



Nipissing University Faculty Association

100 College Drive, Office A244, North Bay, Ontario, P1B 8L7

Grievance Handbook: Policies and Procedures

Approved by Grievance Committee: February 4, 2013
Approved by Executive Committee: March 25, 2013

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INTRODUCTION

The Nipissing University Faculty Association (NUFA), comprised of the Contract Academic Staff Bargaining Unit (CASBU) and the Full-Time Academic Staff Bargaining Unit (FASBU), negotiate the terms and conditions of employment with the Employer resulting in collective agreements that are democratically ratified by the constituent membership.

From time to time, the Employer will violate the terms of the Collective Agreement or the labour laws of Ontario resulting in the initiation of the grievance (complaint) process. Grievances can also result from differences in interpretation of the Collective Agreement and, less commonly, when a Member or NUFA violates the terms of the Collective Agreement.

Upholding the terms of the Collective Agreements and protecting the rights of the Membership contained within as well as those enshrined in the labour laws of Ontario, are among the most important duties of NUFA. This task is enacted through the Grievance Committee under mandate of the NUFA Executive.

This obligation was enhanced through a decision of the Supreme Court of Canada - *Weber v. Ontario Hydro* [1995] 2 S.C.R. 929 – which ruled that employees *cannot* bring law suits against employers in matters concerning collective agreements, *de facto* making the grievance process the only legal means for protecting the rights of and obtaining redress for Members.

Every effort is made to resolve grievances informally while seeking appropriate remedy for each and every Member of NUFA.

MANDATE OF THE GRIEVANCE COMMITTEE

The NUFA Grievance Committee is *“responsible for reviewing all grievances coming to NUFA and for ensuring all deadlines are met and all grievance processes are followed. The Grievance Committee will make a recommendation about the carriage of a grievance to the Executive which has final authority on the progress of the grievance”* [NUFA Constitution, Article 18.4 (b) pending new language].

Although a Member does not have the absolute right to have his or her claim arbitrated, because of its **duty of fair representation**, the Association must give the Member’s grievance due consideration before refusing to take it to arbitration [Ontario Labour Relations Act, Section 74]. As per By-Law 1.2 of the NUFA Constitution, “any Member(s) may appear before the Executive to speak for support from the Association for their grievance”.

COMPOSITION OF THE GRIEVANCE COMMITTEE

The Grievance Committee is a standing committee of NUFA and “*shall be composed of the President, the Vice-President, the CASBU Officer, a second CASBU member, and the two Grievance Officers. The President shall chair the Committee*” [NUFA Constitution, Article 18.4 (a)]. The Executive Assistant is normally present at all meetings of the Grievance Committee, takes minutes, maintains reports and archives records.

TERMS OF REFERENCE FOR GRIEVANCE COMMITTEE MEMBERS

Grievance Officers, like all officers of NUFA, are elected annually at the NUFA Annual General Membership Meeting (AGM).

The Grievance Officers “*shall be tenured members of (FASBU). The two Grievance Officers should not be from the same faculty and should not manage grievances in their own faculty*” [NUFA Constitution, Article 6.5].

The Grievance Officers shall “*be responsible for managing grievances pursuant to the collective agreement on behalf of members of the Association*”; and “*work with the Grievance Committee in reviewing grievances and making recommendations to the NUFA Executive about the carriage of grievances*” [NUFA Constitution, Article 8.5].

The CASBU Officer is responsible for keeping the Grievance Committee informed of issues, complaints and potential grievances relative to the CASBU Collective Agreement.

The Grievance Officers will support the CASBU Officer in the carriage of CASBU grievances, often by taking the lead as may be recommended by the Grievance Committee.

The second CASBU representative on the Grievance Committee will assist the CASBU officer in compiling information and conducting research, as may be necessary for the successful resolution of grievances.

MEETINGS OF THE GRIEVANCE COMMITTEE

All meetings of the Grievance Committee are strictly confidential and details can only be reported to the NUFA Executive at a confidential *in camera* session or at an appropriate venue for resolving the grievance (e.g., arbitration).

Grievance Committee meetings (GCM) will normally occur weekly unless there are no new grievances to discuss since the last meeting. At the very least, one meeting should be held between each gathering of the NUFA Executive to approve a Grievance Committee report for submission to the NUFA Executive.

Grievance Committee meetings will normally occur in person with all members of the committee attending as they are able. However, alternative means of meeting may be used with the agreement of the Grievance Committee members.

Members of the Grievance Committee assigned a grievance file shall be responsible, with the assistance of the Executive Assistant and other members of the committee, for the collection and documentation of all information pertinent to the issue or complaint arising relative to the Collective Agreement and Ontario labour laws in order to prepare for discussion at the Grievance Committee meeting.

The Executive Assistant shall be designated to prepare the weekly Grievance Committee reports as well as reports to the Executive and the Membership.

