



GRIEVANCE TRAINING SESSION-II
MSCA GRIEVANCE COMMITTEE

MTA Regional Service Center
48 Sword St., Auburn, MA
August 29, 2018, 1:00 p.m. – 4:00 p.m.

Presented by:
Massachusetts State College Association

Grievance Training Session-II
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Grievance:

- What is a grievance?
- Types of grievances
- Who control a grievance?

Grievance Processing:

- Writing a grievance
- Filing a grievance
- Deadlines
- Steps
- Hearings on campus

Common Grievance examples:

- Evaluations
 - Incidental observations
 - Applying criteria not in the contract
- Course scheduling
- Discipline/Official Personnel File
- Part-time faculty no receiving courses

Recent Grievance examples:

- Personnel actions
- PTR process
- Chair responsibility
- Added consideration
- Academic Freedom
- Equivalencies
- Advisory boards

Recent decisions: expected and unexpected

Coordination between Chapter President and Grievance Officer

Step 3 and Step 4 – discussion

Question and Answer period



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What to expect at an MSCA Grievance Committee Meeting

- The MSCA Grievance Committee consists of one chapter representative from each of the nine state universities, each also serving as the Chapter grievance officer. The MSCA President is an ex officio member of the committee and may be in attendance.
- MTA Consultants Roberta James and Sean Barret attend.
- Once your grievance has been filed with the state office, you will receive a letter from the MSCA Grievance Committee chair indicating the date, time and location of the meeting when your grievance(s) will be discussed. Meetings are typically held in a central location such as Framingham State University or Worcester State University. A parking permit, directions, and a campus map will be enclosed with the letter.
- We encourage you to attend the meeting. This will be your chance to explain to your colleagues from around the state the nature of your grievance(s) and the contract violation(s) you believe occurred. Approximately ten minutes are set aside for each grievant to present his/her case.
- After your case is heard by the committee and your questions have been answered, the Committee will deliberate your case in closed session and recommend to the MSCA Presidents whether the case should be sent to mediation, arbitration, or be withdrawn.
- You will be notified via mail of the Committee's decision as soon as possible after a decision has been made.
- The atmosphere of the meeting is casual. Beverages and light snacks are usually available.
- If you have any questions prior to the meeting, please contact your local grievance officer or the MSCA Grievance Committee chair's office, which is located at Salem State University at (978) 542-2522.

Chapter Grievance Officers

Bridgewater
Fitchburg
Framingham
Mass College of Art & Design
Mass College of Liberal Arts
Mass Maritime Academy
Salem
Westfield
Worcester

Brian Payne
Rala Diakite
Robert Donohue
Greg Wallace
Ely Janis
Todd Hibbert
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Grievance Processing Basics¹

1. What is a grievance?

The collective bargaining agreements define a grievance:

A grievance is an allegation by the Association or by a member or members of the bargaining unit that an express provision of this Agreement has been breached in its application to it, him/her, or them, respectively.

Grievances are most commonly filed over a perceived violation, misinterpretation or misapplication of the collective bargaining agreement.

2. How is a grievance different from other interactions with the administration?

Filing a grievance is a concerted, protected action – it is a union activity. An employee covered by a collective bargaining agreement has the right to challenge certain decisions made by the employer.

3. Who can file a grievance?

While the law permits a unit member to file a grievance on their own, the association has the right to be at any hearing conducted to resolve the grievance to insure that the resolution does not violate the collective bargaining agreement. Most grievants welcome the union's involvement given its members knowledge of and experience with the collective bargaining agreements.

A grievant is defined as a bargaining unit member, a group of bargaining unit members, the chapter as a whole (called a "chapter" grievance) or the association as a whole (filed by the MSCA at the statewide level and called a "consolidated" grievance). The chapter grievance officer is responsible for processing all grievances except grievances consolidated grievances.

4. Why grieve?

The main reason is to protect unit members' rights. Failure to file a timely grievance means forfeiture. In general terms, filing a grievance allows the member, your chapter or the association to address problems affecting the work environment. It is a structured dispute-resolution process. The association has a strong interest in enforcing the negotiated terms of the contract and does so through the grievance process.

5. When do you file a grievance?

The collective bargaining agreements require that a grievance be filed within 15 calendar days from the date the alleged violation occurred, or from when the grievant should have know of the violation. The contract language is:

No such notice may be filed more than fifteen (15) days from the date of occurrence of the event upon which the grievance is based or from the date when

¹ This is the MSCA's modified version of what appears in MTA's "[A Road Map for MTA Higher Education Members](#)" published by the Massachusetts Teachers Association.

the grievant had or should have had knowledge of the event upon which the grievance is based.

