is a violation of the Collective Agreement (CA), University Policies, or Provincial Labour Laws (e.g., Employment Standards Act, Labour Relations Act, Occupational Health and Safety Act, Ontario Human Rights Code).

When a Member of either Bargaining Unit (BU) feels that they have a complaint which could be grievable, the first step is usually to call or email the WLUFA Office. The staff can often answer the Member's questions and that may determine whether or not the matter needs to be pursued. If that's the case, the Member will speak to the Executive Director who can advise them about next steps. The Executive Director (ED) is also the Grievance Coordinator and chairs the Grievance Committee (GC).

## Informal Process

It's possible that the matter can be pursued at the informal level to begin with. A meeting with the Chair or Dean, or an email from the ED will sometimes resolve the issue. The Member can be involved, or the ED can act on behalf of the Member. In some cases, another Grievance Officer (GO) will be assigned. At this point, there is continued dialogue between the Member and the ED or GO. If the issues are resolved, the matter is not pursued any further. If the matter is not resolved, it may be necessary to proceed to a formal grievance.

## Request for Grievance

Because WLUFA has carriage of all grievances, if a Member wishes to file a formal grievance, they must first fill out a grievance request form. This form goes to the WLUFA GC which reviews the request and determines whether or not a grievance will be filed. In order to file a grievance, the GC has to believe that there is evidence that the CA, and/or University Policies, and/or Provincial Labour Laws have been violated. The timeline for filing a grievance is 20 working days after the grievor knows about or ought to about the violation, so the grievance request form has to come in time for the GC to consider the request and make its decision and file the grievance before the 20 days are up. If an informal process was involved, the timeline can be quite tight.

If the request to file a grievance is not approved, the Member will be informed and told why. There are several reasons that a request may be denied. The most common is that there is simply not a violation of the CA or policies or laws. Another common reason for denial is that the deadline for filing is past. That's why it's important to contact the WLUFA office as soon as you think that there's a problem.

## The Formal Grievance

If the request to file a grievance is approved, the grievance will be filed and a GO will be assigned. The GO will work with the Grievor to investigate the case. That will involve interviewing witnesses and obtaining and reviewing documentation.

It is critical to get the grievance right when it is filed. This includes stating exactly what the violation of the CA (and/or Policy and/or Statutes) was. The CA Articles are listed and the Policies and Statutes are included as well. Often they are listed as (for example) "Articles 4, 13 and 22, University Policy 6.1, and any other Articles, Policies and Statutes that may be found to apply". It is also important to get the remedy right. This will be a matter for discussion between the Grievor and the GO. Note that a public flogging is never included as a remedy. It is more likely to be "Make the Grievor whole, including, but not limited to, ...."

## Step I Grievance

Most grievances are filed at the Step I stage. That means the grievance is heard by the Dean or University Librarian. (In limited cases, the GO will arrange a document exchange within 5 days of the grievance being filed. WLUFA provides the documents upon which it will be relying and requests that the Administration do the same. We usually ask for specific documents "and any other documents" upon which they will be relying.)

Within 10 days of the grievance being filed, there is a meeting between the GO and the Dean. The Grievor may attend, depending on the situation. It is sometimes useful to have the Grievor there to answer questions directly, but the meeting can be stressful and Grievors usually decline the opportunity to attend. The GO will present the case, making arguments in support and explaining how the CA/Policy/Statutes were violated. They will also explain the remedy requested.

The Dean or UL will listen, ask questions, and then take time to consider the arguments. They will also interview the parties involved (but not the Grievor) to try to determine if there has been a violation. If the grievance is settled at this stage, the matter is not pursued any further. The settlement is written up and filed and the case is closed.

If the grievance is denied, the Dean or UL will write a letter outlining their reasons for denial to the Grievance Officer, copied to the Association. The GO will explain to the Grievor why the grievance was denied at Step I, without revealing confidential information about other individuals. When there is a denial at Step I, the Grievor may request that the Association proceed to Step II. That involves a request that is

reviewed by the GC. The members of the GC review the file and decide, based on the merits of the case, whether to proceed to Step II. If they decide against it, the Grievor is told why and that is the end of the matter. If they approve the request to proceed to Step II, again the Grievor is informed. Note that sometimes the GC will decide to move to Step II even if the Grievor does not make the request. This would be the case if the members of the GC feel that the issues involved are important matters of principle.

### Step II Grievance

A grievance is filed at the Step II stage if it is denied at Step I and the GC decides to proceed further, or if it is a grievance identified as requiring a Step II grievance. For both BUs, that would be Association grievances, suspension or termination grievances, academic freedom grievances and discrimination grievances. Under the Full-time CA, it also includes hiring and promotion grievances, and grievances about sabbaticals and research misconduct.

The procedures for a Step II grievance are similar to those for Step I except that it is the Vice-President: Academic who hears the grievance. There is always an exchange of documents, a Step II meeting and then the VPA considers the arguments, and makes a decision.

If the grievance is granted or there's a settlement, the terms are included in a settlement document that is signed by WLUFA and the Administration.

### Arbitration

If the grievance is denied, the Grievor may request that the Association proceed to arbitration. Again that involves a request that is reviewed by the GC. This time, however, the final decision rests with the WLUFA Executive Committee. That's because arbitrations are time-consuming and expensive. At this point, all of the pertinent documents are sent to our lawyers for their opinion on the likelihood of success at arbitration. Their opinion is taken into consideration in both the GC and Executive's deliberations. The members of the GC review the file and decide, based on the merits of the case, whether to recommend to the Executive that the Association proceed to arbitration. No matter what the GC's recommendation is, the Executive will consider the request. The GO presents the file to the Executive Committee and the Grievor is entitled to appear. Some Grievors do and some don't – it is their choice. The GO and the Grievor (if present) leave the meeting and the Executive discusses the file. There is a secret ballot and the outcome determines whether or not the Association will proceed to arbitration on the file. The decision of the Executive is final. If they decide against it, the Grievor is told and that is the end of the matter.

If the Executive Committee approves the request to proceed to arbitration, again the Grievor is informed. Note that sometimes the GC and Executive will decide to move to arbitration even if the Grievor does not make the request. This would be the case if the members of the GC feel that the issues involved are important matters of principle.

Once a decision is made to proceed to arbitration, WLUFA's lawyers take over the handling of the case. The arbitration is filed and the Administration is informed. Our lawyers work closely with the ED and the GO to build the case. The Grievor is also interviewed by our lawyers and will be required to appear at the arbitration hearing. Because university arbitrations are highly specialized, there are only a few arbitrators who are qualified to hear them and that results in lengthy delays. Arbitration hearings often take place more than a year after the decision is made to file for arbitration.