Meetings of the Grievance Committee follow Roberts Rules of Order. The committee will:

- a) approve weekly Grievance Committee Reports;
- b) introduce new issues, complaints, potential grievances;
- c) discuss merits of the issue/complaint relative to the Collective Agreement;
- d) determine whether the issue/complaint should be assigned a file number;
- e) assign the file to a member of the Grievance Committee, if it is deemed worthy of pursuit (or in cases where the issue may initially be pursued without a file, assign the issue to a member for follow-up);
- f) report an issue “Closed—Not Pursued”, if it is not deemed worthy of pursuit by the committee;
- g) update on previously assigned/open files, seeking input as necessary;
- h) identify the stage of the grievance relative to the grievance process (i.e., informal, formal: step 1, 2 or 3);
- i) recommend next steps toward resolution keeping in mind timelines;
- j) table and approve written summaries of files that have been closed; and
- k) approve the Grievance Committee Report to be sent to the NUFA Executive and the reports for the Membership.

REPORTS OF THE GRIEVANCE COMMITTEE

The Executive Assistant or designate shall keep and maintain reports of the issues and deliberations of the weekly Grievance Committee meetings.

The Grievance Committee must approve reports of previous committee meetings.

Reports of the Grievance Committee are confidential.

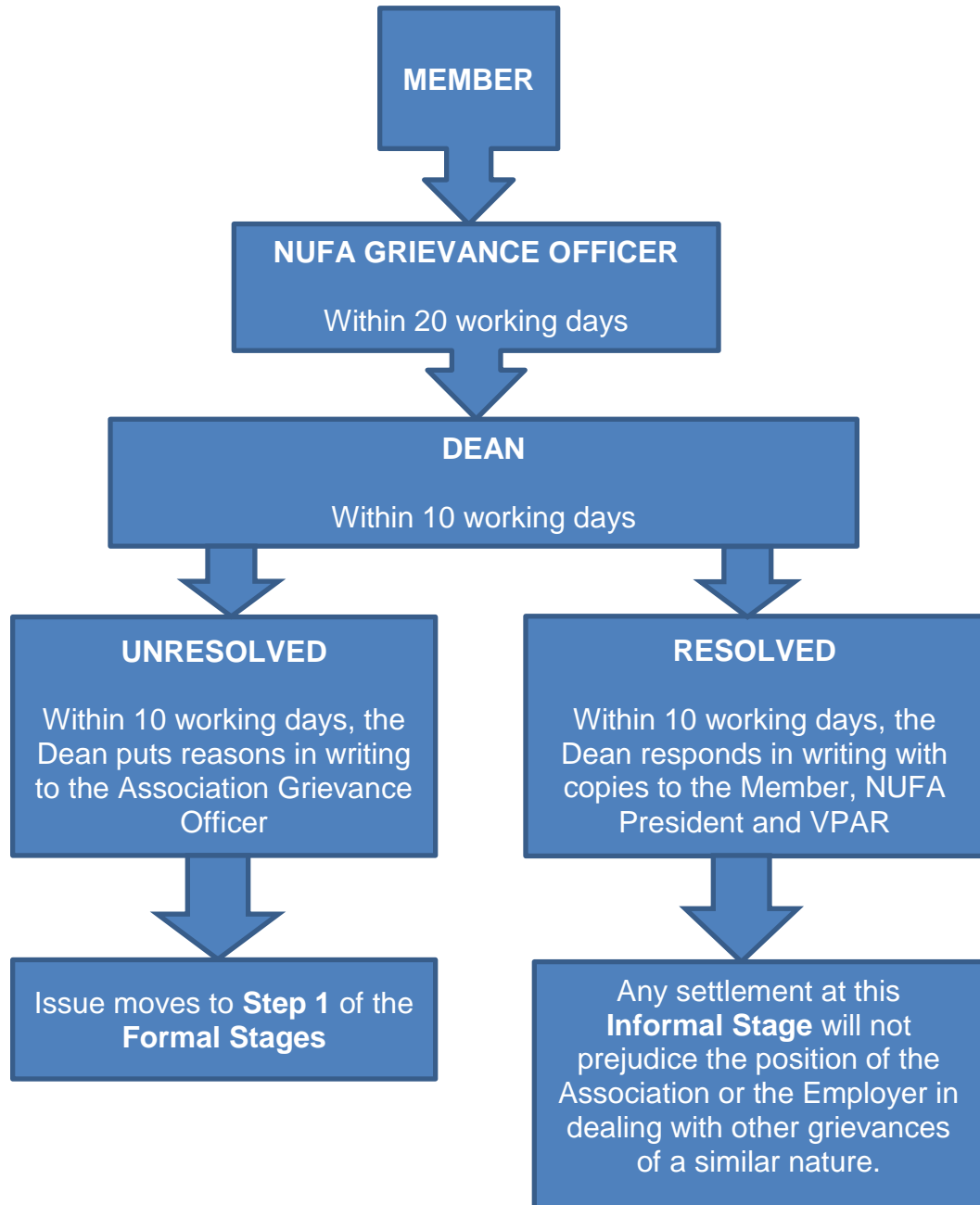
THE GRIEVANCE PROCESS

The Grievance process is outlined in **Grievances and Arbitration** Article 39 of the FASBU Collective Agreement and Article 20 of the CASBU Collective Agreement. The process is summarized on the following pages.

