

**ARTICLE 12**  
**GRIEVANCE PROCEDURE**

12.§1 DEFINITION OF GRIEVANCE. A grievance is a dispute involving a claimed breach, misinterpretation, or improper application of the provisions of this Agreement.

12.§2 INDIVIDUAL RIGHT. Any individual faculty member or group of faculty members may at any time, consistent with their constitutional and statutory rights, present grievances to Western and have these grievances adjusted without intervention of the Chapter, provided that the adjustment is not inconsistent with the terms of this Agreement. Western shall inform the Chapter, in writing, of such adjustments.

12.§3 CONSTRUCTION. Nothing contained in this article shall prevent the informal adjustment of any grievance, and the parties intend that, insofar as is reasonably possible, every grievance will be resolved between the faculty member and the administrative agent of Western immediately involved. Steps One and Two of the grievance procedure set forth in this Agreement shall be pursued to completion before any application for arbitration may be made, unless the parties hereto enter into a written waiver of such step or steps and agree to proceed directly to arbitration.

12.§4. BASIC PROVISIONS. The basic provisions for all steps of all grievances shall be as follows:

12.§4.1 *Time Limits*. In computing any time limits specified under this article, the specific time limits are provided. Time limits may be extended by mutual agreement.

12.§4.2 *Legal Counsel*. At all levels of the grievance procedure and at arbitration hearings, the parties shall have the right to have legal counsel present at their own expense. A party who plans to bring legal counsel to a grievance meeting shall so notify the other party in the grievance or grievance appeal letter (if it is the grievant or the Chapter planning to bring legal counsel) or in the letter scheduling the meeting (if it is Western planning to bring legal counsel), except that notice shall not be necessary for arbitration hearings. **Although legal counsel – an individual employed in their capacity as an attorney – may advise their party throughout the process, legal counsel may not serve as an administrative agent or a designee.**

12.§4.3 *Extension of Time Limits*. Unless extended by mutual consent, in writing, the time limits specified herein shall be the maximum time allowed. In the event of the failure to comply with the time limits on the part of the grievant or the Chapter, the grievance shall be considered as having been withdrawn. In the event of the failure to comply with the time limit on the part of Western, the grievance shall automatically advance to the next step of the grievance procedure, except that nothing herein shall be construed to automatically advance a grievance to the Arbitration Step. Neither party will require that a grievance be advanced or

withdrawn without first notifying the other party and asking if the other party intends to request an extension. During those periods when classes are not in session, proceedings will be held in abeyance unless mutually determined otherwise by the Provost or ~~his/her~~ **their** designee and the Chapter.

12.§5 INITIATION OF GRIEVANCE. The Chapter, a faculty member, or a group of faculty members may initiate a grievance by serving a written notice of it to the administrative agent specified herein. Such notice shall be clearly identified as a grievance and shall concisely state the facts upon which the grievance is based and when they occurred, specify the provision, article, and/or sections thereof within the Agreement that allegedly have been violated, specify the relief and remedy sought, and be signed by the grievant. Such notice shall be filed within twenty (20) business days after the occurrence of the event upon which the grievance is based. If the affected faculty member or the Chapter has no knowledge of the occurrence of the event within said twenty (20) business days, then such notice shall be filed within twenty (20) business days after the faculty member or Chapter had knowledge thereof or conditions were such that the faculty member or the Chapter should have had knowledge thereof. If no notice is served within the twenty (20) business day time limit, the grievance shall be barred. In no event shall monetary adjustments of a grievance cover a period prior to twenty (20) business days before the filing of the written notice of grievance.

12.§5.1 *Within a Unit*. A Step One grievance that originates in an academic department or similar unit or at the college level or in the University Libraries shall be filed with the dean of the relevant college or ~~his/her~~ **their** designated agent. A Step One grievance that originates in Counseling Services at Sindecuse shall be filed with the vice president to whom the unit reports **or their designated representative**. A copy of any such grievance shall be simultaneously copied to the Director of Academic Labor Relations.

