

2. Grievance Appeals Policy

Approved by Grievance Committee, April 2017

Approved by QUFA Executive Committee & QUFA Council, May 2017

Approved as Amended by QUFA Grievance Committee, February 2021

Approved by QUFA Executive Committee & QUFA Council, March 2021

Preamble

QUFA is committed to defending the rights of its Members as bargained with Queen's University. With regard to individual Members, this defense ranges from providing advice and accompaniment during informal resolution processes, to filing and arguing formal grievances with the employer, to bringing formal grievances before Arbitrators for third party adjudication.

This policy affords Grievors (Members for whom QUFA has filed a formal grievance) processes to appeal QUFA committee decisions to withdraw grievances. Normally, these decisions arise when a grievance has been put before the Provost at a Step 1 meeting and the Provost denies the grievance. At this point, QUFA must decide whether to take the grievance to an Arbitrator as Step 2 of the process or withdraw it.

The Grievance Committee is the first body that considers this question and makes a recommendation to the Executive Committee. If that recommendation is positive, the Executive Committee makes the final decision whether to proceed to arbitration. QUFA is responsible to ensure that these decisions are made in a non-arbitrary, non-discriminatory and good faith manner in recognition of QUFA's duty to fairly represent its Members (see the *QUFA Protocol Regarding Representation*). Factors that may be taken into account in these decisions include Collective Agreement limits and impacts, impact on the Grievor, legal merits, cost to the

bargaining unit, and possible remedy. These decisions are considered at Special single-purpose Executive meetings.

This policy affords QUFA Grievors one opportunity to appeal a decision to withdraw a grievance (not take it to Step 2, Arbitration) either in the case that the Grievance Committee does not recommend taking the grievance to arbitration or, if the Grievance Committee has recommended arbitration, in the case that the Executive Committee does not concur. If this internal appeal is unsuccessful, the Grievor will be informed of their rights to file an external complaint against QUFA with the Ontario Labour Relations Board.

Grievors may wish to appeal when, for example:

- they have novel information or evidence they wish to have considered;
- they believe existing evidence has not been accorded appropriate weight; or
- they believe the union has failed its duty of fair representation (see the *QUFA Protocol Regarding Representation* for a clear definition of this duty).

In an appeal, the Grievor will have the opportunity to provide a written statement outlining their concerns.

Process

1. Appealing a Decision to Withdraw the Grievance by the Grievance Committee

- a. In the event that the Grievance Committee does not recommend taking a grievance to Step 2, Arbitration, the Member on whose behalf the grievance was filed, the Grievor, will be informed in a timely fashion, normally by the next business day.
- b. The Grievor will have 10 business days to notify the Grievance Committee Chairperson that they wish to appeal this decision to the Executive Committee. The Grievance Chair will inform the President.
- c. The President will call a Special Executive Committee meeting and will inform the Grievor of the date of the meeting.

- d. The Executive Director will inform the University that there is an internal appeal process in effect so as to hold in abeyance timelines for informing the University of QUFA's intention to proceed to Step 2.
- e. The Grievor has the option to provide the Executive Director with a written statement outlining why they believe the grievance should proceed to arbitration at least two working days in advance of the Special Meeting. This statement will be shared with the Executive Committee.
- f. The decision of the Executive Committee will be communicated to the Grievor in a timely fashion, normally by the next business day following the Special Meeting.
- g. If the Executive Committee agrees with the Grievance Committee, the Grievor will be informed of their right to file a complaint with the Ontario Labour

Relations Board and the University will be informed that QUFA will not be taking the grievance to arbitration.

2. Appealing a Decision to Withdraw the Grievance by the Executive Committee

- a. In the event that the Executive Committee does not decide to take a grievance to Step 2, Arbitration, following a recommendation to do so from the Grievance Committee, the Grievor will be informed in a timely manner, normally by the next business day.
- b. The Grievor will have 10 business days to notify the President that they wish to appeal this decision.
- c. The President will call a second Special Executive Committee meeting and will inform the Grievor of the date of the meeting.
- d. The Executive Director will inform the University that there is an internal appeal process in effect so as to hold in abeyance timelines for informing the University of QUFA's intention to proceed to Step 2.
- e. The Grievor will provide the Executive Director with a written statement outlining why they believe the grievance should proceed to arbitration at least two working days in advance of the Special Meeting. This statement will be shared with the Executive Committee.
- f. Following the Special Meeting, the President will convey this second and final decision to the Grievor in a timely fashion.
- g. If the Executive Committee does not reverse its decision, the Grievor will be informed of their right to file a complaint with the Ontario Labour Relations Board.