

3.06 Grievance Mediation Policy & Procedures

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Overview

The University of New England recognises the rights of staff members and students (including external mode students) to have unhindered access to mediation. This means they have the right to report problems, concerns or grievances regarding any aspect of their employment, education or other activities, which are within the control of the University, to a trained mediator.

The *NSW Anti-Discrimination Act (1977)* makes employers responsible and legally liable for any discriminatory acts of their employees. The Act necessitates that the University ensures that all employees and students are made aware of what constitutes acceptable behaviour within the University environment.

Policy

- 3.06.1** The University recognises mediation as an official avenue for resolving grievances in accordance with published and accountable procedures as set out in the Grievance Mediation Policy and Procedures.
- 3.06.2** These procedures are not intended to replace academic, administrative and supervisory avenues for problem resolution. Staffing and employment matters, for example, would usually proceed through normal channels to Head of School or supervisor, Human Resource Services, a relevant staff representative, or to the Vice-Chancellor. The existence of mediation procedures does not remove a manager's or supervisor's obligation to identify and address, as part of their usual responsibilities, practices which may lead to a grievance being raised.
- 3.06.3** Similarly, they do not replace avenues for student complaints which relate to academic matters. In these cases a complaint would be addressed via the [Student Appeals Policy](#) and/or the [Service Quality Unit](#). In relation to residences, a complaint would normally be referred to the Head of Residence and if not resolved, to the Chief Development Officer.
- 3.06.4** Mediation provides a means of conflict resolution which complements academic, administrative and supervisory

channels. It is designed to allow resolution to occur where these channels are inadequate, and to provide an alternative avenue to those members of the University who are unable or unwilling to use them.

3.06.5 In keeping with the recommendations of equal opportunity and industrial guidelines, the University is committed to a policy of providing mediation to staff members and students as an alternative, confidential, effective and timely means of conflict resolution within the University environment. A team of people (Equal Opportunity Advisers) trained in mediation is coordinated and managed by the Employment Equity & Diversity (EE&D) Officer at the University.

Objectives of Policy

3.06.6 The objectives of the University's Grievance Mediation Policy and Procedures are to:

- encourage staff and students to solve their own problems before job satisfaction and performance are severely affected;
- encourage staff and students to call upon the skills and authority of supervisors and managers to resolve problems in the first instance, and to contact a trained mediator for further assistance, if required;
- identify and correct causes of staff and student dissatisfaction;
- allow grievances to be solved quickly and with mutual agreement between the parties as to the outcome;
- ensure that the process is fair and seen to be fair to all parties;
- allow resolution of the grievance as close to the source as possible;
- ensure confidentiality and the protection of rights of all parties involved;
- assist in maintaining an environment that reflects the right of individuals to fair and equitable treatment in accordance with established personnel practices and procedures;
- provide a way of resolving grievances without involving outside organisations.

Mediation—What is It?

- 3.06.7** A grievance is a complaint or conflict which arises out of an act, decision or omission which the grievant considers to be unjust, wrongful or discriminatory and which is within the control of the University. The mediator is the trained person to whom the grievance is reported.
- 3.06.8** Mediation is a process by which the participants in a dispute, together with the assistance of a neutral person (in this case a trained mediator), systematically isolate disputed issues in order to develop options, consider alternatives, and reach a consensual settlement that will accommodate their needs.
- 3.06.9** The process of mediation emphasises the participants' own responsibility for making decisions that affect their lives.
- 3.06.10** Mediation incorporates the setting of goals and the solution to a problem, through the efforts of the participants who ultimately are required to accept the consequences of their decisions.

Selection and Training of Mediators

Rationale

- 3.06.11** The University's trained mediators (Equal Opportunity Advisers) complement the existence of the EE&D office in that they facilitate the University's ability to deal with grievances internally, confidentially, and as quickly as possible.
- 3.06.12** The process of training, appointing, developing and publicising Equal Opportunity Advisers is an important staff development activity for the individuals concerned. It is also a vital educative process for the whole University community which aims to engender the desire and responsibility of those in the University community to address conflicts and take positive steps to resolve those conflicts. In addition to the role of mediator, Equal Opportunity Advisers will provide advice on equal opportunity matters including sexual and racial harassment, sit as EO Observers on selection committees, when required, and provide referral information on avenues available to those seeking advice.

Selection and appointment of Mediators

- 3.06.13** The EE&D Officer will advertise for expressions of interest from individuals, and request nominations from management and from academic and general staff and students. It is desirable that the applicants be drawn from all areas of the University

community, represent both genders, and include members of Equity groups.

- 3.06.14** Applicants will be interviewed and chosen in accordance with their ability to fit the selection criteria. The selection panel for the interview will comprise the EE&D Officer, Deputy Director of Human Resource Services/Management representative, an appropriate staff representative and senior Equal Opportunity Adviser/s.
- 3.06.15** Equal Opportunity Advisers will receive appropriate training before their appointment is publicised and attend revision courses throughout their appointment.
- 3.06.16** The names of Equal Opportunity Advisers will be published in appropriate University publications and posted on official University notice boards. The list of names will be available from academic staff, general staff and student associations as well as University advisory and counselling services.
- 3.06.17** All supervisors of Equal Opportunity Advisers should be informed of the responsibilities of the Advisers. The supervisor, as well as the management of the University, should be made aware of the need for Advisers to spend appropriate time during working hours on equal opportunity/mediation duties.
- 3.06.18** The EE&D Officer is responsible for managing the Equal Opportunity Adviser Scheme including the initial training, providing continuing support and advice, and convening regular meetings of Advisers to discuss the operation of the procedures.
- 3.06.19** Each year the group will be reviewed by a process of interviews with the EE&D Officer.