12.§5.2 *With the Vice President*. A Step One grievance that originates at the level of the provost, including promotion and tenure grievances, shall be filed with the provost or ~~his/her~~ **their** designated agent. A Step One grievance regarding an action at the level of the Vice President for Student Affairs shall be filed with the Vice President for Student Affairs or ~~his/her~~ **their** designated representative. **A Step One grievance regarding an action within any other vice presidential unit shall be filed with the vice president to whom the unit reports or their designated representative.** A copy of any such grievance shall be simultaneously copied to the Director of Academic Labor Relations.

12.§6 STEP ONE. Upon receipt of the written grievance, the designated administrative agent shall arrange a meeting to discuss the grievance with the grievant and, if requested by the grievant, with the appropriate representative of the Chapter. The administrative agent may invite an associate to attend and additional persons may be present by mutual agreement. This presentation by the grievant and ensuing discussion shall be completed within ten (10) business days after the administrator receives the required initiation notice. A written answer to the grievance shall be given to the grievant by Western within ten (10) business days. If the grievance is satisfactorily adjusted, the adjustment will be signed by the parties. One (1) copy thereof will be given to the grievant, one (1) copy to the Chapter, one (1) copy to the Director of

Academic Labor Relations, and one (1) copy will be retained by the administrator. In all cases, the reasoning used to form the administrator's decision must be provided in the administrator's written answer. The administrator's decision should reference material considered in reaching the decision but it is understood that the administrator may have reviewed other material that is not deemed as critical and not referenced.

12.§7 MEDIATION. A mediation option shall be available to a grievant with Chapter approval and to Western if a Step One meeting and answer fail to resolve a grievance and may be requested prior to or after a Step One hearing. The provost shall name ten (10) persons and the Chapter shall name ten (10) persons to serve as members of mediation teams. These appointments shall be approved no later than October 31, ~~2014~~ **of the first academic year that this collective bargaining agreement is in effect** and ~~expire January 15, 2018~~. These twenty (20) persons shall constitute a mediation pool. Additional appointments to the mediation panel may be made as necessary to replace members.

12.§7.1 *Request for Mediation*. Within five (5) business days after the Step One answer, the grievant or Western may ask for a mediation team to assist the parties in resolving a grievance. Such a request shall be made, in writing, to the Director of Academic Labor Relations and the Chapter. Mediation of a grievance shall take place if one or both parties request it in a timely manner; however, the Chapter must approve any mediation request made by a member of the bargaining unit (see 12.§7, above). Promptly upon receipt of a request for mediation, the Director of Academic Labor Relations and the Chapter Grievance Officer shall jointly name a two-person mediation team. The two-person mediation team shall be composed of one member of the panel appointed by the Chapter and one member of the panel appointed by the provost. Any member of a mediation panel may serve on more than one mediation team.

12.§7.2 *Mediation Team*. A mediation team shall have a period not to exceed fifteen (15) business days from the date it is notified by the Director of Academic Labor Relations and the Chapter Grievance Officer of the request for mediation in which to effect a resolution between the grievant and Western. The Director will provide appropriate information, and, during that period, mediation teams shall have recourse to persons and information involved in the grievance and appropriate to a speedy resolution, such as would be available to the Chapter in a grievance matter. Mediation teams may meet with the parties separately or in a group. If a resolution occurs, both parties shall sign an agreement identifying the resolution. Beyond the request for mediation or a notice of the end of mediation prior to fifteen (15) business days, such a signed agreement shall be the only written product of the mediation process. Any personal notations or other records kept by mediation teams shall be protected from review or examination in any other process related to the grievance.

12.§7.3 *Resolution*. Mediation teams encourage the parties to a grievance to resolve their dispute, and, in so doing, teams may try to identify and orally recommend to the parties possible resolutions for their consideration. Neither party shall be compelled in any way to accept a resolution recommended by a mediation team, and such recommendations, if they do not result in resolution, shall not be a factor in further grievance proceedings, if such take

place. A mediation team, with notice to the parties in writing, may discontinue mediation prior to the end of the fifteen (15) business day mediation period if it appears to the team that further mediation is unlikely to be productive.

