

# MUSALIAR COLLEGE OF ENGINEERING AND TECHNOLOGY

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### GRIVANCE REDRESSAL POLICY

- **Introduction**

The purpose of this working procedure is to outline basic information on conduct of grievance hearings that will be efficient, effective and fair to all parties. The body that will hear all institute grievances and take appropriate decisions is the Standing Committee for Grievance Redressal (hereafter called the Grievance Committee).

This document covers specific procedures that govern Rajiv Gandhi Centre of Biotechnology's (RGCB's) grievance policy and procedure. Included are the roles of the respective participants in the grievance (including the roles of Grievance Committee members, Grievance Committee Chair, grievant, respondent and observers), the purpose of the pre-hearing conference, the conduct of the grievance hearing, Committee deliberations and reaching a decision.

- **The Grievance Structure**

A typical grievance involves a grievant (the person who files the complaint and initiates the administrative grievance process), a respondent (the individual responsible for the action that has resulted in the grievance), a hearing Committee who hears the grievance and makes a recommendation, and the administrative officer responsible for the ultimate determination of the grievance.

The grievant and respondent ('the parties') are normally in an adversarial posture and while the grievance procedure calls for certain exchanges of information between these parties, the grievant and respondent interact primarily with the grievance hearing Committee and Chair. While the grievant and respondent may each have a third party observer during the process, such individuals have no active role in the grievance process.

The grievance committee is a five member standing committee that hears and decides the grievance. The Chairperson makes all procedural decisions, directs correspondence between the Committee and the parties, deals with hearing logistics, and compiles and transmits the record of the hearing along with the Committee's decision to the Director for decision.

The grievance hearing consists of the following phases:

- Initial meeting of the grievance Committee
- The hearing of the grievance
- Deliberations by the Committee
- Pronouncing the decision

The initial meeting provides an opportunity for the Chairperson to acquaint Committee members with the grievance process and answer any questions about the process before the pre-hearing conference with the parties. At this initial meeting the Committee reviews the grievance petition and any request to dismiss the grievance as well as to determine whether the grievance Committee has jurisdiction over the grievance. If the grievance is not dismissed for lack of jurisdiction, the initial meeting is followed by the grievance hearing, deliberations and taking of the Committee decision. Committee decisions are forwarded to the Director in the form of a recommendation.

The Director's decision if taken against the recommendations of the Grievance Committee may be appealed to the institute's Governing Council. In addition, an aggrieved individual also has the option to seek judicial review of the final institutional decision.

- **Roles of the Participants**

- **The Grievant**

The grievance process can be initiated only by a permanent RGCB employee (hereinafter 'grievant') who must file a timely written grievance petition to the committee addressed to the Chairperson and handed over or sent by registered post to the convener. A format for preparation of the grievance petition can be downloaded at the RGCB website. The petition must explain the exact nature of the grievance, the identity of all parties against whom the grievance is filed, the redress sought, and permission for the grievance Committee to examine all needed documents of the grievant.

The grievant must also follow certain preliminary steps as a jurisdictional prerequisite to submitting the petition to the grievance Committee. No grievance may be entertained unless the grievance is filed within sixty calendar days of the decision forming the basis for the grievance and the grievant has attempted without success to resolve the grievance with his or reporting officer, Controller of Administration or Dean. The matter must also be within the scope of the grievance procedure.

The grievant will bear burden of establishing the jurisdictional grounds for the grievance and the burden of proving by a preponderance of evidence grounds for the grievance. A preponderance of evidence is defined as that evidence which when fairly considered produces the stronger impression and is more convincing as to the truth when weighed against other opposing evidence. Preponderance of evidence is not determined by the number of witnesses or the quantity of documentation but rather by the greater weight of all the evidence when considering the opportunity for knowledge, the information possessed and the manner of testifying.

If the grievant has not followed these prescribed pre-requisites in the grievance procedure or otherwise fails to meet the requisite burden of proof, the Committee may dismiss the grievance

- **The Respondent**

A grievance may be brought only against a scientific, technical or office administrator (the "respondent") who has rendered a decision adversely affecting an individual's professional or academic capacity. Adverse effect means a decision that has harmed the career or career prospects of the grievant. Once the petition is received before the Grievance Committee the respondent is provided the opportunity to respond in writing to the grievance. This response joins the issue and together with the grievance statement outlines the respective issues in dispute between the two parties.

