

The Non-Union Grievance Procedure At MIT,
An Upward-Feedback-Mediation Model

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The non-union grievance procedure at MIT is a mediation-oriented service available along with many other helping services* to faculty, staff, students and employees. It is meant to serve any member of the community who has a concern. It also serves as a systematic "upward feedback" structure, designed to help bring these concerns to the line managers, in an orderly, timely and supportive fashion. This paper sets forth the policy and a discussion of the policy.

GRIEVANCE PROCEDURES (Policy 3.24)

Any MIT student and any person employed at MIT who believes that he or she has been treated unjustly for any reason, or that the Institute's stated policy of nondiscrimination has been violated, should have access to a clear means of seeking redress.

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All employees at MIT who are represented by a labor union are covered by collective bargaining agreements which include grievance and arbitration procedures and equal opportunity provisions.

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All other persons employed by MIT, who have a concern, grievance, or inquiry about their employment should seek first to discuss their work situations and problems with their immediate supervisors. Supervisors are

*The principal offices serving students are those of the Dean for Student Affairs (including housemasters and tutors), the Dean of the Graduate School, and the Office of Minority Education. Other major services to the whole MIT community include the Personnel Offices, the Medical services (including social workers, psychologists, psychiatrists and a clinical sociologist), the religious counsellors, a student-run Nightline, the Campus Patrol and the widespread networks of faculty and student advisors and many other dedicated secretaries, Department Heads and administrators of all kinds.

expected to provide a supportive environment which fosters open communication related to work life at the Institute and are encouraged to resolve work problems and grievances at the departmental level. If the problems are not resolved with their immediate supervisor, individuals may choose to discuss the problem with successively higher supervisors in the office, department, laboratory, or school. In the cases of other than academic staff members, this process may include the departmental administrative officer and/or Personnel Officer in the Office of Personnel Services on campus or their Personnel Representative at Lincoln Laboratory. Individuals who are not satisfied with these discussions should consider talking with the Director of Personnel on campus or the Personnel Manager at Lincoln Laboratory. Individuals who feel that the matter has not been resolved may then take the problem to one of the two Special Assistants to the President. Either of them will discuss the apparent alternatives with the individual and will attempt to resolve the complaint. If the problem is not resolved, the Special Assistant may recommend that a formal inquiry be conducted.

In most instances it is expected that individuals will take concerns, inquiries and complaints through the process specified above. There may be unusual circumstances which warrant direct inquiries with any of the above persons regarding advice about a work situation.

Individuals should feel free to obtain the support and assistance of a co-worker or any other MIT associate in presenting their concerns. Throughout the entire process, the individual should be assured that the information provided will be kept confidential insofar as the individual wishes it or until such time as the individual agrees that a third party or parties must be informed to facilitate action. It is the Institute's policy that individuals will not be reprimanded or discriminated against in any way for initiating an inquiry or complaint. It is also the Institute's policy to protect the rights of an individual against whom complaints are brought.)

Once an inquiry or complaint is presented, a sincere attempt should be made at each step to either resolve the problem or refer it to the next step within one week. If this time schedule cannot be met, the status of the investigation should be communicated to the parties involved on a weekly basis. In cases where response or resolution is delayed more than two weeks, the individual may, after informing his or her supervisor, elect to proceed to the next level indicated in the above procedure.

The above procedure serves also as the grievance procedure for employees as required by Title IX of the Federal Education Amendments of 1972 with regard to grievances arising out of alleged discrimination on the basis of sex, and to handicapped employees alleging failure to comply with Sections 503 and 504 of the Rehabilitation Act of 1973.

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Undergraduate and graduate disciplinary procedures are available for students to seek resolution of grievances vis-a-vis other students.

For grievances related to their academic or work situations, students are encouraged to seek resolution of grievances directly with their immediate work supervisors, faculty, instructors, and academic advisors--as appropriate to the nature of perceived unjust treatment. If a problem cannot be resolved at this level, students should either seek assistance within their department or school or avail themselves of the assistance of the Office of the Dean for Student Affairs or the Office of the Dean of the Graduate School. Students may also choose to bring the problem to the attention of one of the two Special Assistants to the President.

As in the case of the grievance procedures described for employees, it is Institute policy that students will not be reprimanded or discriminated against for initiating an inquiry or complaint and that the rights of the individual against whom a complaint is made are protected.