12.§8 STEP TWO. If the grievance is not adjusted in Step One, or in mediation, the grievant or the Chapter may appeal the grievance to the second step of the grievance procedure, provided such appeal is sought in writing, signed by the grievant or the Chapter, sets forth the objection to the Step One answer, and, within five (5) business days after receipt of the Step One answer, or of the end of mediation is presented to the Director of Academic Labor Relations.

12.§8.1 *Step Two - Type A Grievance*. In cases of dismissal for cause, suspension, or other financial penalty, the Chapter may demand arbitration ~~following the President's decision (see Article 22, Progressive Review and Discipline for Cause).~~

12.§8.2 *Step Two - Type B Grievance*. In the case of a grievance involving appointment, reappointment, termination, layoff, tenure, or promotion, the Director of Academic Labor Relations shall conduct a hearing. This hearing shall be within ten (10) business days after the receipt of the request to have the grievance considered in Step Two and a written answer to the grievance shall be given to the grievant and the Chapter by the hearing officer within ten (10) business days of the close of the hearing, whenever possible.

12.§8.3 *Step Two – Type C Grievance*. In the case of a layoff grievance involving seniority (see Article 25.§8), Step Two in the grievance procedure will be mediation as described in 12.§7. Arbitration of a type C grievance shall be limited to an arbitrator rendering an opinion as to whether or not the layoff followed the contractual procedures as defined in Article 25, with the exception of grievances involving Article 25.§3.1.9 and 25.§3.1.11.

12.§8.4 *Step Two - Type D Grievance*. In the case of all other grievances not designated as Type A, B, or C, the grievance shall be considered by a review board which shall consist of not more than three (3) persons designated by Western, including the Director of Academic Labor Relations or ~~his/her~~ **their** designee, who shall have authority to settle grievances, and an equal number of persons designated by the Chapter, including the Chapter's President or ~~his/her~~ **their** designee, who shall have the authority to settle grievances. The Chapter President and the Director of Academic Labor Relations shall mutually agree on the size of the review board in individual cases; the size may be from four to six members, and shall consist of equal numbers of faculty and administrators. The Director of Academic Labor Relations or ~~his/her~~ **their** designee shall contact the Chapter's President or ~~his/her~~ **their** designee to arrange a meeting of the review board to discuss the grievance and the Step One answer, which shall also be discussed with the grievant and such other persons as the review board deems appropriate. All material presented to the review board should also be given to both the grievant and the administrator being grieved in time for them to prepare a written response to it if either so chooses. The chair will be a review board member mutually acceptable to the Chapter and Western and approved prior to the first meeting. The review board's discussions of a grievance shall be completed within fifteen (15) business days of the

filing of a Step Two appeal, whenever possible, but this time limit may be extended by mutual written agreement.

12.8.4.1 *Adjustment/Settlement.* If, after the review board's discussion, the Director of Academic Labor Relations or ~~his/her~~ **their** designee and the Chapter's President or ~~his/her~~ **their** designee agree that the grievance can be adjusted to the mutual satisfaction of the Chapter and Western, the adjustment will be reduced to writing and signed by the Chapter's President or ~~his/her~~ **their** designee and Western's Director of Academic Labor Relations or ~~his/her~~ **their** designee, within ten (10) business days of the completion of the discussions. If the grievance is adjusted at Step Two, said adjustment shall be final and binding upon all parties. If an adjustment of the grievance is not reached, this fact shall be communicated to the grievant in writing by the Director of Academic Labor Relations or ~~his/her~~ **their** designee and the Chapter's President or ~~his/her~~ **their** designee within five (5) business days after the discussions are completed. If an adjustment is reached, this fact shall be communicated to the grievant in the same manner-within five (5) business days after the signing of the written adjustment.

12.9 STEP THREE – ARBITRATION. If the grievance has not been adjusted satisfactorily in the foregoing steps, the Chapter shall have the right to make demand upon Western for arbitration of the dispute, provided such demand is made within thirty-five (35) business days after receipt by the Chapter of the Step Two answer or within thirty-five (35) business days after completion of the review board's discussion without adjustment. If such demand has not been made within such thirty-five (35) business day period, the grievance will be considered to be withdrawn. If timely demand is made, Western and the Chapter will promptly join in submitting the dispute to arbitration according to the following procedures, and according to the Rules of the American Arbitration Association to the extent that they are applicable, given the following procedures.