6. How do you file a grievance?

With very few exceptions, a grievance *must* be filed at Step 1 with the Vice President or his/her designee. Grievances can be filed electronically (by email) or in person on paper. If filed electronically, the contact requires that a signed paper copied be filed before the Step 1 hearing is conducted. There are *very few exceptions* where a grievance may be filed initially at Step 2.

Technically, a grievance at Step 1 (the “informal” step) does not need to be anything more than a notice to the VP that there is an allegation of a contract violation. However, we recommend that the grievance be filed as a document which will help the MSCA in later steps.

7. What information is needed for a grievance?

Remember to review the entire grievance procedure and follow it. We have included a grievance flowchart with deadlines.

The actual grievance should include the following basic information:

- Grievance number.
- Date the alleged contract violation took place.
- Date the grievance is filed (including electronically).
- Articles of the contract alleged to have been violated.
- Description of the contract violation.
- Remedy requested.

8. What are the grievance Steps?

A grievance not resolved could make it through four steps, although most grievances are resolved before the final step. The steps are:

- Step 1 – the “informal” step, is filed with the vice president or designee.
- Step 2 – the “formal” step, is filed with the president or designee.
- Step 3 – mediation, is the association’s attempt to resolve the matter with a neutral facilitating the process.
- Step 4 – arbitration, is the final step and is very formal with an arbitrator, MTA attorneys, a stenographer taking dictation and briefs filed by the attorneys.

The chapter is only responsible for processing grievances through Step 1 and Step 2, and if not resolved by the end of Step 2, for getting the materials to the MSCA Grievance Committee for us to file at Step 3 or Step 4. The grievance officer typically will assist at Step 3 and Step 4, but the process is handled by the MSCA at the statewide level.

9. Are grievances common?

Unfortunately, yes. Each chapter has a unique relationship with the administration and that relationship changes from time to time particularly with new leadership on one side or the other.

Common issues include: evaluations (reappointment, promotion and tenure), student complaints, possible disciplinary action, scheduling, workload, compensation and academic freedom.

10. Other avenues?

If it is determined that there is no grievance, the individual or the MSCA may see if a remedy may be found in one or more of the following ways:

- University discrimination complaint procedure.
- Unfair labor practice filed at the state Department of Labor Relations.
- Alternative dispute resolution.
- Civil litigation.
- Through the Massachusetts Commission Against Discrimination, the federal Equal Employment Opportunity Commission, or other state or federal agencies.
- Bargaining (either mid-term bargaining or successor bargaining).
- Group action (for example, bringing social, moral and political pressure on managerial or legislative decision-makers).

These are not your responsibilities, they will be handles by the MSCA, the MTA or the individual involved. We note these so you are aware that there may be other avenues.

10. HELP!

You are not on your own, when in doubt, reach out!

The MTA consultants, MSCA Grievance Committee Chair, Chapter Presidents and the MSCA President have decades and decades of combined experience filing grievances, attending grievance hearings, negotiating and administering the contracts, prepping cases and testifying at arbitrations.

There will likely be many “unknowns” when you take on the grievance officer position. You may have a lot of questions. Don’t be reluctant to contact us to ask questions, ask for advice, or ask for help. That’s what we are there for, especially when questions or problems arise.

It never hurts to double-check information provided by your employer. A second opinion is always helpful, so feel free to inquire regularly. It is not uncommon for the administration to tell you the contract says something it does not, or to give you their interpretation of the language. If it doesn’t feel right, it probably isn’t. Check with us.

Remember, you are there to assist unit members with their grievances, regardless of your personal opinions of the grievance or grievant. You must process the grievances through Step 2, then the MSCA will deal with any issues such as whether the contract has been violated. It is not your job to make such determinations. Failing to correctly handle the grievance could have an adverse effect on the MSCA or MTA.

Things Grievance Officers Should Know

What are the different grievance “Steps”?

Step 1 is filed with the **Vice President** (or his/her designee, if a designee, ask the VP who that is).

Step 2 is filed with the **President** (or his/her designee if a designee, ask the President who that is).

The statewide Grievance Committee Chair or the MSCA President is responsible for filing notices at Step 3 (mediation) and Step 4 (arbitration). All you need to do, if the grievance is not resolved at Step 1 or Step 2, is make sure you forward all materials to the statewide grievance committee ASAP.