These procedures are available similarly to students for the purpose of resolving complaints alleging actions prohibited by Title IX, and to handicapped students alleging failure to comply with Section 503 and 504 of the Rehabilitation Act of 1973.

DISCUSSION OF THE MIT NON-UNION COMPLAINT PROCEDURE*

Important features of this procedure are many, and some are relatively unusual. They combine to offer flexibility to management and many options for the MIT community.

A deliberate redundancy is built into this procedure at every level.** Anyone at MIT should be able to find someone designated in the process (Steps One and Two) who appears to be approachable. The grievance structure includes older people, young ones; technical people and non-technical; people of formal demeanor and those very informal; minorities, men and women, non-minorities. At the end of this procedure are two Special Assistants to the President, one black, the other female, who serve as mediators and, if necessary, make recommendations to the President.

This redundancy serves five purposes. It provides multi-cultural choices for people with problems. It provides a safeguard against the subjectivity or cooptation of any one mediator. It provides backup in case of conflict of interest, (e.g., if one Special Assistant is involved early, in any informal case that later becomes a formal complaint), and in case of illness, vacation or overload. It provides a potential for expert collegial counsel from each other for the mediators, if they have permission to seek that counsel. And it encourages the use by a member of the MIT commu-

*The interested reader may also wish to read Non-Union Complaint Systems: A Corporate Appraisal, Report No. 770, The Convergence Board, NYC, 1980.

** See also footnote, pp. 4 and 5.

nity of many different sources of support in time of difficulty. The tradition of multiple sources of support, which is built into all the helping services at MIT, also fosters the possibility for the Special Assistants and others to make frequent and multiple referrals for help, instead of being restricted only to a narrow, legalistic address to precisely defined complaints.

Everyone in the grievance procedure chain is required, if asked, to keep confidential whatever concerns may be brought to him or her. Of course a supervisor or counselling dean or Assistant to the President may not be able to act on a concern brought in by someone, if the individual requests confidentiality. Often the supervisor can however provide information to respond to a concern. Or the grievant can be helped to resolve a problem on his or her own. Sometimes the supervisor will wish to ask permission to speak to others to resolve a complaint. But there should practically never be a reason for gratuitously breaking the confidence of someone using the grievance/mediation services.

In the offices of the Special Assistants in particular, there is an especial emphasis on privacy. Many people with a concern may feel free to come to the Assistants' offices only because the offices are down a small corridor and very private.

Anyone may come to the Special Assistants' offices. This grievance/mediation process is general, for (non-union) people of every job and student status.* Anyone who feels unjustly treated for any reason

*In practice most students will first seek out the Dean for Student Affairs offices or the offices of the Graduate Student Dean. Also Institute houses and independent residences usually have in-house judicial procedures and/or committees. Students also may appeal to the Committee on Discipline, via the Dean for Student Affairs office, if they feel unjustly accused in any process at MIT. In addition, any member of the MIT community may bring formal charges against a student in the Committee on Discipline. (Continued on p. 5)

may bring in a concern, without the need to define the subject matter. One does not therefore need to know whether a problem is "discriminatory," or "salary-related" or whatever, in order to find an appropriate channel for redress. The process also deals with little problems and big problems with a very wide range of possibilities for devising remedies. The weight of redress if any, can thus be tailored carefully. This is often important to those who would otherwise stay away from grievance processes which can only do too much or too little, or which can act only narrowly.

The grievance/mediation procedure explicitly encourages a reasonable expression, as early as possible, of "inquiries and concerns" as well as "complaints and grievances." By the same token this structure allows for an informal as well as formal address to all those accessible in the chain. The approach is mediation-oriented. Only continued complaints, finally unresolvable by the Special Assistants, go formally to the President (via a letter of findings and recommendation), for arbitration.

In fact, the overwhelming number of problems brought to the Special Assistants are of the "inquiry and concern" nature, and are dealt with informally, in a mediation context. While the Special Assistants may frequently seek advice from MIT's law firm and endeavor to hold to customary standards of proof, most cases are resolved on the basis of human and policy interests rather than narrow legal interests.

