

Informal Conflict Resolution, Mediation, Faculty Grievance Policy

1.0 Definition of Grievance

Full-time teaching faculty, Faculty Council, or a group of the faculty, are permitted to file a petition concerning a grievable issue. A grievable issue is an alleged violation of a member's or group's rights constituted by a failure to follow or administer the institution's policies or procedures pertaining to faculty governance and well-being.

Grievable issues are any of the following:

1. A failure of the College to follow prescribed policies and procedures in matters related to tenure, advancement in rank, or appointment renewal as set forth in *Faculty Handbook/Volume IV*.
2. Failure of a supervisor and/or an administrator to follow or administer the policies and/or procedures agreed upon by the administration and faculty as set forth in or other subsections of the *Medaille College Policy Manual* relating to faculty governance and faculty well-being.
3. Consistent and significant unprofessional treatment of a faculty member by an administrator, supervisor, or colleague.
4. Inadequate consideration during review pertaining to appointment, advancement in rank, or tenure.

If any faculty member, Faculty Council, or other faculty group alleges a grievable issue in any matter not covered by the policies and/or procedures described in the *Faculty Handbook/Volume IV* or other subsections concerning faculty within the *Medaille College Policy Manual*, the faculty member or forenamed groups may petition the Grievance Committee for redress. The petition shall set forth in detail the nature of the grievable issue and shall state against whom the petition is directed (see section 4.1). It shall contain factual and other data the petitioner or petitioners deem pertinent to the case, while also setting forth in detail the relief or remedy or remedies the petitioner or petitioners are seeking. The Grievance Committee shall decide whether or not the facts merit a detailed investigation. Submission of a grievable issue, timelines, and documented evidence shall not automatically entail investigation and detailed consideration.

2.0 Informal Conflict Resolution

Before a grievable issue can be submitted to the Grievance Committee, documented evidence must be provided which demonstrates that informal conflict resolution, has been attempted and failed. Informal conflict resolution must be initiated within ten calendar days after the faculty member first knew, or through the exercise of reasonable diligence, should have known of the occurrence of the event(s) upon which the grievable issue(s) is based. If informal conflict resolution has not resolved the issue(s) within an additional fourteen calendar days, the faculty member may pursue mediation or file a grievance. The petitioner or petitioners have fourteen calendar days to submit the required documentation for either mediation or grievance.

Informal conflict resolution may occur during off-contract periods only with the mutual consent of all parties.

It is the responsibility of each individual or group in a conflict or a dispute with another member of the faculty and/or administration to seek resolution through informal conflict resolution. Informal conflict resolution, shall include discussions between the two parties, discussions individually with supervisors, and finally, joint discussions with supervisors or the VPAA. Should these informal steps prove ineffective, and the party or parties wish to proceed in the dispute, the party or parties may pursue formal voluntary mediation and/or file a petition for a grievance hearing. Should the party or parties elect to pursue formal voluntary mediation, the petitioner or petitioners must inform the Grievance Committee in writing within fourteen calendar days after the end of the informal conflict resolution. Should the party or parties elect to file a petition for a grievance hearing, the petitioner or petitioners must inform the Grievance Committee in writing within fourteen calendar days after the end of the informal conflict resolution. All parties involved in informal conflict resolution shall document the dates, times, and substance of the proceedings.

3.0 Voluntary Mediation

Mediation is a process by which participants to a dispute or conflict voluntarily enlist the aid of a neutral party to systematically identify disputed issue(s) in order to develop options, consider alternatives, and reach a consensual settlement. Either party or parties may refuse to enter into mediation or may opt out of mediation at any point. All parties involved in mediation shall document the dates, times, and substance of the proceedings.

3.1 Selection, Appointment of Mediators

A pool of four mediators shall be nominated and elected to a two-year term at the regular meeting specified for faculty elections to faculty committees. Nominees shall be full-time, tenured faculty at Medaille College. Should a vacancy occur in the mediator pool, a special election shall be held to fill the vacancy for the duration of that term of office. Once chosen, the mediator shall continue until the matter is resolved or is no longer pursued. However, a replacement shall be elected at the expiration of the mediator's term of office, not when an ongoing mediation ends. If mediation is pursued, the Grievance Committee shall select a mediator mutually acceptable to both parties from the pool of candidates within seven calendar days of the request for mediation. If no acceptable mediators are found within the elected pool, the party or parties may then seek a professionally trained mediator at the party or parties' expense, if they choose. Should no mediators be acceptable, then a grievance may be filed pursuant to Paragraph 4.1.

3.2 Mediator Responsibilities

1. The mediator shall bring the parties together to discuss mutually agreeable options for resolving the dispute and setting future goals.
2. The mediator shall encourage the parties to carefully plan and implement their negotiated agreement and, if necessary, to agree on methods of monitoring and evaluating the

outcome.

3. If the parties reach an agreement through mediation, the mediated agreement shall be submitted to the Human Resources Office in writing, where it shall be kept for five years. If mediation is unsuccessful, no reasons are to be given; only the lack of success shall be noted.
4. In order to have an open and fair mediation, none of the oral or written works of a party in mediation may be used in a grievance hearing without the approval of that party.

3.3 *Timing of Mediation Process*

The required timetable for mediation is:

1. The mediation shall be completed within thirty calendar days of the point at which an acceptable mediator was agreed upon, unless both parties agree to an extension of time to mediate.
2. If mediation is unsuccessful, the petitioner has fourteen calendar days to file a grievance. Upon petition, the Grievance Committee, by a majority vote, may for good cause grant an extension of the time to file a grievance.
3. Mediation may occur during off-contract periods only with the mutual consent of all parties.

