

CUEFA Info Sheet on Disciplinary Actions, Human Resources (People and Culture) Complaints, Grievances, and Labour Board Complaints (August 2022)

There are important differences between Investigation Hearings / Disciplinary Actions, Human Resources (People and Culture) Complaints, Grievances, and Labour Board Complaints. Below is summary of the main differences between these processes at Concordia University of Edmonton (CUE) as well as some examples of each process.

I. Investigation Hearing / Disciplinary Action:

- **Section 13** of the Collective Agreement governs the investigation hearing process and disciplinary action process involving a faculty member or academic service officer (ASO).
- An Investigation Hearing is initiated by a complaint of:
 - i) a Dean as a result of a poor performance evaluation of a faculty member and after the faculty member has failed to complete the performance plan to the satisfaction of the Dean.; or
 - ii) a manager or director about the poor performance of an ASO; or
 - iii) an administrator, faculty member, student or staff member concerning the actions or statements of a faculty member or ASO.
- The VPA (or appointee) can undertake the Investigation Hearing through an: i) informal hearing process; or ii) formal investigation process.
- After completing the investigation process, the VPA meets with the person (the respondent) who is the focus of the investigation and a CUEFA rep.
- Thereafter the VPA may dismiss the complaint or discipline the respondent.
- In disciplining the respondent, the VPA may:
 - i) Issue a letter of warning or reprimand;
 - ii) Suspend the respondent with pay;

- iii) Suspend the respondent with partial pay, or without pay, or a fine in lieu of those, where the severity of the offense does not warrant suspension or dismissal;
 - iv) Dismiss the respondent from his/her/their employment;
 - v) Impose another appropriate penalty in the discretion of the VPA.
- If Administration has acted improperly in this process, then the respondent may -- depending on the circumstances -- be entitled to file a grievance pursuant to the Collective Agreement.

II. Human Resources (People and Culture) Complaint:

- These deal with discrimination or harassment complaints pursuant to CUE policies.
- Please note that if the faculty member or ASO makes the complaint or is the subject of a complaint, then the faculty member or ASO is on their own during the investigation and/or disciplinary process. A faculty member or ASO is currently **not entitled** to have a CUEFA rep present during the process.

III. Grievance:

- **Section 25** of the Collective Agreement governs the Grievance process.
- A grievance typically arises when Administration breaches a provision of the Collective Agreement. This includes when Administration breaches the Collective Agreement before, during or after the Investigation Hearing or Disciplinary Action against a faculty member or ASO.
- CUEFA's Grievance Committee will make the final decision about whether a particular matter will become a Grievance.
- During the Grievance process, there is initially an Informal Resolution Meeting. If this proves unsuccessful, then CUEFA can request a Formal Resolution Meeting. During this Grievance process, only the CUEFA rep is in attendance. The faculty member or ASO that is the subject of the Grievance is not attendance.

- If both the Informal Resolution and Formal Resolution processes prove unsuccessful, then CUEFA can request an Arbitration Meeting (through the Labour Board) for a final resolution of the grievance. In some cases, a faculty member or ASO may be required to testify in an arbitration hearing.

IV. Labour Board Complaint

- A Labour Board Complaint arises from a breach of the *Labour Relations Code* (<https://www.canlii.org/en/ab/laws/stat/rsa-2000-c-l-1/latest/rsa-2000-c-l-1.html>)
- The complaint can be initiated by CUEFA or Administration. Labour Board Complaints typically deal with serious matters not covered by the Collective Agreement.
- The CUEFA Executive will determine if a matter should become a Labour Board Complaint.
- If a faculty member or ASO is the subject of or witness in the matter that is the focus of the Labour Board Complaint, then the faculty member or ASO may be required to testify at a Labour Board Hearing.
- CUEFA will retain a lawyer to represent its interests in a Labour Board Hearing.

Some Examples of Investigation Hearings / Disciplinary Actions, Human Resources (People and Culture) Complaints, Grievances, and Labour Board Complaints

The following table includes examples that explain some of the key differences between these different processes at CUE.

	Investigation Hearing / Disciplinary Action undertaken by Administration <u>against</u> a faculty	Human Resources (People and Culture) Process	Grievance <u>against</u> Administration	Labour Board Complaint <u>against</u> Administration

	member or ASO			
Example 1: A Dean files a complaint against a faculty member arising from a negative performance evaluation of the faculty member and after the faculty member has not completed the performance plan to the satisfaction of the Dean.	X			
Example 2: A Director files a complaint against an ASO.	X			
Example 3: A student files a complaint against a faculty member.	X			
Example 4: A faculty member or ASO <u>initiates</u> a discrimination or harassment complaint.		X There is no CUEFA rep in this process		
Example 5: A complaint of discrimination or harassment is launched against a faculty member or ASO.		X There is no CUEFA rep in this process		
Example 6: A Dean files a complaint against a faculty member arising from a negative performance evaluation of the faculty member. In response, VPA conducts investigation hearing and in doing so, violates a provision of the collective agreement (e.g., VPA fails to give proper notice to faculty member, or acts in a biased manner against the faculty member, or breaches the privacy of the faculty member, etc.)	X		X	

Example 7: The VPA commits a breach of a provision of the collective agreement.			X	
Example 8: A Dean tries to intimidate a faculty member to not participate in CUEFA or in a CUEFA strike.				X
Example 9: A Dean tries to intimate a CUEFA executive member by breaching the provisions of section 148 and 149 of the <i>Labour Relations Code</i> when dealing with the CUEFA executive member.				X

If you have any questions or concerns about these different types of complaints, hearings, or grievances, please contact the CUEFA Grievance Officer at:

grievance@cuefa.ca