

# **AMBS Grievance Policy and Procedures**

## **1. Policy statement**

AMBS intends to maintain a work and academic environment that exemplifies and supports Christian values, maintains the dignity and worth of all individuals, and fosters relational trust. We recognize that interpersonal conflicts and conflicts between the institution and its members are part of being in community together.

AMBS affirms that addressing disputes in healthy, constructive ways upholds personal dignity, strengthens relationships, contributes to Christian peacemaking, and furthers our vision of becoming a learning community that is accessible to and welcoming of people from different traditions, ethnicities, and racial identities. We also affirm that failure to attend fairly to conflicts can create an inhospitable environment that demeans and disempowers employees and students.

The purpose of a grievance policy is to provide a fair and structured process for identifying and remediating perceived and actual offenses and injustices in the community. As an Anabaptist institution, AMBS also works toward reconciliation between parties whenever possible.

Therefore, the objectives of this policy are:

1. to give serious attention to grievances and grievants, allowing adequate time for grievances to be processed, yet bringing them to as swift and decisive a resolution as possible;
2. to account for and mitigate perceived and actual imbalances of power (e.g., gender, racial, position, cultural, etc.) that might exist between the grievant and offender;
3. to work creatively at the resolution of problems so that the interests of all parties are given serious consideration and the process is not viewed as win-lose; and
4. to provide carefully outlined procedures for the resolving of grievances, yet allowing flexibility for unique elements in each case.

AMBS does not discriminate with regard to race, sexual orientation, gender, color, national origin, age, or disabilities and will not discriminate against or harass persons who initiate grievance processes. Grievances related specifically to sexual misconduct must follow the process outlined in the Sexual Misconduct Policy and Procedures document available on the AMBS website and in the Student Handbook.

## **2. Definitions**

A grievance is an actual or perceived cause for protest or complaint arising out of some perceived or actual harm due to a comment, action or policy. This alleged action may impinge on an individual's spiritual or emotional well-being or their ability to thrive in and contribute to the AMBS learning community without fear or intimidation. Grievances can occur, by way of example, between employees and students, between employees, students and volunteers and campus residents or guests, or between

internship supervisors and students. Students, employees and other AMBS community members may also initiate a grievance with regard to a policy or procedure administered by the seminary. (Please refer to point 4 below.)

### **3. Education of the AMBS community**

All members of the learning community (faculty, administrators, staff, students, volunteers and board members) have access to this grievance policy in the following ways:

- This Grievance Policy and Procedures document is available on the AMBS website for student and employee access.
- This policy is available in the Core Policies handbook and reviewed with new employees and students during their orientation. This policy also appears in the AMBS Board Manual.
- AMBS employees and students are informed about and review this policy on an annual basis.
- AMBS administrators and faculty sponsor community forums, seminars, and learning opportunities to educate and inform persons about conflict mediation and issues related to it.
- AMBS administrators and faculty provide access to antiracism training and intercultural competence assessment.

### **4. Procedure for Addressing Interpersonal Grievances**

#### **Overview**

Historically, Mennonites have appealed to Matthew 18 as the preferred biblical approach to conflict. Matthew 18 encourages a grievant to approach his or her offender directly and privately before drawing others into the dispute. This approach carries the potential of resolving conflict while attending directly to the relationship, increasing trust between parties, strengthening interpersonal conflict resolution skills and intercultural competence skills, and avoiding undue escalations of situations that can be resolved easily. However, in situations where there are significant imbalances of power and/or where the grievant feels physically or emotionally unsafe in addressing the offender, having to take a direct approach can disempower the grievant, exacerbate the conflict, and foster conflict avoidance, all of which undermine the well-being of the wider community. Matthew 18 also assumes that the grievant and offender know each other and does not address offenses committed by an institution. Therefore, it does not speak to cases in which an anonymous action has been taken against the grievant or if the grievant has a complaint with an official policy or procedure.

Because of the limitations of Matthew 18, this grievance policy integrates other biblical perspectives:

- When a grievance arose in the early church, a team of deacons was appointed to attend to needs that were being neglected in the community (Acts 6).
- Those who are more powerful in a community have a responsibility to attend to and protect those who are disempowered or on the margins (Luke 1:52; Matt. 25:31-46).

- God commanded the Israelites to create safe spaces for those threatened with retaliation due to real and perceived offenses in the community (Num. 36:9-15).
- Sometimes the use of wise arbiters or advocates with experience in conflict resolution was encouraged (1 Cor. 6:1-6; 1 John 2:1).

