

President's Advisory Committee on sexual harassment

— suspension with or without pay;
— dismissal.

12.03.4 As soon as he reaches his decision under clause 12.03.3 shall President shall so advise the staff member the complainant and the Vice-President (Academic), in writing.

12.03.5 The decision of the President pursuant to clause 12.03.3 shall constitute the decision of the Board.

12.04.1 All decisions reached under clause 12.01, 12.02 and 12.03 shall be made as expeditiously as possible.

12.04.2 The staff member shall be deemed to have received notice for the purpose of Article 12 when such notice is posted by registered mail to the staff member's University of Alberta address and home address.

12.05.1 Where the Vice-President (Academic) has decided to impose one or more of the penalties under clause 12.02.3 or where the President had decided to impose one or more of the penalties under clause 12.03.3, the staff member may, within ten days following notice of the decision by letter to the Vice-President (Academic) or President, as the case may be, (hereafter referred to as the respondent) require that the matter be submitted to arbitration. Such as appeal may be on the grounds (1) that the decision reached is unwarranted, or (2) that the penalty imposed is not appropriate, or, (3) both (1) and (2).

12.05.2 Upon election for arbitration, the matter in dispute shall be whether the case is established to the reasonable satisfaction of the Arbitration Board, and if so, whether the case warrants the penalty imposed, dismissal of the case or some other penalty.

12.05.3.1 The Arbitration Board shall consist of three persons:

- a. one to be appointed by the respondent,
- b. one to be appointed by the staff member, and
- c. a third arbitrator chairman, agreed upon in writing by the first two arbitrators. In the event that the first two arbitrators

cannot agree, a third arbitrator shall be appointed by a Judge of the Court of Queen's Bench of Alberta upon the application of either arbitrator.

12.05.3.2 If either party shall refuse or neglect to appoint an arbitrator within ten days after the one party shall have appointed an arbitrator and served written notice upon the other requiring him or her to appoint an arbitrator, then upon such a failure the party making the request and having himself or herself appointed an arbitrator, may apply to the Court of Queen's Bench to appoint an arbitrator on behalf of the party so failing to appoint, and the arbitrator so appointed by the Court may proceed and act in all respects as if such arbitrator had been appointed by the party so failing to make such an appointment.

12.05.4 The Arbitration Board shall give not less than seven days notice, in writing, of the time and the place of the hearing of the case to the staff member and to the respondent.

12.05.5 Both the staff member and the respondent may be represented by agent or by legal counsel at the hearing.

12.05.6 The Arbitration Board is not bound by the laws of evidence and the procedures of Court nor is it required to have witnesses sworn and, not so as to restrict the generality of the foregoing, the Arbitration Board may in its discretion and after it is satisfied that it is not reasonably practical to have the witness give evidence in person, accept as evidence a statutory declaration from that witness.

12.05.7 The hearings of the Arbitration Board shall be held *in camera*.

12.05.8 The hearings of the Arbitration Board shall be *de novo*.

12.05.9 Both the staff member and the respondent shall have the right, either personally or by agent or counsel, to adduce evidence to examine and cross-examine witnesses and to make submissions to the Arbitration Board.

12.05.10 The Arbitration Board may

proceed with the hearing notwithstanding the absence of the staff member or the respondent if both have been given the prescribed notice of the hearing.

12.05.11 Subject to this Article 12, the Arbitration Board shall determine the procedures to be followed.

12.05.12 The Arbitration Board shall make one of the following decisions:

1. that the penalty recommended by the respondent be imposed or
2. that a lesser penalty be imposed, or
3. that the penalty be dismissed

12.05.13 The award of any two members of the Arbitration Board shall be the award of the Arbitration Board.

12.05.14 The award of the Arbitration Board shall be final and binding on the Board and the staff member.

12.05.15 When the Arbitration Board reaches its decision, it shall forward a copy of the decision to the respondent and the staff member.

12.05.16 If the staff member is dismissed for cause, the effective date of the dismissal shall be the date of

the award of the Arbitration Board, or as determined by the Arbitration Board.

12.05.17 If the award of the Arbitration Board is that a penalty shall be assessed other than dismissal and if the penalty involves effective dates, then such date or dates shall be specified in the decision conveyed under clause 12.05.12.

12.05.18 Except as herein specifically provided the provisions of *The Arbitration Act* shall apply to the arbitration and the foregoing provisions shall be deemed to be a submission to arbitration within the meaning of the Act.



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