4.0 Grievance Procedures

4.1 *Initiation of Formal Grievance*

Before a grievance inquiry can be initiated, the petitioner or petitioners must inform the Grievance Committee in writing, within fourteen calendar days after the end of the informal conflict resolution, that informal conflict resolution has been attempted and failed. A grievance is formally initiated when the petitioner(s) notify the Chair of the Grievance Committee in writing of the alleged grievance(s).

The faculty member's or faculty groups' petition shall be as specific as possible and must include:

1. Date of filing.
2. Name, address, telephone number preferred by the petitioner.
3. Department/College/School.
4. Title.
5. Date when alleged grievable issue first occurred (if known).
6. Provision of *Faculty Handbook/Volume IV* allegedly violated (article, section, and page) or any other subsections of the *Policy Manual* pertaining to faculty governance and well-being.
7. Statement of grievable issue.

8. Summary of all attempts at informal conflict resolution.
9. Summary of attempts at solution through mediation, if applicable.
10. Remedy or remedies sought.
11. Petitioner's or petitioners' signatures.

The Grievance Committee shall meet with the petitioner or petitioners within fourteen calendar days to determine if the petitioner or petitioners' grievable issue requires a hearing procedure. Should the Committee determine that the petitioner or petitioners do not have a grievable issue requiring a hearing procedure, it shall notify, in writing, the President and the petitioner or petitioners within twenty-one calendar days after the filing of the petition. Should the Grievance Committee determine that the petitioner or petitioners have a grievable issue requiring a hearing, it shall hear the case, with input and/or documentation from all parties on both substantive and procedural issues.

4.2 Grievance Hearing

The Grievance Committee shall have full and complete authority:

1. To determine, after consultation with the parties, when and where the hearing shall be conducted.
2. To call for and receive all materials the Committee determines necessary to make a judgment on substantive and/or procedural issues.
3. To direct the parties that they shall not, in any way or manner, impair or impede the ability of the other to properly prepare for presentation of proof or argument. (Failure to abide by this direction of the Grievance Committee shall be duly noted in the report of the Grievance Committee.)
4. To insure that each party or parties to the grievance may have an advisor present if they choose and to assure the right of each party or parties to question, within reasonable limits, others who may be called to make statements before the committee. (The advisor may not address the committee without the permission of the Chair.)
5. To provide each party reasonable opportunity to present oral and/or written arguments.
6. To insure that all parties to the grievance have the right to obtain witnesses and present evidence. The College shall cooperate with the Committee in securing witnesses and making available documentary and other evidence requested by the grievant to the extent that that such requests are reasonable and within the control of the College. All parties shall have the right to cross-examine the witness or witnesses. The Committee may grant appropriate continuances to enable either party or parties to investigate evidence or for any other appropriate reason. Effort shall be made to obtain the most reliable evidence available; however, the Committee shall not be bound by evidentiary rules applicable in courts of law.
7. All statements, records, and documents produced from these hearings are strictly confidential.

8. After hearing the case, the Grievance Committee shall make a written recommendation to the President and the parties within thirty calendar days after the completion of the grievance hearing. The recommendation of the Committee shall include findings of fact, conclusions, and disposition of the grievance, all based solely on the hearing record, including documents submitted and testimony heard.
9. Within thirty calendar days of receiving the recommendation of the Committee, the President shall inform, in writing, the petitioner or petitioners and the Committee of the President's decision. In any case in which the President decides against the recommendation of the Grievance Committee, the President shall meet with the Committee to explain the decision. In all cases, the President's decision shall be final.

4.3 *President of the College as Party to Action*

If a grievance is against the President of the College in the first instance, the Grievance Committee shall forward its recommendation to all parties within thirty calendar days of the completion of the grievance hearing. If the President does not follow the recommendation of the Grievance Committee within thirty calendar days, the Committee shall forward its recommendation to the President again, who shall either settle the case to the mutual satisfaction of the grievant and the President or shall forward the Grievance Committee's recommendation to the Chair of the Board of Trustees within fourteen calendar days. The Board or a designated committee of the Board shall receive the grievance at its next regularly scheduled meeting and shall resolve whether the Grievance Committee recommendations should be followed. The Board shall transmit its decision to the Grievance Committee and the parties to the grievance within ten calendar days of its final determination of this matter.

4.4 *General Provisions of Grievance*

The filing of any grievable issue under the provisions of this document shall not prevent the College from taking the action complained of, subject, however, to a final decision regarding the grievance.

1. Failure to communicate a decision regarding the grievable issue within the specified time limits, or such additional period of time, as shall be mutually agreed upon in writing by the parties involved, shall permit the petitioner or petitioners to proceed to the next step.
2. Failure to appeal a grievable issue to the next step within the specified time limits, or such additional period of time as may be mutually agreed upon in writing, shall be deemed to be acceptance of the decision rendered at that step.
3. Extensions of time shall normally be granted for good reason (e.g., illness) by mutual written agreement of the parties and the approval of the Grievance Committee.
4. Settlements between parties at the Grievance Committee level shall not constitute legal precedent. Rather, they are only applicable to the current settlement between the parties.

The President shall submit in an annual report to the Board of Trustees, a synopsis of all grievance decisions, including the substance of the grievance, the recommendation of the Grievance Committee, and the President's decision.