### **Legal Recourse**

If the complaint is of a criminal nature, investigations at AMBS will not control the outcome of any law enforcement investigation. Furthermore, this policy and the procedures outlined herein should not be interpreted as negating, bypassing, or limiting the right of any party to pursue legal recourse at any time outside of the internal AMBS processes outlined herein. In addition, either party in an offense may elect to seek legal representation in AMBS procedures to the extent mandated or allowed by law.

### **Offenses Involving Discrimination**

If the grievance involves instances of racism, heterosexism, or abuses of power and injustices related to intercultural competence and undoing oppression, either party may elect to move directly to mediation, Level Three below.

In cases involving discrimination, a third party may initiate a grievance process against an offender on behalf of a victim who wishes not to come forward. For example, if a third party witnesses instances of bullying or a pattern of racist comments between a staff person and an international student that go unaddressed, that third party may initiate a grievance process with the international student's approval, but with or without their participation. In this instance, the third party and the offender become the parties referred to below.

### **Level One: Direct Address**

Most conflicts and grievances that inevitably arise in social situations can be resolved through one-on-one personal encounter. Offenses that arise from misunderstandings or unintentional hurts are best addressed in this way. Either party can initiate such an encounter.

### **Level Two: Advocacy**

If the grievant or the offender feels unheard or unfairly treated in the direct address *or* if the grievant feels unsafe initiating a direct address, he or she may request the assistance of an advocate. The purpose of an advocate is to provide moral or emotional support for the person who seeks their help (grievant or offender) and to serve as an active listener to the discussion between the parties as they work toward resolution. Either party may choose a member of the learning community to serve in this role. Members of the AMBS Grievance Team who have received appropriate training may also serve in this capacity:

- Assistant Director of Human Resources
- Chief Financial Officer
- Academic Dean
- Designated teaching faculty member(s)
- Campus Pastor
- Intercultural Competence and Undoing Racism coordinator

### **Level Three: Mediation**

If the first two levels of intervention prove unsuccessful, *or* if either party alleges that the nature of the offense mandates bypassing the first two levels (see above section on Offenses Involving Discrimination), either party may choose to request a mediator. The assistant director of human resources will ensure that the grievance procedures laid out below are followed and that the process is prompt, thorough, and impartial. A member of the AMBS Grievance Team will normally serve as mediator. However, either party may request that an alternate person within or outside of the AMBS community be approved by the Grievance Team to serve in this capacity.

The first step in any mediation process is for the mediator to inform the offender about the grievance, if the offender does not already know. The mediator should then initiate an information gathering process in which both parties provide as many of the following details as possible:

- names of the grievant and the offender;
- type of grievance alleged;
- details of the complaint, including names, dates, locations, and other relevant particulars;
- description of actions taken to address the grievance;
- the redress that is sought.

The mediator will then meet with both parties, along with another AMBS administrator or faculty member, who will serve as a witness to the proceedings and note taker. Grievants and offenders may invite an advocate, should they wish to do so. Advocates may contribute minimally to the proceedings unless or until the assistant director of human resources determines that one or more of the advocates is doing more to exacerbate the conflict than to resolve it.

The mediation sessions will proceed in the following manner:

- The mediator will set out the procedure for discussion, ensuring that both parties have equal opportunity to be heard, understood, and actively involved in finding a resolution to the complaint.
- An orderly, full, frank, and fair conversation about the grievance will allow all parties to come to a fuller understanding of the situation.
- If a resolution to the complaint can be found that is satisfactory to both parties, including clear agreements for changes in behavior and understanding of consequences, then the mediator will close the session by verbally stating the understandings, outcomes, and commitments made.
- If a subsequent meeting appears needed to reach a satisfactory outcome, another date is scheduled.
- A written report of the mediation process, including the stated understandings, outcomes, and commitments reached, will be submitted to both parties for correction and signature. The process of arriving at documentation deemed accurate and fair by both parties may itself take some negotiation. The final signed documents will be submitted to the director of human resources.

- The outcome of the mediation will be reported to an employee's supervisor, or to the academic dean in the case of students.
- If no further incidents are reported in a five-year period, the assistant director of human resources will remove any electronic documentation and shred any paper documentation..

#### **Level Four: Arbitration**

If mediation has not proved successful, the process will move to arbitration.

The assistant director of human resources (or appointee) will prepare a timeline (1) for reviewing the documentation already gathered; (2) for the arbitration process by the AMBS Grievance Team and (3) for making any subsequent appeals.