There is an expectation that department heads and managers and the Special Assistants will find their chief role in helping people help themselves. Listening, multiple referrals, counselling, role playing,

There is also a Faculty Administration Committee to which members of the faculty and academic staff may appeal on faculty-administration matters. And some areas at MIT have effective indigenous complaint procedures such as the Patient Advocate and the Medical Advisory Board which serve the Medical department. All these structures are part of the deliberate redundancy built into the system.

and discussion, over lengthy periods if necessary, are used to support the growth and independence of each person who visits the office. In the case of the Special Assistants, this expectation minimizes interference by the Special Assistants in normal line management processes, and is meant to help people with problems to learn a process of problem-solving, as well as well as addressing a specific concern.

There is a counterpart expectation that the Special Assistants will reflect back to line managers in a supportive way, data which come to the Assistants, which would be useful to managers to run their areas effectively and humanely.

This "upward feedback" must be done with a high degree of sensitivity to the privacy of people who raise problems and of line managers. For example, sometimes a Special Assistant will receive permission to repeat an illustrative problem to a manager or department head. Sometimes privacy can be protected by raising problems in a generic way rather than by using individual stories. Often data can be brought to a manager in such a way that the line manager can improve a process, without being embarrassed or exposed, and in such a way as to (rightfully) receive credit for progress in the system. This expected contact with line managers also serves on occasion to help keep open the lines of communication with a department where there have been problems.

In fact this upward feedback, which is expected to occur at every level of the grievance/mediation procedure, has helped administrators and department heads to make hundreds of changes in policies, procedures and structures during the 1970's. Most of these changes appear to have caused little upheaval, polarization, or pain. Quiet upward feedback on a steady state basis appears to facilitate an orderly process of organizational adaptation to a changing environment. This happens of

course because of the creativity of senior officers; it is firmly supported by ideas and hard work from below. The principle of upward feedback is vivid also in many other structures and services at MIT; the grievance/mediation service is consonant then with the general ethos of management at MIT. It is as well deeply rooted in a general Institute commitment to "design the future," a commitment which the upward-feedback structure also helps to enhance.

By the same token, the existence of a tradition of informal access to supervisors, department heads, Special Assistants, etc. is an aid to dissemination of information. Especially in time of inflation, budget crunch, adjustment to changes in regulation, technology, outside labor markets, etc., it is exceptionally important to have adequate informal as well as formal communication systems. This becomes steadily more important as the general level of education rises in our society and with the ever increasing technological sophistication of students and staff. All in the grievance process who are approached with concerns can help to defuse rumors, and reflect back to the community the reality constraints faced by MIT.

It is obvious that the Special Assistants cannot play the role of inspectors-general. They are generally in the mode of relaying information only with clients' permission and with regard to privacy. In some cases, when a problem or issue might reasonably be expected to be particularly difficult, or disruptive to the community, the Assistants may seek out the President or senior officers for advice and instruction. Such consultation is expected however to be on a basis which protects the privacy of individuals, and of the Institute itself.

By the same token it will be extremely rare that a Special Assistant will listen to a third party complaint. One may of course

suggest to a third party that people with problems be referred in, to talk about their problems themselves. By and large however, the Special Assistants do not encourage or seek out concerns. These offices are consumer-driven on a first-party basis.

This principle extends also to the senior officers. Obviously senior officers regularly express concerns to the Special Assistants. They do not however "assign" problems and conflicts to the Special Assistants. They may instead refer people with problems to the Assistants, but support the right and privilege of such people to come in or not, as they themselves may choose. At the end of the line, this process is then consumer-driven,

Because the process is designed to be consumer-driven, and to help people who can do so, to help themselves, the Special Assistants rarely fashion a unique remedy by themselves for someone else. Through listening and negotiation and exploring all reasonable alternatives the Special Assistants seek to illuminate new possibilities for people with problems. Often however, people with problems will choose an alternative an Assistant might not have chosen had this been an arbitration situation. People often appear to seek less redress, or less of a specific settlement than an arbitration might have determined. (Others sometimes appear to fight for more.) We believe this procedure provides people with more control over their own lives. It also permits them to evaluate "subjective" considerations (such as the feelings of co-workers), themselves, in a way which may minimize damage and lead to a better solution in the long run.

A mediation procedure could be devised on the principle that such a structure could strive to be perfect.....to make no errors. The grievance mediation procedure at MIT was designed differently--on the principle that

mistakes and partial mistakes will occur despite our most dedicated efforts to the contrary. The process is then guided by the principle first of all to do no damage. In a context where it appears that there will always be some errors of omission (too little being done), or some errors of commission (too much being done) we try to see that the mistakes, if they occur, are of the first type.