- **Observers**

The grievance procedure permits each party to have a third party observer who may attend the hearing. An observer has no active role in the process but may advise a party so long as the grievance process is not interrupted. An observer may be a member of the institute community, a friend or relative or a lawyer. Under the RGCB grievance procedure, lawyers for the parties have no active role in the process. If a party is accompanied by a lawyer he or she may attend the hearing but may do so only in the capacity of an observer. An observer/lawyer may provide advice to a party, prepare correspondence and other documents for a party, and may be present during the proceedings so long as their presence does not disrupt the hearing process.

- **Lawyer for Grievance Committee**

The Committee may have a lawyer if specifically needed to advise the Committee on procedural matters related to the grievance. The lawyer will be assigned by the Director. The lawyer for the Committee may be present at all stages of the process, including Committee deliberations but will be subject to the same procedures as the lawyer accompanying the grievant.

- **The Grievance Committee Chair**

The Grievance Committee Chairperson presides over all meetings of the Committee and at the grievance hearing. The Chairperson makes all procedural rulings regarding the grievance process and exercises complete control over all stages of the grievance hearing. The Chairperson provides information to the Committee and participants about the grievance and grievance process, schedules all hearing dates and meetings, makes all procedural rulings regarding the grievance process (including the number of witnesses who may be called by a party, the length of each party's presentation, the admissibility of evidence, witnesses, etc.) and otherwise exercises complete control over all stages of the hearing process. The Chairperson is responsible for ensuring that the Committee's work is completed in a timely manner. The Chairperson also is responsible for preparing a written report of the Committee's findings and recommendations and compiling the official record to the Director.

- **The Grievance Committee**

The Grievance Committee is appointed by the Director for a period of three years. The committee may be reconstituted after three years with or without inclusion of

previous members. The Chairperson is nominated by the Director in consultation with the Governing Board and/or its Chairman. The Chairperson and one member may if needed nominated be from competent persons outside the institute. The Grievance Committee is a hearing body composed of four members in addition to the Chairperson with delegated authority to hear grievances. The Committee's role is to determine whether the grievance presents a matter that is within the jurisdiction of the grievance Committee and if so, to hear the grievance. The Committee is responsible for making written findings of fact and recommendations with regard to the grievance. A Grievance Committee has no power to reverse an administrator's decision. Its authority is only to recommend a reassessment of the decision if it finds that the decision was reached improperly or unfairly. As a result of their delegated authority, members of the Committee must at all times maintain a neutral status vis-à-vis the parties to the grievance. Indeed, as a matter of due process, Committee members must be fair and impartial decision makers. To be a fair and impartial decision maker, a Committee member should keep an open mind and not presume that either party to the grievance is right or wrong.

The Grievance Committee's role is to make a decision based on the evidence presented by each party. To maintain appropriate neutrality and accord due process to both grievant and respondent, ex parte communications on matters of substance related to the grievance must not take place between the Committee and a grievant and/or respondent. (Ex parte communications are those that involve only one party without the presence or knowledge of the other party.) Neither the Committee Chairperson nor Committee members may solicit or hear evidence outside of presence of the parties. All communications to a party by the Chair or Committee members must take place in meetings at which both parties have been provided the opportunity to be present or through written correspondence sent to each party.

- **Steps in the Grievance Process**

The grievance process consists of the following phases:

- Initial meeting of the Grievance Committee
- The hearing of the grievance
- Deliberations by the Committee
- Pronouncing the decision

### **Initial Meeting of the Committee**

The work of the Committee begins with an initial meeting of Committee members convened by the Chairperson, after the convener receives a grievance petition. The Chairperson will conduct a brief orientation to ensure that the members of the Committee have received the grievance, that they are familiar with the grievance procedures and that no member has any conflicts of interest that would prevent the member from serving on the Grievance Committee for that particular petition. After this orientation, the Grievance

Committee's task is to review the grievance to determine whether the grievance is to go forward or be dismissed.