12.9.1 *Selection of Arbitrator.* An arbitrator shall be selected from an agreed-upon rotating panel of arbitrators (see 12.9.4 below). The arbitrators shall be placed on the panel list in alphabetical order. The first arbitrator selected shall be the arbitrator whose name is at the top of the list. After an arbitrator has heard a grievance for the parties, ~~his/her~~ **their** name shall be placed at the bottom of the list. The arbitrator whose name is then at the top of the list shall hear the next grievance, and so on. If a selected arbitrator is not able to hear a grievance, ~~his/her~~ **their** name shall remain in the same place on the list and the next arbitrator on the list shall be selected. This procedure shall continue until an arbitrator is selected. When an arbitrator is selected, the parties shall jointly ask the arbitrator to provide a hearing date (or dates) as soon as possible. If the arbitrator is unable to offer a hearing date within six (6) months of selection, the parties may, by mutual agreement, select the next arbitrator on the list, if that arbitrator is available to hear the grievance more quickly than the first.

12.9.2 *Availability of Arbitrator.* If none of the arbitrators is available to hear a particular issue, the parties shall jointly request a list of seven (7) arbitrators from the American Arbitration Association. Upon receipt of this list, the parties shall alternately strike one name for the first arbitration in which the list is used. The Chapter shall strike the first name for

the first arbitration in which the list is used. In subsequent uses of the list, the parties shall alternate in beginning the striking process. The remaining arbitrator on the list shall be the arbitrator. If the arbitrator is not able to hear the grievance, a second list shall be requested and the process shall be repeated.

12.§9.3 *Authority of Arbitrator.* The arbitrator shall have no authority to add to, subtract from, change, or modify any of the terms or provisions of this Agreement, but shall be limited solely to the interpretation and application of the specific provisions contained herein. The arbitrator shall not render an opinion as to whether a bargaining unit faculty member should or should not be appointed, reappointed, terminated, laid off, or be granted tenure or promotion, but shall be limited in ~~his/her~~ **their** jurisdiction on these matters to determining whether the contractual procedures have been satisfied/followed.

12.§9.3.1 However, in cases involving dismissal and discipline for cause under Article 22, Progressive Review and Discipline for Cause, the arbitrator shall render an opinion as to whether or not the dismissal or discipline was for cause.

12.§9.3.2 However, in cases involving a layoff grievance involving seniority, the arbitrator shall render an opinion as to whether or not the layoff followed the contractual procedures as defined in Article 25, with the exception of grievances involving Article 25.§3.1.9 and 25.§3.1.11.

12.§9.4 *Arbitration Panel.* The current members of the rotating panel of arbitrators from which the parties shall select arbitrators to hear grievances are:

<del>Deborah Brodsky</del>	<b>Tom Barnes</b>
<del>Mario Chiesa</del>	Deborah Brodsky
<del>Paul Glendon</del>	Mario Chiesa
<del>Peter Jason</del>	<b>Mark Glazer</b>
<del>Ruth Kahn</del>	Paul Glendon
<del>Theodore St. Antoine</del>	<b>Betty Widgeon</b>

If one or more of these arbitrators becomes permanently unable to serve on the panel, the parties shall mutually agree to a replacement(s). Until the parties so agree, the remaining arbitrators shall constitute the panel. When panel membership changes, a new addendum shall be added to the Agreement indicating the change.

12.§9.5 *Arbitration Fees.* Western and the Chapter will share equally the expenses and fees of the arbitrator and the American Arbitration Association. All other expenses will be borne by the party upon whose behalf they are incurred. The decision of the arbitrator shall be final and binding on all parties hereto.

**Tentative Agreement**

WMU: *Harvey Meyer*

WMU-AAUP: *Whitney DeCamp*

Date: July 13, 2021

Date: July 9, 2021