In many cases, before pursuing the informal stage of a grievance, Grievance Officers meet with a senior administrator to raise issues, clarify understandings of the events that may lead to a formal grievance, and discuss remedies. Often at this stage, issues may be resolved. Any issue resolved in this manner would not mandate a grievance file and so a grievance file would not be opened.

Informal Stage for Member Grievances

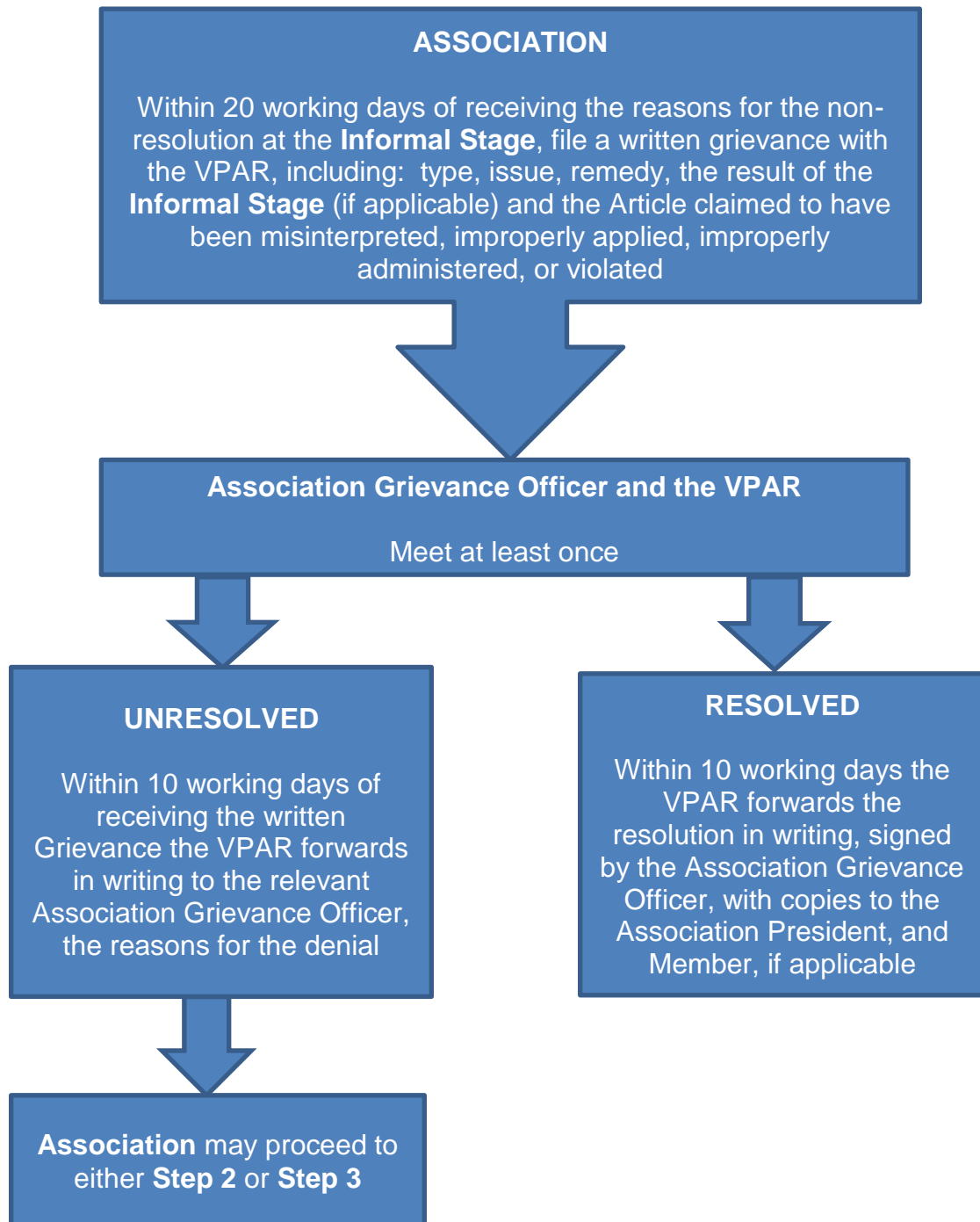
FASBU Articles 39.4 to 39.7(a)(i), and CASBU Articles 20.4 to 20.7 (a)(i)