- **Review of Process and Role of Committee Members and Chairperson.**

At this initial meeting, the Chairperson of the Committee should briefly review the grievance process and the roles of the Committee and the Committee Chairperson. The following matters should be addressed:

- **Discussion of the Grievance Process**

The Chairperson will inquire as to whether the Committee has received/reviewed a copy of the grievance procedures, the grievance petition, and a request for dismissal from the respondent. The Chairperson will point out the steps in the grievance process and responsibilities of the Committee, including the Committee's responsibility at this first meeting to determine whether the Committee has jurisdiction over the grievance. Questions about the process may be solicited and responses provided.

- **Role of Committee Members.**

The Chairperson will remind Committee members of their responsibility to render a fair and impartial decision based solely on the evidence before them. To ensure a fair and impartial decision no member of the Committee should have a conflict of interest, no ex parte communications should occur, and decisions must be based solely upon evidence introduced at the hearing. If any member of the Committee has a potential conflict of interest, it should be disclosed at this meeting. The matter may be resolved by recusal of the concerned member or reserved for discussion with the parties at the pre-hearing conference.

- **Conflicts of Interest.**

A conflict of interest is a relationship to a party or particular knowledge of the grievance that would prevent a person from deciding the case solely on the basis of the evidence presented at the hearing uninfluenced by matters of personal interest or other factors. Committee members and the Chairperson must be able to make decisions uninfluenced by personal interest or familiarity with the parties, witnesses, facts or situation related to the grievance.

A personal interest in the grievance, i.e., one in which a member stands to gain or lose personally by the Committee's decision, constitutes an automatic disqualification from service and the member should immediately withdraw from further service on the Committee hearing. On the other hand, prior knowledge of some general facts or a personal collegial relationship to a party or potential witness does not automatically constitute a conflict of interest. If the knowledge relating to key testimony in the grievance or the relationship is more than collegial, it is more likely that a decision may be affected and the person should withdraw. The key question to be answered is whether the member is able to render a decision

unaffected by whatever knowledge they possess or relationship they have with the party or parties. The Chairperson also has the prerogative to request a member not to continue in proceedings if he/she is convinced of an apparent conflict of interest.

- **No ex parte communications**

The Committee's responsibility is to make findings of fact and resolve the grievance based solely upon the evidence presented to them at the hearing. Committee members may not gather their own evidence or speak to a party or other persons regarding the grievance outside of the grievance hearings. All communication related to the grievance should be done at meetings at which both parties have been provided the opportunity to be present or through correspondence with all parties receiving copies. All correspondence between the Committee and any party is normally done by the Chairperson with copies to all parties. If the Committee believes that there is a witness who can provide information pertinent to the grievance, the Chairperson may suggest to the parties that one or both call the witness to testify at the hearing in the presence of both parties or the Chairperson may make those arrangements.

### **Review of grievance petition to determine jurisdiction to hear the matter**

Once the procedures have been discussed and potential conflicts of interest resolved, the Committee must review the grievance and make a jurisdictional determination as to whether the grievant has stated a grievable matter and fulfilled the requirements necessary for the matter to proceed to a hearing. The Committee should address the following jurisdictional issues:

- **A grievance must be filed against a proper party and it must present a grievable matter within the jurisdiction of the Committee.**
- **Does the grievance meet the following criteria?**

Is the grievance filed against an administrator?

Does the grievance statement challenge a decision made by the administrator that is adverse to the grievant?

Does the grievance statement allege that the decision violated institute policy, regulation, rule or practices or was otherwise unlawful or without a rational basis?

**Comments:** Grievances may be filed only against an administrator who has made a decision that adversely affects the grievant. Most grievances will be filed against the grievant's unit head/reporting officer, Dean, or Director. For grievance petitions that directly name the Director as the primary respondent, the Director may be represented at the Grievance committee by a suitably nominated officer or the Director may choose to represent himself or herself. A grievance normally may not be filed against another staff member or group of staff members

unrelated to the grievance petition administratively unless the grievant has clear evidence for the actual involvement of such individuals.

A grievant must have standing to raise the grievance and the matter must be one that is capable of being remedied. In other words, the decision that is being grieved must be one that adversely affects the grievant and can be remedied.

