

## Clause 8.5 – Dispute Settlement Procedures

(Extract p.78-79 University of Adelaide Enterprise Agreement 2023-2025)

- 8.5.1 It is agreed that the University, the unions and all staff members have an interest in the proper application of this Agreement and in minimising disputes about the proper application of the Agreement.
- 8.5.2 Where any dispute arises under or as to the operation or application of this Agreement or the National Employment Standards (NES), (including a dispute about whether the University had reasonable business grounds under subsection 65(5) or 76(4) of the Fair Work Act), the procedures set out in this Agreement shall apply.
- 8.5.3 A dispute cannot be notified under this clause:
- (a) About a decision taken by the University under a provision of the Agreement where that provision already contains an appeal or review mechanism or a method for resolving disputes about the provision; or
  - (b) where the dispute arises from:
    - i. a recommendation or decision by the University to take disciplinary action, other than demotion or termination of employment; or
    - ii. a decision to extend academic probation; or
    - iii. a decision under the University's Academic Promotion Policy not to promote an applicant; or
    - iv. a staff grievance under clause 8.4
- except where the recommendation or decision was made on the basis of a material departure from the procedure contained in the Agreement
- 8.5.4 A staff member involved in a dispute under this clause will be entitled to be represented by a representative at any and all stages of this procedure.
- 8.5.5 Stage one**
- 8.5.5.1 All disputes shall be formally notified to the Executive Director, Human Resources and copied to the supervisor in writing and in sufficient detail for the nature of the dispute to be identified and propose any resolution(s).
- 8.5.5.2 Reasonable attempts will be made to resolve the matter at the local level by the people involved and their representatives if they so choose.
- 8.5.5.3 The participants in these discussions will attempt in good faith to resolve the dispute and ensure that any representatives have sufficient authority to reach an agreement.

8.5.5.4 If the dispute remains unresolved after five (5) working days (or a longer period if mutually agreed) of it being notified in Stage One, the dispute may be escalated to Stage Two.

**8.5.6 Stage two**

At this stage of the procedure, the affected party, a senior manager, the Executive Director Human Resources and, if relevant, a union representative will attempt to resolve the dispute within five (5) working days (or a longer period if mutually agreed).

**8.5.7 Stage three – referral to the fair work commission (FWC)**

8.5.7.1 Should the dispute not be resolved by the processes referred to in clauses 8.5.5 and 8.5.6 or if any party to the dispute refuses to engage in the processes referred to in those clauses, the matter may be referred to the FWC by either party to the dispute.

8.5.7.2 The FWC may resolve the dispute to the extent that it relates to the application of this Agreement, or the NES, by the processes of conciliation and/or arbitration and may access the procedural and other powers conferred to it under the Act.

8.5.7.3 The parties covered by this Agreement will implement any decision of the FWC.

**8.5.8 Obligations of the parties during the dispute**

8.5.8.1 The parties to the dispute agree that until the procedures described in this clause have been exhausted:

(a) work shall continue in the normal manner and management shall not make or continue any change that may deny the staff member(s) concerned an appropriate remedy to the dispute;

(b) no action will be taken that is likely to exacerbate the dispute.

8.5.8.2 Clause 8.5.8.1 does not apply to a decision by the University to terminate the employment of a staff member on probation except where the decision was made on the basis of a material departure from the procedure contained in the Agreement.

**8.5.9 Alternative dispute resolution procedure**

Nothing in this clause prevents the parties from agreeing to refer an unresolved dispute to a person or body other than the FWC for resolution, in which case the parties agree to be bound by any recommendation to resolve the dispute, made by the agreed person or body.

**8.5.10 Transitional arrangements**

A dispute commenced under the University of Adelaide Enterprise Agreement 2017-2021 but not concluded at the time at which this Agreement becomes operational, shall continue to be dealt with in accordance with the relevant provisions that applied under that agreement. For the purposes of this sub-clause the relevant provisions of the University of Adelaide Enterprise Agreement 2017-2021 are deemed to be provisions of this Agreement for the duration of the dispute.