Formal Stage for Member/Association Grievances

Step 1: Vice-President, Academic and Research

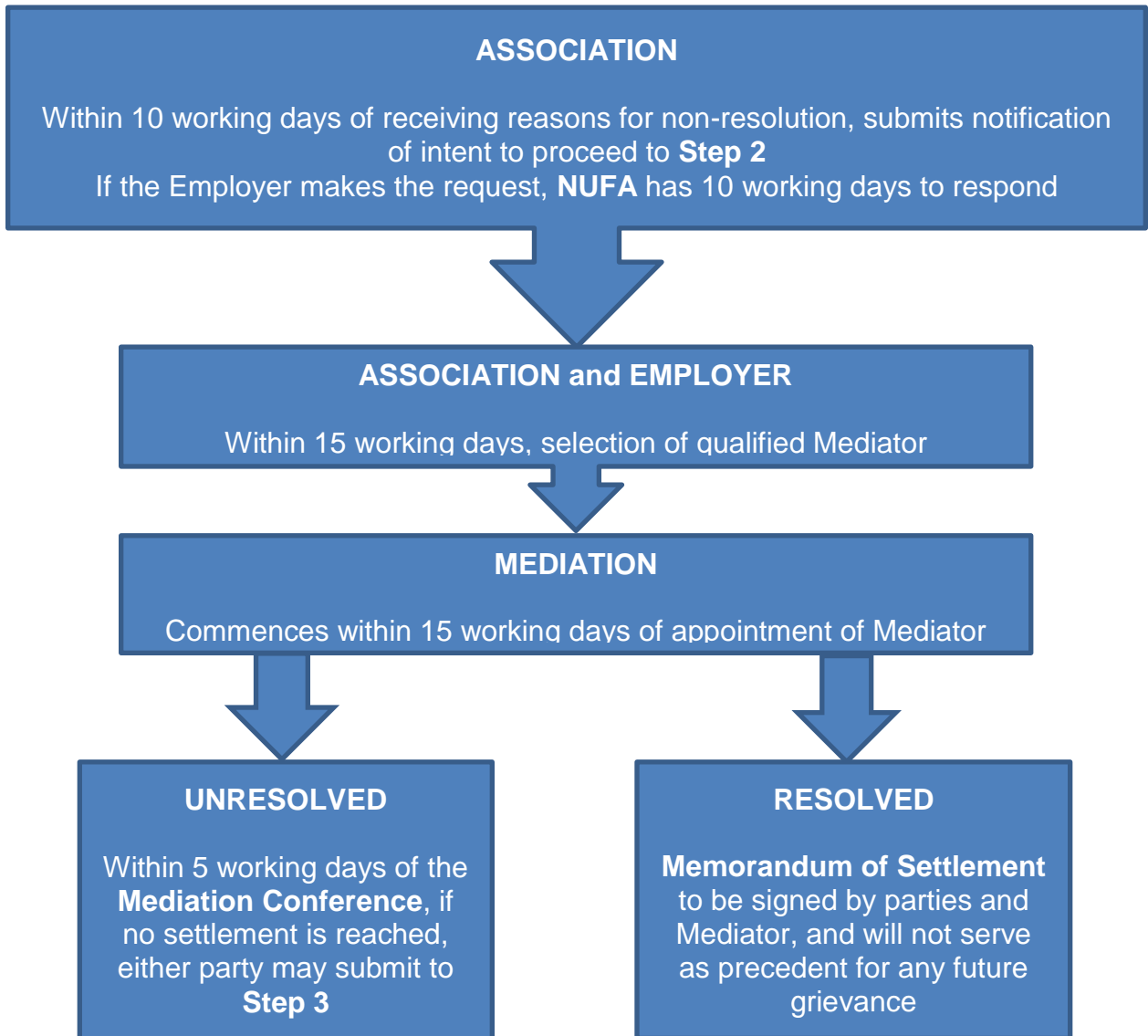
FASBU Articles 39.7(a)(ii) to 39.7(a)(v) and CASBU Articles 20.7(a)(ii) to 20.7(a)(v)