The Special Assistants are frequently asked, "Whose side are you on?" The MIT grievance/mediation procedure does not specify advocacy, either for MIT or for the grievant. MIT believes that the institution has a common interest with people who have been wronged. The Special Assistants' role is to exemplify this common interest with those who have been wronged. Or, in the case of people who have wronged each other, MIT may have a partial interest on each side of a question.

The Special Assistants seek to illuminate and to support the common interest of MIT with those who have been wronged, in whole or in part. This very frequently means endeavoring to improve a situation as well as the condition of an individual. A steadfast refusal to be drawn into simple polarization frequently leads to third alternatives. Although many people feel strongly that "he who is not with me is against me," the refusal to permit simple polarization appears in the long run to bring people the greatest sense of relief. Especially for people who see themselves and everyone else as having many different motivations, the opportunity to see a problem in a balanced way may permit a grievant more comfort and more room to grow.

Because this grievance procedure is designed to permit non-polarized negotiation, it is available only in-house. The Special Assistants will not agree to see people who are accompanied by their lawyers. Supervisors and the Special Assistants welcome people who wish to bring any

other member of the MIT community in with them. And people with problems may often wish to consult their lawyers on the outside. But the offices of the Special Assistants are meant to stand free of polarization so far as possible.

For the same reason this grievance/mediation process is available only so long as members of the MIT community stay "in-house," and not during or after formal application to outside agencies or courts. Once a specific problem or specific situation has been dealt with outside, the Special Assistants will no longer deal with that question, although different questions from the same person may be brought in. MIT people who choose to go to outside agencies or the courts without having exhausted this internal procedure, and those who choose to be represented by counsel rather than by themselves, should deal primarily with a different structure at MIT (such as the Director of Personnel, or the Equal Opportunity Office) or with MIT's law firm, Herrick & Smith.

In summary then, the mediation/grievance procedure at MIT is designed to take cognizance of our creative and deeply welcome diversity of people.

No one can ever truly know the concerns of others. And greater heterogeneity requires greater flexibility. The mediation/grievance procedure is one of many structures at the Institute designed to help individuals to help themselves; to help the institution to respond to needs of individuals as well as helping individuals to respond to the needs of MIT; and to help the institution to design, rather than just cope, with the future.

CONSIDERATIONS WHICH MIGHT BE OF INTEREST TO OTHER INSTITUTIONS

In this non-union complaint procedure the Special Assistants are quasi-ombudsmen, reporting to the President of MIT, (who is the

chief executive officer). In practice this position appears to be much more approachable for the MIT community than is the usual, inaccessible, "pure" ombudsman, who would report and be paid outside the institution. On the other hand the position appears to have more general application and perhaps to be taken more seriously, than are complaints officers within a personnel office.

How to select internal mediators (or quasi-ombudsmen) is a question often brought to our offices. We believe the point of principal importance is the choice of the Selection Committee and selection process. It is very important that internal mediators be widely credible within an institution. This means that the selection process should include a very wide selection of representative staff, students and employees. It may help to have candidates meet informally with a number of regularly established committees and networks. Relationships with senior officers are of such importance that it may help if candidates can meet at some length with the chief executive officer and colleagues.

Quasi-ombudsmen should have the highest educational credentials relevant to a particular institution, and extensive experience with people of all kinds. Multi-cultural experience is of such extraordinary importance that we strongly recommend more than one person at the end of the line, even if several people must serve part-time. (These people should also be colleagues, in their mediator roles, rather than in a reporting relation to each other.) Redundancy at the end of the line also may help to prevent problems of subjectivity and coöptation on the part of mediators, provides a choice of mediator, and provides a vital backup and point of collegial counsel for the mediators themselves, but multi-cultural experience is the point of paramount importance in finding more than one person for this role. This is especially true if there is racial and

sexual homogeneity in top management.

The other goals being met, the most important personal characteristic of a mediator is an interest in fostering the growth of others rather than in self advancement or personal decision-making. Rather than seeking candidates of any particular disciplinary training, an institution is likely to be best off selecting widely credible "natural" mediators who may already exist. People who are skilled in finding common ground and building common loyalties are more effective as quasi-ombudsmen than are assertive, ambitious entrepreneurs. Such people take high emotional risks rather than high business risks and are likely to be rather low-key and self-disciplined rather than aggressive and outgoing. Those who select mediators may wish to keep these points in mind.