The AMBS Grievance Team will review the statements submitted by the grievant and the offender and determine next steps in the investigative process. This investigation will review relevant evidence, such as email communications or other written or graphic communication, interviews with witnesses, legal implications of the alleged misconduct, factors in AMBS community life that facilitated or encouraged the offense, or anything else deemed relevant in understanding the complaint.

The assistant director of human resources (or appointee) will communicate the progress of the information gathering process (but not necessarily the findings) to the grievant and offender in an ongoing and timely way.

Working with the two primary parties and the Grievance Team, the assistant director of human resources (or appointee) will develop a schedule for meetings to hear testimony from the primary parties, witnesses, and others whose experiences or expertise may be relevant to the complaint. This schedule will take into consideration the physical and psychological safety of the grievant and the offender.

Meetings with the Grievance Team and the two primary parties will follow this outline:

- The assistant director of human resources (or appointee), serving as convener of the meeting, will state clearly the discussion procedure for the meeting and ensure that both of the primary parties have equal opportunity to be heard and understood (if both are present), and that both are actively involved in establishing the facts of the complaint.
- The assistant director of human resources (or appointee) will make clear that the preponderance of evidence is the standard by which decisions related to the offense will be made.
- An orderly, full, frank, and fair conversation about the offense will allow the Grievance Team to come to a fuller understanding of the complaint, to determine what happened, and to decide what appropriate disciplinary actions or sanctions should ensue.
- The assistant director of human resources (or appointee) will summarize verbally the findings, understandings, and/or decisions reached during the meeting.

- If further meetings are required, subsequent meeting times will be set before the conclusion of the meeting *or* agreements made for follow-up scheduling.
- The assistant director of human resources (or appointee) will make a written summary of the meeting and make it available to the Grievance Team and the two primary parties within five working days of the meeting.

Within ten working days, the assistant director of human resources (or appointee) will compile all meeting summaries, including documentation regarding the meeting schedule, resolutions proposed, and the success or failure of the procedures to come to a satisfactory resolution. This report will be filed in the office of the assistant director of human resources, regardless of whether a proposed resolution is deemed satisfactory.

## **Appeals**

If the arbitration process fails to lead to a resolution satisfactory to either party, either party may appeal to the AMBS President, who will read all the documentation produced in the procedure to that point and meet with both parties. The President will use his or her judgment in determining whether to seek counsel from the AMBS Board Chair and/or legal counsel. If the President is a primary party in the grievance, the Board Chair will oversee the appeal.

If an unresolved dispute involves the policies or procedures of the seminary, or structural injustices, either party may appeal to the Chair of the AMBS Board, who will read all the documentation produced in the procedure to that point and meet with both parties (potentially via phone or video). The Board Chair will use his or her judgment in determining whether to seek counsel from the AMBS Board and/or legal counsel.

## **5. Procedure for addressing Policy Grievances**

If a grievance related to an AMBS policy is reported, the AMBS administrative cabinet takes the position of offender. If the grievance can be addressed at levels one or two of the processes outlined, no designated mediator is required. If required for processes at levels three or four, the director of human resources will secure an external mediator, approved by both grievant and offender, to work through the appropriate level of process as outlined in this policy.

A grievance team of five members, if required, will be appointed by the human resource director to include representatives from Mennonite Education Agency, the two area Mennonite Church Conferences, and two members from the wider community, religious or not, appropriately representing the grievant's social and cultural identity. Two members of the administrative cabinet will represent AMBS in the grievance process.

Progress in the grievance process will be reported to the AMBS board chair and to the board of directors, who will hold AMBS accountable for any required policy revision.

## **6. Retaliatory Behavior**

AMBS will not tolerate retaliatory behavior toward the grievant, offender, witnesses, advocates, or others involved in the grievance process. Retaliation by an AMBS employee may result in suspension or possibly termination of employment; retaliation by student(s) may result in suspension from courses and/or termination of student status.

## **7. Intentionally Dishonest Complaints**

AMBS assumes “good faith” on the part of any person who files a grievance. Anyone who submits a complaint that is intentionally deceiving, dishonest, or malicious, or who has given false or misleading testimony in the pursuit of a complaint will be subject to disciplinary action.

## **8. Community Resources**

- Center for Community Justice (Victim Offender Reconciliation Program)
- Equal Employment Opportunity Commission at 800-669-4000.
- Indiana Civil Rights Commission at 800-628-2909.
- Oaklawn Community Mental Health Center, 2600 Oakland Ave., Elkhart, IN 574-533-1234
- Samaritan Center, 221 E. Crawford St., Elkhart, IN 574-262-3597

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