Petitions sent to/forwarded to the Director or the institute quoting or describing anomalies and grievances in the institute from staff or other sources can be referred to the Grievance Committee by the RGCB management for appropriate action.

For cases where the grievable subject matter is not specifically limited, the grievance must allege that a decision was made improperly or unfairly. Improperly means one that violates a specific institute rule, regulation, policy or practice. Unfairly means one that is arbitrary or capricious (no rational basis for the decision) or unlawfully discriminatory (violates state or central civil rights laws). If the grievant has not provided sufficient information to show that the matter is clearly grievable, the Committee may dismiss the grievance or give the grievant the opportunity to amend the grievance if it appears likely that such information might be provided.

- **Was the grievance timely filed?**

The grievance petition must be filed within sixty calendar days of the decision being grieved or within an extension of time granted by the Chair of the faculty.

Grievances must be filed within sixty calendar days of the decision being grieved. Time deadlines are imposed to avoid delays that can result in loss of memory, unavailable witnesses and unavailable documentation. Timely filing notifies the respondent to the grievance while memories are fresh and documentation can be preserved and available witnesses can be notified.

If the grievance was not filed within the requisite sixty days, the Chairperson of the Grievance Committee may waive the requisite sixty day filing date under significant extenuating circumstances. Significant extenuating circumstances are generally those circumstances that are beyond the control of the grievant and thus have affected the grievant's ability to timely file. Examples would include inability to file because the grievant was in the hospital or is otherwise unaware of the decision because of events beyond the staff member's control.

- **Has the grievant followed the preliminary steps requisite to filing the grievance?**

The grievant must meet with the unit head or Dean or Controller of Administration to attempt informal resolution of the grievance before filing the grievance. If the matter is not satisfactorily resolved, the grievance may then proceed through the grievance process.

If the grievance has been timely filed and is otherwise a grievable matter, and if respondent challenges the lack of an attempt at resolution, the Grievance

Committee may for good cause permit the parties an opportunity to explore informal resolution. If the matter is not resolved within a time frame set by the Chairperson, the hearing of the grievance should go forward. If the grievant does not show good cause for not having attempted informal resolution, the grievance may be dismissed.

In certain cases, the Committee may decide that it needs additional information to decide these issues. In such event, the Chairperson may request in writing additional information from the parties and/or hear from the parties directly at the pre-hearing conference before deciding the matter. The written request and any responses must be shared with all parties.

After reviewing the jurisdictional matters the Committee will make a decision on jurisdiction and notify the parties. While the grievance procedure requires a written report in the case of dismissing a grievance, since either party may appeal an adverse decision to the Director or the Governing Council (through the Director), a written decision should be prepared in either event setting forth reasons for the Committee's decision and provided to the parties. In cases where the grievant has not stated a grievable matter but the grievant has provided information that indicates that the grievant can do so with an amended grievance petition, the Grievance Committee may permit the amendment.

### **The Grievance Hearing**

The purpose of the grievance hearing is to provide the grievant and respondent the opportunity to present their respective cases to a Committee that will make findings of fact and recommendations regarding the grievance. The hearing is composed of four discrete segments:

- Opening statements of each party
- Presentation of the grievant's case
- Presentation of the respondent's case
- Closing arguments of each party

### **Each segment is briefly described below**

- **Opening Statements**

Opening Statements from grievant and respondent are invited after the Chairperson's introductory remarks. Each party makes a brief summary of what their respective positions are regarding the grievance. The opening statements provide a framework or context for the evidence that each party will present. Opening statements are not substitutes for testimony or argument. Rather they are brief outlines of what each party expects to present through testimony and documentary evidence. The Chairperson will place a time limit on opening



statements and then proceed to the evidentiary phase of the hearing, i.e., presentation of the grievant's case and presentation of the respondent's case.

- **Grievant's Case**

The grievant presents his or her case first through the testimony of witnesses and the introduction of documentary evidence. After each witness, the respondent has the opportunity for cross-examination of the grievant's witness. Committee members may also ask the witness questions. At the conclusion of the grievant's case, the Committee must decide if the grievant has presented sufficient credible evidence to sustain the grievance. If the grievant has not done so, the Committee must dismiss the grievance after the grievant's case. If the evidence presented does sustain the grievance, then the Committee must go forward with respondent's case.