Formal Stage for Member/Association Grievances

Step 2: Mediation

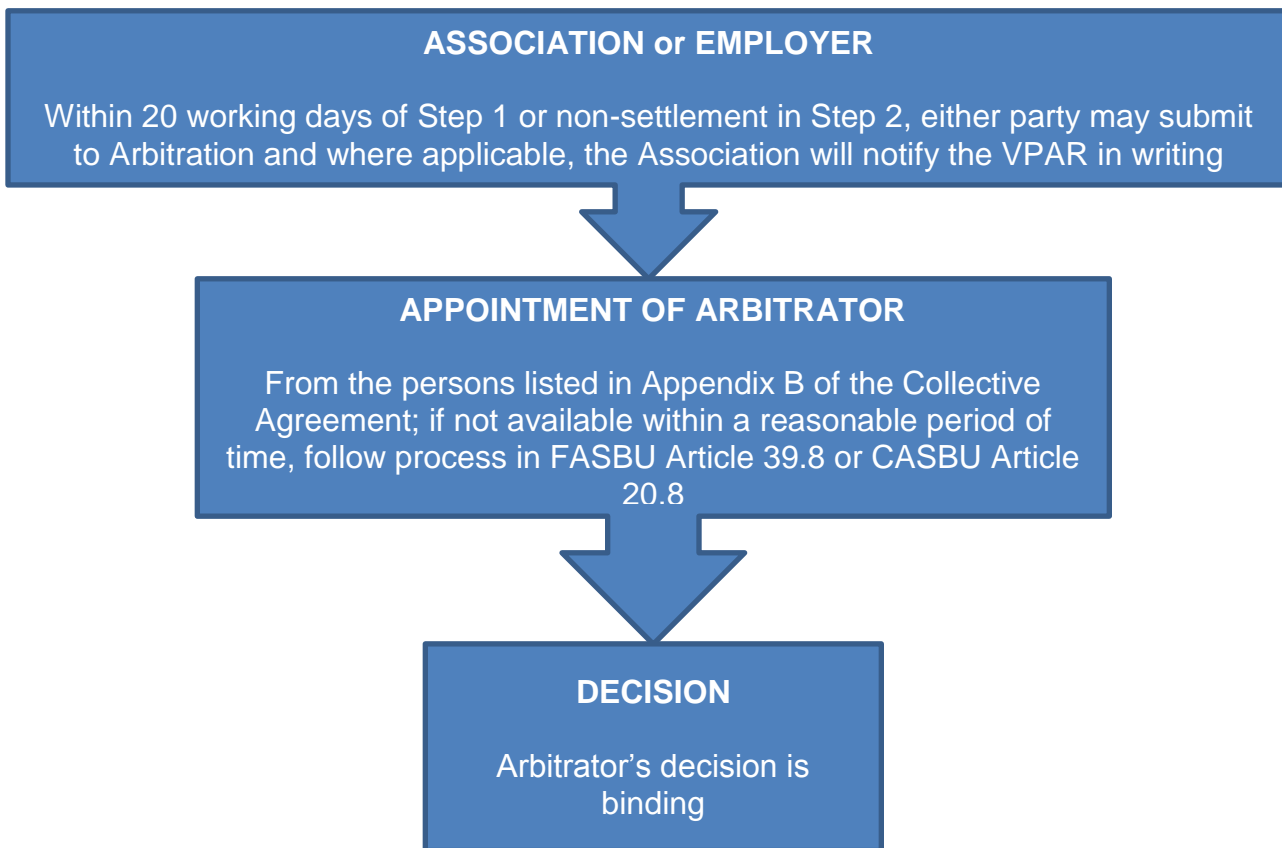
FASBU Articles 39.7(b)(i) to 39.7(b)(x) and CASBU Articles 20.7(b)(i) to 20.7(b)(x)



Formal Stage for Member/Association Grievances

Step 3: Arbitration

FASBU Articles 39.7(c)(i) to 39.9 and CASBU Articles 20.7(c)(i) to 20.9



OPENING AND CARRYING A GRIEVANCE FILE

Part A: Opening Protocol

When a complaint is made or issue is brought to any member of the Grievance Committee, including the Executive Assistant, whether through email or personal contact, the member will bring the issue/complaint to the next Grievance Committee meeting (GCM). The Grievance Committee member will review the *Protocol* with the Member, and where possible, obtain the Member's signature and then proceed to Part B. Should the issue/complaint be of an urgent nature such that it cannot wait until the next GCM to be discussed, the committee member will consult with a member, or members of the committee to discuss the case, and act if deemed necessary. The committee member will then report at the next GCM.

Part B: Grievance File

The issue/complaint is discussed at a GCM. The committee determines whether the issue is one that can be addressed informally to begin, without the need to open a *Grievance File*. In the case of most issues/complaints, a file will be initiated, and will be assigned to a member of the Grievance Committee. The file will be assigned a number by the Executive Assistant.

Files may be re-assigned at the GCM as may be necessary to ensure quick resolution or remedy.

Once a file has been assigned to a member of the Grievance Committee, that person is responsible for providing updates to the Grievance Committee and seeing the file through to resolution or remedy. The member is also responsible for the contents of the physical file (e.g. gathering correspondence, e-mails, etc.), for completing a summary of the file (e.g. noting dates, time, place, participants and details of all meetings), and for preparing a more comprehensive report, where necessary (e.g. when seeking legal advice or preparing for mediation/arbitration).

The Grievance Committee member may choose to collect all of the information electronically or in hard copy; however, once a file is completed or closed, the physical file in its entirety must be provided to the Executive Assistant to be stored/archived and entered into the Grievance Database.

OPENING AND CARRYING A GRIEVANCE FILE

Part C: Types of Grievances and Carriage

The three types of grievances defined by the respective Collective Agreements are: Member Grievances, Association Grievances, and University Grievances (see FASBU Article 39.5 and CASBU Article 20.5). The Association carries grievances against the Employer. It does not carry grievances against fellow Members (please see below).

Member “Grievances” with the Employer

The assigned Grievance Committee member will meet with the Member to find out details about pertinent events related to the complaint/issue (i.e., who, what, when, where, why). The details must be specific, and must include emails and documents as appropriate.

