

## Article 22: Grievance and Arbitration

### 22.01 Grievances

- a) A grievance may be filed by the Association on its own behalf or on behalf of a member or group of members, or by the Employer.
- b) The provisions of this Article shall not apply in matters of reappointment, tenure, promotion, and denial of career development increment or step increase, with the following exceptions:
  - i) the subject matter of the dispute concerns academic freedom (Article 6) or discrimination (Article 7);
  - ii) the dispute concerns an alleged violation or abuse of due process.
- c) A grievance based upon Article 22.01 b) i) or ii) does not place the substance of the matter under the grievance and arbitration process.
- d) Grievances arising out of the University Appeals Board procedures proceed directly to Stage Two of the grievance process.

### 22.02 Substance of the grievance

Subject to Article 22.01 e), a grievance shall specify:

- a) which provision(s) of the agreement has/have allegedly been misinterpreted, misapplied or violated;
- b) how said provision(s) was/were misinterpreted, misapplied or violated;
- c) what remedy or remedies will be sufficient to correct the alleged misinterpretation, misapplication or violation.

### 22.03 Formulation of the grievance

- a) A technical error shall not invalidate a grievance.
- b) The party submitting the grievance shall make every effort to set forth the matter in question competently, but the formulation of the grievance, as well as the citation of the relevant articles of the Collective Agreement, may be amended on condition that the effect of the amendment is not to change the nature of the grievance. An amendment presented during the arbitration hearing can be made only according to such conditions as the arbitrator judges necessary to safeguard the rights of the adverse party.

### 22.04 Resolution of Disputes

- a) The parties agree that it is preferable to resolve problems through discussions among those persons most directly concerned before submitting a written grievance. The parties agree to make every reasonable and earnest effort to encourage the prompt, amicable and fair resolution of grievances.
- b) To this end, a member is encouraged to discuss a potential grievance with the academic unit head and/or appropriate administrator as soon as possible. The discussion period shall not exceed twenty (20) days after the member becomes aware of the problem. This time limit may be extended by mutual agreement.
- c) When discussion under the provisions of Article 22.04 does not result in a resolution, or when there is no discussion, the following procedures shall be employed for the filing of a written grievance.

#### PROCEDURE FOR HANDLING GRIEVANCES

22.05 A grievance originating from a member or a group of members shall begin at Stage One in accordance with Article 22.05 a). An Association grievance or a University grievance shall proceed directly to Stage Two in accordance with Article 22.05 b).

- a) Stage One:
  - i) A member or group of members having a grievance arising from a dispute or difference which cannot be settled in accordance with Article 22.04 shall submit the signed grievance in writing to the Association, which shall file it with the appropriate administrator, with a copy to the Vice-President, within fifteen (15) days of the end of the discussion period provided under the provisions of Article 22.04 b).
  - ii) The appropriate administrator shall respond in writing to the grievance within ten (10) days of the receipt of the written grievance.
- b) Stage Two:
  - i) If a grievance is not resolved at Stage One, the Association may submit the grievance to the secretary of the Joint Grievance Committee (JGC) in writing within ten (10) days of the receipt of the written response specified in Stage One, with a copy to the Vice-President. In the case of an Association grievance or an Employer grievance, the grievor shall refer the grievance directly to the secretary of the JGC, with a copy to the other party.
  - ii) Submissions to the JGC shall include, in the case of a grievance brought by the Association on behalf of a member or group of members, a copy of the grievance filed at Stage One, a copy of the response by the appropriate administrator, and a statement of the reasons for disagreement with the decision. In cases of grievances by the Association or the University, submissions shall conform to the provisions of Article 22.02.

- iii) The JGC shall hear the grievance within thirty (30) days of receipt of the notice. The JGC shall set the date(s) for the hearing in consultation with all the parties involved and shall notify them and the witnesses of the date(s) in writing at least five (5) days prior to the first hearing day.
  - iv) The JGC shall communicate its conclusions and recommendations to the grievor, the Association, the Employer, the grievance officer and the administrator to whom the grievance is addressed, within twenty (20) days of its first (1st) meeting.
- c) Stage Three:
- The Party against whom the grievance is brought shall make a decision based upon the recommendation(s) of the JGC as specified in Article 22.07. All decisions shall be communicated to the parties to the grievance within fifteen (15) days of receipt of the recommendation(s) from the JGC and shall be implemented as soon as possible unless the other party chooses to proceed to arbitration.
- d) Stage Four:
- The Association or the Employer is entitled to submit the grievance to arbitration if dissatisfied with the decision rendered at Stage Three. The other party must be notified in writing of the decision to proceed to arbitration within ten (10) days of the receipt of the decision foreseen in Article 22.05 c). The grievance shall be submitted by the grieving party to the arbitrator, with a copy to the other party, within fifteen (15) days of receipt of such notification.
- e) The time limits provided for in Article 22.05 may be extended by written agreement between the parties.