Who files grievances at Step 1 and Step 2?

The member himself/herself is responsible for filing individual grievances within the deadline (15 calendar days from the date of the violation, or from the date the member was or should have been aware that a violation occurred). Failing to file within this deadline will most likely mean the member cannot pursue a resolution; *grievance deadlines are very important.*

We recommend not taking on the responsibility of filing for an individual. If a deadline is missed and the MSCA took responsibility for filing on the member’s behalf, we could have exposure to liability.

The chapter president or grievance officer is responsible for filing chapter grievances within the 15 calendar day deadline.

The MSCA has provided Step 1 and Step 2 templates to assist with the filing.

Grievances can be filed by email, but must be followed up with a signed copy prior to the hearing.

Can a deadline be extended?

Yes, but only by **mutual written agreement** (email is fine) with the “grievant” (the unit member or the chapter) and the person with whom the grievance is to be filed with (vice president or designee, or president or designee).

Who controls decisions at Step 1 and Step 2?

The MSCA cannot tell a unit member that he/she cannot file a grievance. It is our responsibility to assist the member is processing the grievance at Step 1 and Step 2. You can advise them that we do not believe a contract violation has occurred, but if they want to file anyway, we need to process the grievance through Step 1 and Step 2.

The member may ask for our assistance or may not want our assistance. Regardless, **the MSCA has a right to attend all Step 1 and Step 2 hearings.** We have the obligation to see that the contracts are adhered to. This includes making sure that there is not a resolution agreed to that violates the contract.

Any resolutions that would violate the collective bargaining agreement need approval from the MSCA President.

You cannot agree to a resolution over the member's objection. You can advise them that you think a proposed resolution is reasonable or might be the best they can expect to be able to achieve. However, the decision on grievances filed by an individual at Step 1 and Step 2 are the individual's. (That is *not* the case at Step 3 and Step 4.)

If a member and the administration try to resolve a grievance that will violate the contract, you should contact the Grievance Committee Chair or the MSCA President immediately.

What is the grievance number?

When submitted at Step 1 or Step 2 a grievance should contain the correct number to avoid confusion. If the member is going to file the grievance himself/herself, you need to get them the correct number. The numbering is as follows:

Grievance: number/academic year/campus/type

The **number** is sequential (#01 for the first grievance filed in an academic year, #02 for the second grievance filed in an academic year, etc.)

The **academic year** the grievance is filed is two-digit abbreviated, so for Academic Year 2016-2017 you would use 16-17.

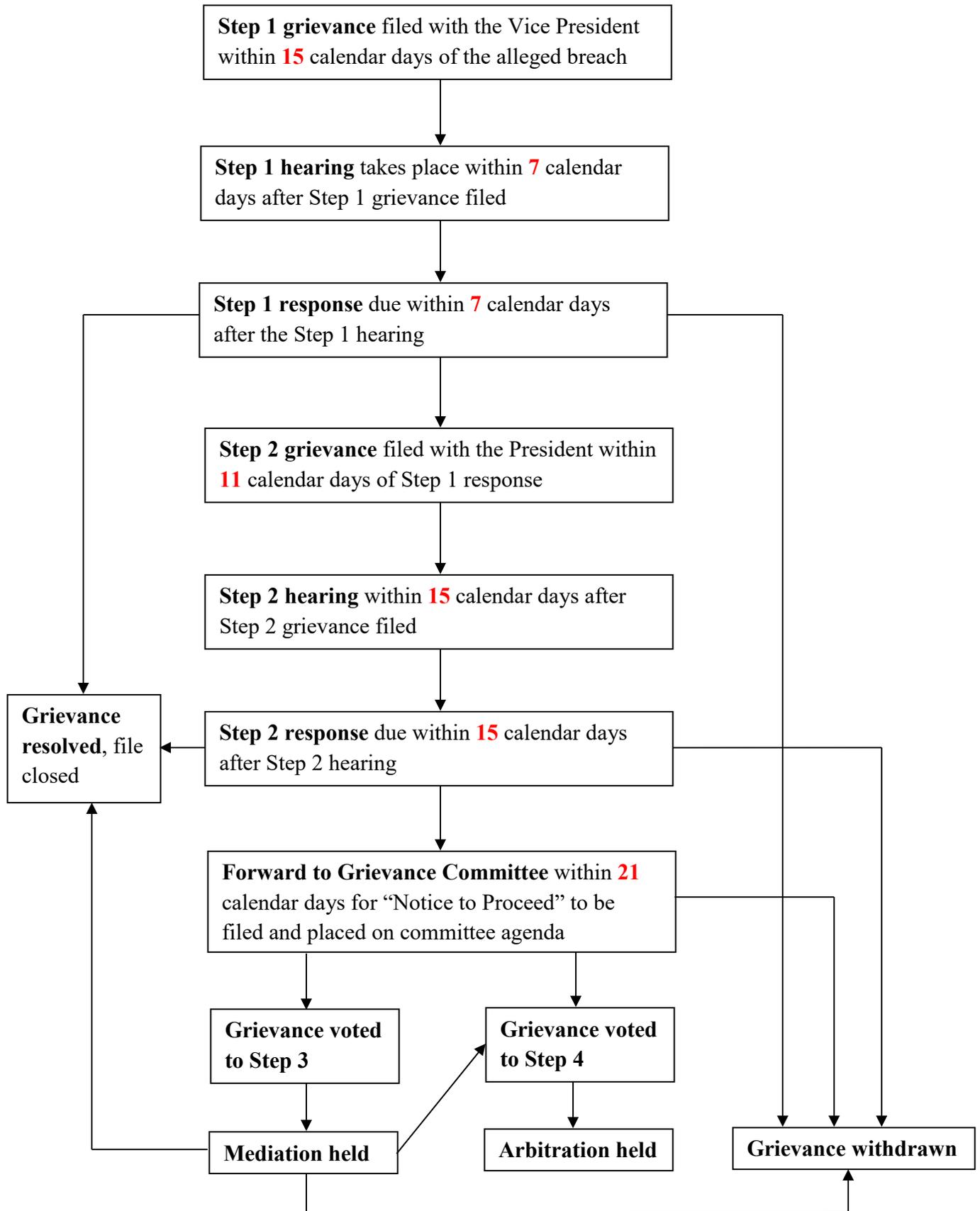
The **campus** is a one-digit number, alphabetic (back when MCLA was named North Adams State College). So the one-digit numbers are:

- 1 = Bridgewater State University
- 2 = Fitchburg State University
- 3 = Bridgewater State University
- 4 = Massachusetts College of Art and Design
- 5 = Massachusetts Maritime Academy
- 6 = Massachusetts College of Liberal Arts
- 7 = Salem State University
- 8 = Westfield State University
- 9 = Worcester State University

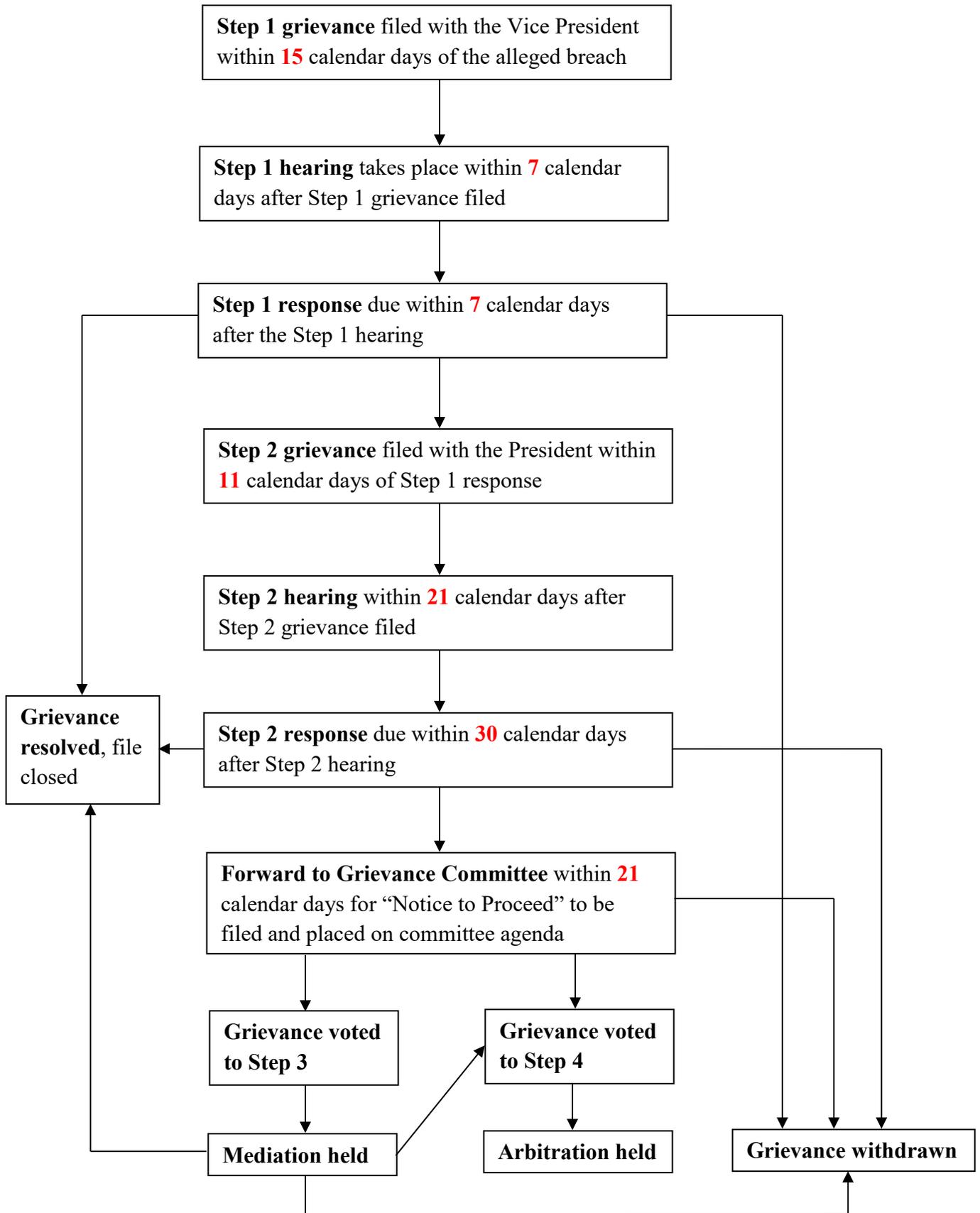
The **type** depends on whether the grievance is filed by an individual unit member or the MSCA chapter, and whether the violation is alleged under the day or the DGCE collective bargaining agreement. The codes are:

- A = chapter grievance filed under the day contract (filed by chapter president or grievance officer)
- B = individual grievance filed under the day contract (filed by a faculty member or librarian)
- AD = chapter grievance filed under the DGCE contract (filed by chapter president or grievance officer)
- BD = individual grievance filed under the DGCE contract (filed by a faculty member)
- C = a consolidated grievance filed under the day contract (filed by MSCA President or Grievance Chair)
- CD = a consolidated grievance filed under the DGCE contract (filed by MSCA President or Grievance Chair)

Day Grievance Flowchart



DGCE Grievance Flowchart



Step 1 Grievance Form -A – Provost and Vice President

Grievance # _____

Aggrieved Person(s): _____

University: _____

Department: _____

Date Submitted: _____

Date of Alleged Breach of the Agreement: _____

This is to inform you that an alleged breach of the Agreement exists and that I am seeking resolution of said grievance. I will plan to meet with you within seven (7) days to attempt to reach a resolution of the grievance. I understand that the exclusive bargaining representative shall be afforded the opportunity to be present at any conference held and that any adjustment made shall be consistent with the terms of the Agreement.

Summary of Grievance (including general Contract Provisions):

Remedy Requested:

Signature of Aggrieved Person: _____

Grievance Officer: _____

C: Chapter President
Step 1 hearing officer

Step 2 Grievance Form – President

Day Grievance # _____

Aggrieved Person(s): _____

University: _____

Department: _____

Date Submitted: _____

Date of Alleged Breach of the Agreement: _____

This is to inform you that a grievance exists and that I am seeking resolution of said grievance. I will plan to meet with you or your designee within fifteen (15) days to attempt to reach a resolution of my grievance. I understand that any adjustment made shall not be inconsistent with the terms of the agreement.

Summary of Grievance (including specific Contract Provisions):

Relevant Contract Provisions:

Remedy Requested:

Signature of Aggrieved Person: _____

C: Chapter President

Step 2 Grievance Form – President

DGCE Grievance # _____

Aggrieved Person(s): _____

University: _____

Department: _____

Date Submitted: _____

Date of Alleged Breach of the Agreement: _____

This is to inform you that a grievance exists and that I am seeking resolution of said grievance. I will plan to meet with you or your designee within twenty-one (21) days to attempt to reach a resolution of my grievance. I understand that any adjustment made shall not be inconsistent with the terms of the agreement.

Summary of Grievance (including specific Contract Provisions):

Relevant Contract Provisions:

Remedy Requested:

Signature of Aggrieved Person: _____

C: Chapter President

2016-2018 Grievance Committee

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