A number of important points will usually be communicated to the grieving Member at this initial stage. These include that:

- a) the Association takes the issue/complaint seriously and will respect timelines outlined in the Collective Agreement;
- b) the Association will consider the issue/complaint relative to the Collective Agreement and other policies and laws as may be relevant;
- c) the Grievance Committee will discuss the issue/complaint in confidence;
- d) the Executive has the final authority on the progress of the grievance, after considering the recommendations of the Grievance Committee;
- e) the Member must cease all communications about the issue/complaint with the Employer (and other Members), unless otherwise advised;
- f) the Member must immediately forward to the assigned Grievance Committee member any further communications about the issue/complaint from the Employer, before taking any action or providing any response;
- g) the Association will speak on behalf of the Member or be present during all meetings with the Member, once carriage of the grievance has been approved;
- h) the Grievance Committee, through the assigned member, will keep the grievor regularly updated as to the progress of the grievance; and
- i) the assigned Grievance Committee member, after engaging in any face-to-face meetings with the Employer, will follow-up with an email outlining the content of the meeting, highlighting any understandings and terms achieved, and requesting written confirmation from the Employer of those terms and understandings.

OPENING AND CARRYING A GRIEVANCE FILE

Member “Grievances” with a Fellow Member

The Association does not carry grievances against fellow Members, only grievances against the Employer; however, fellow Members may be implicated in actions or inactions relative to the Employer. When such circumstances arise, a Grievance Committee member will be assigned to the grieving Member and as many other Members as may be needed to ensure rights are respected and protected throughout. Confidentiality will be maintained. In addition to communicating the important points listed above, the Grievance Committee Member will ask the grieving Member what they view as an appropriate resolution or remedy to the situation. Although this may not be possible, it is important information for NUFA to understand what is expected to resolve problems or return the situation to a point of balance.

Association Grievances

In the case of Association Grievances, the assigned committee member will request and obtain all pertinent documentation and emails relative to the grievance. Either the assigned Grievance Committee Member or the Executive Assistant, as appropriate, may undertake this action. After engaging in any face-to-face meetings with the Employer, the assigned committee member will usually follow-up with an email outlining the content of the meeting, highlighting any understandings and terms achieved, and requesting written confirmation from the Employer of those terms and understandings.

At the informal and/or formal stages of carrying a grievance, and depending on the nature of the grievance, the Grievance Committee Members may need to:

- a) assess material relative to passages in the relevant Collective Agreement and/or relevant laws;
- b) cross-reference between relevant clauses and articles as needed;
- c) discuss the file with fellow Grievance Committee Members;
- d) discuss the file with a CAUT representative;
- e) discuss the issue with the Employer; or
- f) obtain approval from the President of the Association, or designate, to discuss the issue with legal counsel.

After any, or all, of the above, the Grievance Committee member will assess the results and prepare a recommendation for the Grievance Committee as to how to proceed. The committee must be regularly updated as the grievance progresses, with particular attention being paid to the required timelines in the Collective Agreement, and every effort must be made to respect those timelines so as to ensure successful resolution of the grievance.

CLOSING A GRIEVANCE FILE

The objective in all cases of dispute is to achieve resolution that upholds the integrity and spirit of the Collective Agreement and the duly constituted laws of Ontario.

Negotiating resolution or remedy can often be simple (i.e., the Employer accepts NUFA's interpretation of the Collective Agreement or recommendation for resolution or remedy). In this case, NUFA will obtain confirmation of agreement in writing including understanding and terms achieved. Sometimes negotiating a resolution or remedy requires multiple emails and meetings between NUFA and the Employer. In such cases, the Grievance Officer must be careful not to agree to something before obtaining complete clarity on terms, considering the terms carefully, and consulting as necessary (i.e., Grievance Committee, CAUT, and lawyer). When moving toward agreement in such cases, the Grievance Officer must make agreements contingent on further input and approval.

It is very important to have clear evidence of closure to each grievance file. This may come in many forms, including an email exchange between NUFA and the Employer outlining understandings and terms of a proposed resolution or remedy or signatures of NUFA and the Employer on a form outlining understandings and terms of a proposed resolution or remedy.

In particularly complex files as well as files that have deeper implications for the membership at large, a final report will be written by the Grievance Committee Member carrying the file, outlining the details of the case, actions taken, and resolution achieved. This report will be submitted to the Grievance Committee.

In all cases, acceptance of the terms of the resolution or remedy requires a majority vote of the Members of the Grievance Committee.

CONSULTING WITH THE CANADIAN ASSOCIATION OF UNIVERSITY TEACHERS (CAUT)

NUFA pays annual dues to CAUT for advice and support in its labour relations work. CAUT assigns NUFA a grievance and collective bargaining advisor. Sometimes these are the same person, sometimes not. These people have expertise in these areas and are a resource NUFA can use to help it decide if and how to proceed with a grievance. CAUT is very useful in providing perspective on larger or global labour implications and possible approaches and alternatives to be considered at the local level. CAUT can also offer broad-based legal direction, though specific legal direction should come from a lawyer.

However, NUFA knows its local context and membership best and must assume full responsibility for choices and decisions relative to its grievances.

As representatives of NUFA, only the members of the Grievance Committee and the Executive Assistant are eligible to communicate with CAUT directly. Other Members of NUFA wishing to communicate with CAUT must receive permission from the President of the Association as well as CAUT.

When communicating with CAUT and/or other members of the Grievance Committee about sensitive issues, the Grievance Committee member should use the telephone or the designated off-site email account (password protected), and note dates, times and details of the communications.