#### 22.06 JGC Procedures

- a) The JGC shall establish its own procedures consistent with the principles of natural justice and fairness and the provisions of the Collective Agreement. It may invite any person to appear before it in addition to witnesses called by the parties to the grievance. The JGC shall meet in camera and shall grant the parties to the grievance adequate opportunity for a fair hearing.
- b) The parties to the grievance may each be accompanied by an advisor at the grievance hearing. If the appropriate administrator is a Dean, she or he may be accompanied by an Associate Dean or an Associate University Librarian. If the appropriate administrator is a Vice-President, an Associate Dean or an Associate University Librarian, she or he may be accompanied by a Dean.

#### 22.07 JGC Conclusions and Recommendation(s) and Employer/Association Decisions

- a) The JGC may conclude unanimously that there is no basis for hearing a grievance. In such cases, the JGC conclusion shall serve as the equivalent of a

Stage Three decision and shall be reported to all parties. In such cases there is no further decision to be made, but either of the parties may proceed to arbitration in accordance with Article 22.05 d).

- b) The JGC may decide unanimously to recommend to uphold, to reject, or to resolve the grievance in a specific manner. In such cases the recommendation shall be reasoned and shall be signed by all members of the JGC. The recommendation shall be submitted to the Employer or to the Association for decision. Upon receipt of a unanimous recommendation from the JGC, the deciding party shall make a decision either to accept, or, in a reasoned report, to reject the recommendation.
- c) The JGC may reach a majority decision to recommend to uphold, to reject, or to resolve the grievance in a specific manner. In such cases the recommendation shall be reasoned and shall be signed by all members of the committee who are in agreement with the majority decision. A reasoned signed minority report may also be submitted. The recommendation(s) shall be submitted to the Employer or the Association for decision. The deciding party shall make a decision based upon the report(s) submitted and may give reasons for the decision.
- d) The JGC may be unable to reach a decision. In such cases this shall be communicated to the Employer or the Association in a reasoned report, signed by all members of the committee. The deciding party shall then make a decision and shall give reasons for that decision.
- e) JGC conclusions and recommendations as specified in Article 22.07 a) to d) above and Employer/Association decisions shall be communicated to all parties to the grievance, as indicated in Article 22.05 b) iv).
- f) The JGC conclusions and recommendations shall not be admissible in evidence at the arbitration stage.

## 22.08 ARBITRATION

- a) List of arbitrators
  - i) The grievance shall be submitted to one of the arbitrators listed below, chosen in the order indicated:
    1. Jacques Sylvestre
    2. Diane Sabourin
    3. Harvey Frumkin
    4. Diane Veilleux
    5. Claude Foisy
    6. Brian Keller
    7. André Sylvestre
    8. Robert Choquette

## 9. Jean Guy Menard

- ii) In the event that an arbitrator listed above is no longer able to serve, she or he shall be replaced by one of the arbitrators listed below:

1. Bernard Lefebvre
2. Jean Denis Gagnon

- b) The arbitrators shall serve for the duration of the Collective Agreement. By mutual agreement of the parties, an arbitrator may be removed from the list and be replaced by a substitute.
  - c) If the arbitrator cannot begin to hear a particular case within three (3) months of the request in the case of grievance involving dismissal or suspension without pay, or within six (6) months of the request in the case of any other grievance, the grieving party may continue to the next arbitrator on the list. If none of the listed arbitrators are available within a reasonably prompt manner the stipulated time, the Parties may agree on an arbitrator not listed in Article 22.08 a).
  - d) If no arbitrator is available under the provisions of Article 22.08 c), either party may submit the grievance to an accelerated arbitration service or may request that an arbitrator be appointed by the Quebec Labour Minister.
  - e) The arbitrator shall rule on the grievance in accordance with the provisions of the Collective Agreement and in no event shall the arbitrator have the power to add to, subtract from, or modify the agreement in any way.
  - f) In deciding on the grievance, the arbitrator may quash or maintain the decision or render any other decision that the arbitrator judges appropriate under the circumstances.
  - g) The decision of the arbitrator shall be final and binding on the parties and shall be reported to both parties. The decision of the arbitrator shall be implemented until any judicial appeals or reviews are concluded.
  - h) The fees and expenses of the arbitrator shall be shared equally between the parties except for arbitration which follows a unanimous decision of the JGC that there was no basis for the grievance, in accordance with Article 22.07 a), in which case the grieving party shall assume the entire cost of the arbitration.
  - i) The location where the arbitration hearing is held shall be mutually agreed to by the Parties. The fees and expenses shall be shared equally between the parties.
- 22.09 If at any stage of the grievance and arbitration procedure there is a failure of either party to respond or proceed to the next step, including arbitration, within the time limits stipulated, unless it has been mutually agreed in writing to modify them, the other party is entitled to go to the next stage.

22.10 The parties to a grievance may agree in writing to dispense with a stage or stages of the grievance procedure and proceed to the next stage. Such an agreement shall not be unreasonably withheld by either party. Notice to proceed shall be filed with the Secretary of the JGC within twenty (20) days of any such agreement between the parties. In the case of an Association grievance or an Employer grievance the grievor has the right to dispense with stage II and go directly to arbitration. In such a case the grievor shall notify the other party and proceed within ten (10) days of the notification.

Agreed December 19, 2012