- **Respondent's Case**

The respondent's presentation proceeds in similar fashion with the grievant cross-examining respondent's witnesses. The Committee may also ask questions of respondent's witnesses. At the conclusion of the Respondent's case, closing statements from each party are then invited by the Chairperson.

- **Closing Statements**

Closing statements provide each party with the opportunity to summarize the evidence and to argue their respective positions based upon the evidence presented. Since the grievant and respondent have already testified and presented their documentary evidence, closing statements may not be used to introduce new evidence. After the closing statements, the hearing concludes and the Committee recesses to deliberate.

- **Deliberations**

The Grievance Committee deliberations take place in closed session after the hearing has been recessed. The deliberative phase allows the Committee to discuss all the issues that have been raised during the hearing and the evidence presented by each party in support of their case or in rebuttal to the case presented by the other party. Conflicting evidence is evaluated and the Committee determines which facts have been proven. The facts are then applied to the issues and the Committee determines what recommendations it should make regarding the grievance.

After the hearing has concluded, the Committee may not talk to any of the parties or other persons, including previous witnesses who have testified. If additional material testimony is needed, the Chair may reconvene the hearing for such purposes. If the matter is straight forward and can be responded to in writing, the Chair may solicit such a response provided that all parties have the opportunity to comment on the respective responses and all responses are shared with each Committee member.

- **Pronouncing the decision**

The written report of the Committee's decision must set forth the Committee's findings and recommendations. Specifically, the report should state a separate finding for each particular issue of the grievance, should make findings that resolve the material issues of fact that have been disputed, address any minority views and provide a recommendation for disposition of the grievance.' The Committee's report should contain sufficient information to permit the Director to understand the issues in the grievance, the facts as determined by the Committee based upon the credible evidence submitted by the parties during the grievance hearing, and the rationale for the Committee's decision and recommendation(s).

The report should address the following matters:

- The composition of the grievance Committee.
- The process followed by the Committee. A description of the process should set forth the dates the Committee met and the length of time spent in hearing the case and in deliberating to reach a decision.
- The identity of all parties to the grievance.
- A description of the grievance (including what policies, regulations, rules or practices were alleged to be violated).
- The findings of fact that is relevant to each issue in the grievance. The findings of fact basically set forth what happened. There may be conflicting evidence on various factual issues that the Committee will resolve in its deliberations and these factual conflicts should be discussed with the Committee's ultimate judgment of why the Committee accepted or rejected specific evidence. The parties, the Chancellor and any subsequent reviewer needs to know that the Committee considered the relevant and material evidence and made factual findings that are supported by the evidence in the record. A recitation of conflicting evidence in the record does not suffice. The Committee must actually decide which evidence it finds as true.

### **Recommendation(s)**

Recommendation(s) addressing what action the Committee has decided should be taken. The recommendation must be supported by the facts and provide a justification. While the Director or the Governing Council have the authority to draw different conclusions, a carefully reasoned decision is more likely to be persuasive and upheld. 'The Committee should be careful not to simply substitute its judgment for that of the respondent(s) (e.g., the Committee should not recommend that the grievant get promotion or a pay rise simply because the grievant's professional record could have justified this. Rather, the Committee should decide if the decision being grieved was reached for improper or unfair reasons (e.g., was it based on irrelevant factors such as age or race or personal or political views, or were procedures violated to the prejudice of the grievant). '

Minority or dissenting report(s) if any. The report shall include minority or dissenting views of Committee members, if any, and shall note the intent of any Committee member to file a separate report if any member wishes to do so. Minority reports, if any, shall be appended to the

Committee's report. If the Director rejects any of the findings or recommendations, the Committee is provided with the Director's decision and an opportunity for the Committee to respond in writing to the decision.

If the Committee's decision is unclear or additional proceedings are deemed necessary by the Director, the matter will be remanded with instructions to the Committee for further action. For example, the Committee may be asked to hear additional evidence and re-evaluate the decision, or to clarify portions of the Committee's decision.