CONSULTING LEGAL SERVICES

Occasionally, NUFA will need to consult with a lawyer who specializes in labour relations. This consultation entails costs requiring access to designated funds from the annual budget. Potential costs and access to funds above the annual budget require the majority approval of the NUFA Executive.

Communication with a lawyer will be undertaken by the President or designate only. Communication will be in the form of letter, telephone or designated off-site email, noting dates, times and details of communications.

MONTHLY REPORTS TO THE EXECUTIVE

The Grievance Committee will submit a written report to the NUFA Executive for approval at each meeting of the Executive. The Grievance Committee may also receive recommendations or direction from the NUFA Executive and will act accordingly.

Reports should include:

- a) File number and type of open grievances
- b) Assigned Grievance Officer or Member of the Grievance Committee
- c) Grievance Stage and Status
- d) Actions taken and/or proposed next actions (including approved GCM Motions)
- e) Updated count and status of files for the year (May to April)

Reports of the Grievance Committee to the NUFA Executive are confidential.

ANNUAL REPORTS TO THE MEMBERSHIP

The Chair will generate an annual report of the Grievance Committee. The Grievance Committee and NUFA Executive must approve the report in preparation for presentation and approval by the Membership at the Annual General Meeting (AGM).

This report should include the number of files assigned numbers during the year (May through April), the number of files closed and at what stage in the process, and the number of files that remain open. A general list of issues addressed throughout the year will be presented, as well as the total of costs incurred. The Membership may ask questions of the report but responses must always respect the confidentiality of grievors.

RECORDS ARCHIVE

NUFA will maintain an archive of grievance files, including but not limited to, file numbers, grievance forms, supporting documents, final reports, and resolution agreements, for ten years.

Grievance files are to be shredded during disposal. However, final agreements and important communications between NUFA and the Employer must be retained.

APPENDICIES

Protocol Form for Member Grievances

File Summary Document for Grievance Files (Example and Form)

Grievance Committee Report (Form)

Grievance Committee Report to the Executive (Form)

Grievance Committee Report to the Membership (Example)

Informal Grievance Form (Form)

Formal Grievance Form (Form)

Grievance Database

NUFA Protocol for Member Grievances

Grievances and the grievance process are defined in **Article 39** of the **FASBU Collective Agreement** and **Article 20** of the **CASBU Collective Agreement**.

All Nipissing Faculty grievances against the University are carried by NUFA. To grieve the Employer you must first agree to give NUFA carriage of the grievance and NUFA must agree to carry the grievance. This means that with your input NUFA decides strategy, mode and substance of representation and advocacy, and how far to take the issue or complaint. The Association does not carry Member to Member grievances (see **Grievance Handbook**).

NUFA has an obligation to all Members of the FASBU and CASBU bargaining units. It is obliged to investigate complaints in order to make informed decisions about whether to pursue them or not. Decisions to pursue a complaint to informal or formal grievance stages are made by the Association's Grievance and Executive Committees (see **NUFA's Constitution, Article 18.4**).

NUFA grieves the failure of the Employer to enforce the terms of the Collective Agreement. To initiate a grievance it is helpful to have identified the section of the Agreement that the Employer has contravened or failed to enact. It is also very helpful if the Member can identify or envision a remedy to the issue she or he is raising. NUFA will also intervene if Ontario labour law is circumvented.

In order for Grievance Officers to put forward the best possible case, the Member must share with NUFA all relevant information, whether favourable or unfavourable to the case. Disclosing all information is essential, as at some point all relevant information will emerge and the sooner your NUFA representatives know about it the better. NUFA has an obligation to all Members, and so must know as much as possible before deciding whether and how far to take a complaint.

NUFA will need to speak to individuals directly involved in the case. By signing this grievance form the Member gives permission to NUFA to speak to individuals directly involved, with or without the Member's presence.



Nipissing University Faculty Association

Confidentiality is an important factor in grievance work and a breach of confidentiality can have very serious consequences. NUFA will treat all information provided by the Member or said of the Member by the Employer as confidential. This does not mean that information remains solely between the Member and the one NUFA person contacted. It means that the relevant NUFA grievance personnel, including NUFA's Executive Assistant, who are necessarily privy to such information in order to carry out the work of the Association, shall have access to it. Members of the Executive are given limited but necessary information about all grievances. Grievances are identified to the Executive by using a case number rather than the Member's name until such time as the Grievance Committee decides to recommend the case for arbitration. At this point, all information relevant to the case, including the Member's name, may be disclosed to the Executive. At all times, the Executive will treat the case as confidential.

Confidentiality and discretion is also important on the Member's side. When NUFA accepts to pursue a case, we will recommend that the Member consult with us prior to discussing the matter with others.

In signing below, you are acknowledging that you have read and understood the above.

