

A. Mediation and Resolution of Disputes Process

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Employees of Mount St. Joseph University may express their concerns arising from working conditions, employment practices, or differences of interpretation of policy. It is the intent of the University to ensure that each employee is given an opportunity to be heard without fear of criticism or action being taken against the employee for exercising or expressing concerns. In the interest of subsidiarity and collegiality (as articulated in the "[Philosophy and Practice of Shared Governance](#)" section of the handbook) an employee has the responsibility to discuss these concerns with her/his immediate supervisor or department chair.

Employees are expected to exhaust the remedies available to them in the University Mediation and Resolution of Disputes Process prior to instituting any external proceedings. If before or after the internal process has begun, an employee files a claim regarding the subject matter of the dispute with a state or federal court or agency, the University reserves the right to discontinue this internal Mediation and Resolution of Disputes Process.

Mediation is negotiation using a neutral third party to help resolve a dispute. The Committee does not judge guilt or decide who is right or wrong during the mediation process. Rather, it facilitates a process for the involved parties to focus on remedies for the future; it assists people to reach their own solutions. Both sides must be willing to work together on the solution. Both sides agree to keep the discussions and materials relevant to the process confidential so the parties feel free to communicate openly. A sincere desire to resolve the issue, and an open mind to possible solutions, including compromise, are essential to effective mediation.

Mediation is informal; through thoughtful questioning, creative suggestion and active listening, the Committee attempts to foster a spirit of cooperation and guide the two sides to a mutually acceptable agreement. In some concerns, the Co-Chairs may be able to mediate the dispute. Other concerns brought forth may require other Committee members' involvement.

The following issues are excluded from this Mediation and Resolution of Disputes Process: elimination of position, compensation; dismissal during orientation periods, faculty promotion & tenure decisions, and proven falsification of résumé or employment materials. Incidents covered under the grievance procedures of the [Policy on Prohibited Discrimination, Harassment and Related Conduct - Including Sexual Harassment, Sexual Violence, Sexual Misconduct and Stalking](#) and [Disability-Related Grievance Procedure](#) are not subject to this process and will be addressed under their own protocols, with the exceptions of concerns regarding the outcomes of the Policy on Prohibited Discrimination, Harassment and Related Conduct.

Terminated employees who wish to have the termination decision reviewed in the Mediation and Resolution of Disputes Process must initiate these procedures within two weeks of receiving notice of termination.

Step 1: Mutual Problem Solving

Each member of the University community is expected to listen and respond using the established practices of interest-based problem solving and collaborative decision making. The University is confident that most concerns can be addressed in this manner.

In the spirit of subsidiarity (problem solving at the lowest possible level), employees are encouraged to solve problems directly. The employee may seek assistance with brainstorming other options or determining next steps in problem solving from resources including the Director of Human Resources, who is available to assist the employee with understanding pertinent University policy and with clarification and articulation of the issues. In situations where dissatisfaction and/or disagreement remain, an individual may pursue the issue, consulting sequentially with each level of supervision up to and including the administrative officer.

Step 2: Informal Outcome through Conflict Resolution

An employee who is not satisfied with the mutual problem solving process may request the Committee to facilitate an informal outcome through conflict resolution, which includes Mediation. Mediation is not arbitration. During the informal outcome process the Committee will not come up with a solution or impose it upon the disputants, nor will they choose a side and attempt to get the other party to agree. During this phase, the role of the Committee is to make sure that the parties involved clearly communicate with each other and attempt to resolve their own dispute. The Committee will assist the involved parties in creating ideas to resolve their issues. If through the informal outcome process a resolution cannot be agreed upon between the involved parties, a written request must be made to the Committee who will engage in the formal outcome process through a full Committee review.

1. After the employee perceives mutual problem solving options have been exhausted, an employee begins this process by presenting a written statement to one of the co-chairs of the Mediation Committee. This statement must include a description of the disagreement from the aggrieved employee's perspective and her/his proposed solution. The Co-chairs will serve as a clearinghouse for the process and will be responsible for appropriate documentation and record keeping. The individual(s) involved, the immediate supervisor(s), and the Director of Human Resources (staff) and/or the Provost (faculty) are informed by the Co-chairs that a request for Committee review has been made and are provided a copy of the written statement.
2. Within ten (10) working days (Monday through Friday, including summers, but excluding University holidays) after the receipt of the written statement, the Co-chairs will present relevant materials, which may be expanded upon as appropriate at the request of Committee members, to the Committee for the Mediation and Resolution of Disputes.
3. The review will take place within ten (10) working days (Monday through Friday, including summers, but excluding University holidays) after the receipt of the materials from Co-chairs and will include:
 - a) an examination of the problem-solving process and an interview with the employee who has filed the disagreement and the immediate supervisor and/or other party(ies) that may be involved in the dispute;
 - b) an assurance that mutual problem-solving has taken place;

- c) an identification of new options for informal resolution, including mediation, if applicable.
4. The Committee may decide:
- a) to encourage the employee and the supervisor to renegotiate solutions and offer resources in conflict resolution, and/or;
 - b) to delegate to one of its members and/or to another resource the function of mediation. This will enable both parties to communicate interest, explore options, propose solutions, and settle their differences, and/or;
 - c) that all informal outcome possibilities have been exhausted.

The Committee will summarize the outcome of the process in a written report which will be sent to the employee who has filed the disagreement, the immediate supervisor and/or other party(ies) involved in the dispute, and the Director of Human Resources or Provost. This written report will be available during a formal resolution should such a process be initiated by the employee.

Step 3: Formal Outcome through Full Committee Review

If the employee is still not satisfied with the informal outcome, he/she may file a written request for a formal resolution by summarizing what outcome the employee desires. Time limits set forth for requesting a formal resolution must be strictly followed by the concerned employee. These processes are designed to provide a fair internal mechanism for resolving concerns of employees. The success of this process depends upon willingness of all members of the University community to participate when asked and to participate truthfully.

1. If the employee is still not satisfied with the informal outcome, he/she may file a written request for a formal resolution with one of the Committee Co-Chairs, summarizing what outcome the employee desires and how the informal outcome (if any) facilitated by the Committee failed to achieve this. This request must be submitted to the Committee for Mediation and Resolution of Disputes within ten (10) working days (Monday through Friday, including summers, but excluding University holidays) of receiving the Committee's written report in the event of a termination and within 60 calendar days for disputes not involving termination. The administrative officer, the Director of Human Resources, and supervisor (or other involved party(ies)) will receive a copy of this written request.
2. The Committee for the Mediation and Resolution of Disputes determines if previous mediation efforts have been exhausted. If previous informal resolution efforts have not been exhausted then the Committee will go back to step 2, number 4 above.
3. An ad hoc committee, consisting of all committee members not involved in the informal resolution process and the alternates of those that have been involved in the mediation process (if used), will use resources and information appropriate to the request. The ad hoc committee will meet and consult as necessary to issue their answer to the employee's concern(s).

4. The ad hoc committee reports its recommendations to the parties involved, to the Director of Human Resources or Provost, and to the appropriate administrative officer within twenty (20) working days (Monday through Friday, including summers, but excluding University holidays) or within any time extension agreeable to the parties.
5. The appropriate administrative officer involved makes a final decision after review of the ad hoc committee's recommendation for the employee's concern(s). The appropriate administrative officer sends a written record of her/his final decision and rationale and summary of the process to the parties involved and to the President. No further formal resolution or appeal is available under this process.