Reporting

- 3.06.20** Equal Opportunity Advisers are required to provide to the EE&D Officer bi-monthly statistical mediation returns which do not identify the grievants. The EE&D Officer will include an analysis of these returns as part of the ongoing monitoring and evaluation process and will report to key decision-making bodies within the University and to appropriate external agencies. The monitoring process will aim to identify areas requiring attention and provide strategies which will further improve the work, study and residential environment.

The Mediation Process

- 3.06.21** Mediation is used when the parties in conflict are willing to discuss their grievance with a trained mediator (Equal

Opportunity Adviser). A request for mediation must be lodged within 6 months after the alleged grievance became apparent.

- 3.06.22** It is expected that in most cases the grievances will be resolved with the assistance of a mediator but it is completely up to the parties involved whether or not to use a mediator. If at any stage one of the parties refuses to participate fully in the mediation process (for example, will not agree to meet in the presence of the mediator) then the grievance would be considered unresolved. In this case the matter would normally be referred elsewhere for resolution.

The Pattern of a Normal Mediation Process

3.06.23 Initial contacts with the disputing parties

- After contacting a mediator, the grievant will have an initial interview with the mediator. The mediator will act upon a request for an initial discussion as soon as possible. If this cannot be done within five working days the grievant will be informed and offered other options.
- The mediator will explain the mediation process and respond to any concerns the grievant might have.

3.06.24 Collecting and analysing background information

- If the grievant wishes to continue with the mediation process, the mediator will attempt to isolate the needs and wants of the grievant with the view to discussing these at a joint mediation session.
- The mediator will then contact the other party. Individuals should respond to a legitimate request for information within 21 days.
- The mediator will request an interview with the other party with the view to informing that party of the mediation process, the issues raised, and the needs and wants of the initiating party. The mediator will also provide the other party with an opportunity to respond fully. Individuals should respond to a legitimate request for interview within 21 days.
- The mediator will attempt to isolate the needs and wants of the other party with the view to discussing these at a joint mediation session.
- Further discussions with each party may be required.

3.06.25 The mediation session

- The mediator will then attempt to bring the parties together to discuss mutually agreeable ways of meeting their needs and wants, with the view to resolving their dispute and setting future goals.
- The mediator will encourage the parties to carefully plan and implement their negotiated agreement and, if necessary, to agree on methods of monitoring and evaluating the outcome.
- There will be an overall limit of three months on the time it takes from the lodging of a grievance and its resolution within the University by the mediator alone. If a grievance cannot be resolved within three months the mediator will consult with the EE&D Officer who will attempt, through further mediation, to achieve a satisfactory resolution.

3.06.26 The mediation process may vary in some situations. There may be, for example, more than two parties involved or one party may involve a large group of people. The grievant can discuss special needs/circumstances with the mediator, and the mediator, if possible, will attempt to meet those needs.

3.06.27 Any grievance which cannot be resolved by these steps should first be referred to the EE&D Officer who will attempt, through further consultation and mediation, to achieve a satisfactory resolution.

3.06.28 A person who has requested a mediation should inform the mediator if the same matter has been raised with another body, for example, Human Resource Services, a staff representative, or an external body.

Time Limits

3.06.29 A request for mediation must be lodged within **6 months** after the alleged grievance becomes apparent. It is recognised that there may be exceptional circumstances which may prevent this. For such cases the EE&D Officer will determine whether the mediation can be accepted.

Policy Implementation Procedures

3.06.30 An essential factor in effective mediation is to raise community awareness of what the mediation process is, how it works and what is the best available option for both parties in the grievance.

3.06.31 The University acknowledges and accepts its obligation to raise the awareness of its staff and students about the mediation

process. Information will be available on the web and from various outlets within the University community and will be widely distributed to staff and students.

- 3.06.32** Individuals and organisations within the University with whom people would be most likely to consult about grievance procedures will be adequately equipped and informed. (These may include Equal Opportunity Advisers, managers, supervisors, Pro Vice-Chancellor and Deans, Heads of Schools.) They will be supplied with information sheets issued by the University and written material from other sources to distribute to enquirers. Material listing the names of Equal Opportunity Advisers will be widely circulated.
- 3.06.33** Any request for assistance will be attended to as soon as possible and in confidence. If the Equal Opportunity Adviser is unable to attend to the matter, it should be referred, with the person's agreement, to another Adviser. Any background information required can only be sought with the approval of the person concerned.
- 3.06.34** If the case appears to constitute a form of harassment that is covered under a University harassment policy, the person will be encouraged to inform the EE&D Officer. If the matter appears to be industrial in nature, the Adviser may refer either party to an appropriate person with whom they can discuss the matter, including but not limited to, a work colleague, supervisor, Human Resource Services staff member or other staff representative. The option of referral is always available.
- 3.06.35** The Equal Opportunity Adviser and/or the EE&D Officer will ensure, as far as possible, that a person seeking mediation is not subjected to reprisals of any kind as a result of seeking a mediator's assistance.

Legal Liability and Confidentiality

- 3.06.36** The mediator will maintain strict confidentiality during and after the mediation process. The mediator is legally bound to protect the rights of all parties in the process. Defamation actions could arise if confidentiality is breached. Confidentiality is also important to protect both parties from reprisals.
- 3.06.37** If the mediator considers that there may be a possibility of criminal investigation or that the safety of any staff member or student is endangered, the matter must be removed from the person's control. The immediate action taken by the mediator will depend on the nature of the concern and will be taken in consultation with the EE&D Officer. In such cases, all efforts will be made to protect the confidentiality of the person/s involved.

- 3.06.38** Provided the mediator has handled the matter according to guidelines as set out above, the University will provide indemnity to the mediator should any legal action be taken.

References

Equal Employment Opportunity (Commonwealth Authorities) Act 1987

UNE Equal Employment Opportunity Policy