Member _____

NUFA Representative _____

Date _____

For Office Use Only
Issue/Sections
File #

File Summary Document For Grievance File (Example)

Grievance File Number (if applicable):

Grievor:

Grievance Officer:

Type of Grievance: Member () Association ()

Issue:

Sections Violated:

Summary

DATE	DOCUMENT/MEETING	DETAILS (who, what, when, where, why)	STAGE/STATUS
11/20/12	Email	Dean to Member	
11/21/12	Meeting	Member and GO in Member's office to discuss e-mail	Informal/ ongoing
11/22/12	Phone call	GO to Dean to schedule meeting	
11/23/12	Meeting	GO and Dean (see attached notes)	
11/24/12	Informal Grievance	GC to Dean/VPAR	
11/25/12	Email response	VPAR to GO	
11/26/12	Formal Grievance	GC to VPAR	Formal Stage1 /ongoing

File Summary Document For NUFA Grievance File

Grievance File Number (if applicable):

Grievor:

Grievance Officer:

Type of Grievance: Member () Association ()

Issue:

Sections Violated:

Summary

DATE	DOCUMENT/MEETING	DETAILS (who, what, when, where, why)	STAGE/STATUS

Weekly NUFA Grievance Committee Report Of (Date)

FILE NO. TYPE GO	ISSUE/ARTICLES	ACTION/MOTION/STAGE	STATUS (New, Ongoing, On Watch, Resolved, Closed)

/amf

Monthly NUFA Grievance Committee Report To the Executive (Date)

FILE NO. TYPE GO	ISSUE/ARTICLES	ACTION/MOTION/STAGE	STATUS (New, Ongoing, On Watch, Resolved, Closed)

/amf



Nipissing University Faculty Association

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EXAMPLE

Grievance Report for the General Membership Meeting *(Date)*

Committee Members: Gyllie Phillips, Rob Breton, Sal Renshaw, Jeff Scott, Joseph Boivin, Rhiannon Don

Expenses: \$1,150 (Legal Services, Travel to Muskoka)

The committee met formally six times since the May AGM report (May 29, August 29, September 12 and 20, and October 4 and 18), and is scheduled for weekly meetings during the fall and winter terms.

<i>Grievance and Grievance Related Issues</i>					
Type	Informal	Stage One	Mediation	Arbitration	Resolved
Member	9	0	0	0	Yes (5) Pending (4)
Association	15	0	0	0	Yes (3) Pending (12)

Issues/Articles:

Accommodation
CASBU Contracts in Dean's Offices
CASBU Overload Request
Cross-appointment contracts
Clinical Hours
Director hiring
Dues Collection CASBU and FASBU
Gender Equity in Hiring
Harassment
Hiring in CFTL
Intellectual Property
Librarians in NUFA
LTA1 Hiring
LTA 3 Extension
Member Discipline
PhD Teaching Workload
Post-docs Teaching
Posting of Courses for Spring/Summer and Fall/Winter
Research Space
Safe Workplace
Scheduling
Tuition Exemption
Visiting Professors
Workload Change

/amf



CONFIDENTIAL

Informal Grievance

Grievance #:

Type of Grievance:

Name of Grievor(s):

Faculty:

Department:

Informal Grievance Addressed To:

- 1. Nature of Grievance:**
- 2. Sections Violated:**
- 3. Facts of the Case:**
- 4. Remedy Sought:**
- 5. Result of the Informal Stage**

Signature of Grievor(s)

Signature of Association Representative

Date



CONFIDENTIAL

Formal Grievance

Grievance #:

Type of Grievance:

Name of Grievor(s):

Faculty:

Department:

Formal Grievance Addressed To:

*Dr. Harley D'Entremont, Vice-President
Academic and Research, Nipissing University*

- 1. Nature of Grievance:**
- 2. Sections Violated:**
- 3. Facts of the Case:**
- 4. Remedy Sought:**
- 5. Result of the Informal Stage (if applicable)**

Signature of Grievor(s)

Signature of Association Representative

Date

GRIEVANCE DATABASE

Grievance Database											
File Number	Date Opened	Date Closed	Grievance Officer	Collective Agreement	Member(s) or Association	Faculty	Unit	Issue	Article(s)	Final Stage	Result
Totals											

REFERENCE DOCUMENTS

Bill 168 Respectful Workplace and the Occupational Health and Safety Act
<http://www.labour.gov.on.ca/english/hs/topics/workplaceviolence.php>

Canadian Human Rights Act
<http://laws-lois.justice.gc.ca/eng/acts/H-6/index.html>

Canadian Labour Code
<http://laws-lois.justice.gc.ca/eng/acts/L-2/>

CASBU Collective Agreement
<http://www.nufa.ca/collectiveagreements.html>

Charter of Rights and Freedoms
http://laws-lois.justice.gc.ca/eng/Const/Const_index.html

Employment Equity Act
<http://laws-lois.justice.gc.ca/eng/acts/E-5.401/index.html>

Employment Standards Act
<http://www.labour.gov.on.ca/english/es/laws/index.php>

Freedom of Information and Privacy Protection Act (FIPPA)
http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90f31_e.htm

Labour Relations Act
http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_95l01_e.htm

FASBU Collective Agreement
<http://www.nufa.ca/collectiveagreements.html>

NUFA Constitution
<http://www.nufa.ca/constitutions.html>

Documents are available online or in print in the NUFA Office A244.