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# Faculty complaints

## Chancellor nullifies grievance panel findings

By ABRAHAM MAHSHIE of the Tribune's staff  
Published Sunday, August 10, 2008



Gerik Parmele photo

Radanhir Mitra is a faculty member at MU who believes he has been discriminated against because of his age..

On a recent Sunday morning, Greg Horstmeier was back in Columbia maintaining mountain bike trails and visiting his two college-age daughters.

Since losing his job at the University of Missouri, Horstmeier has been working out of state. On this particular trip, he also weighed his options after Chancellor Brady Deaton overturned a grievance panel decision that Horstmeier believes vindicated him.

Horstmeier claimed he lost his job as the result of a university rule violation, because he suffered in a hostile work environment, and that he faced retaliation after approaching supervisors to mediate the problem. After an investigation, the faculty grievance panel ruled in Horstmeier's favor.

But Deaton, who has veto power, overruled the panel. One recommendation that was upheld did not affect Horstmeier directly. It suggested better training of supervisors so situations like Horstmeier's would not be repeated.

Like others who have run the grievance process gantlet, Horstmeier was drained by the time



Parker Eshelman photo

Above, Greg Horstmeier repairs a trail used for mountain biking, horseback riding and hiking around Pine Ridge Campground outside of Ashland. Greg was a faculty member at MU. He said he faced a hostile work environment and was unjustly fired. Below, George Smith is an attorney who represents faculty and staff who file grievances against MU..



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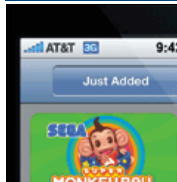
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urated by the time-consuming and expensive procedure. In the end, one man overturned the work of a group that had carefully weighed his situation for several months.



Gerik Parmele photo

"This is the chancellor taking what five faculty members have labored over and come up with and throwing it to the side of the road," Horstmeier said.

He is not alone. A Tribune investigation has found six of the seven faculty members who have completed the entire grievance process believe the system is flawed. They said it favors the administration and puts the chancellor in a powerful position of backing people in supervisory positions.



Deaton

Three of the six have filed lawsuits. Three others, including Horstmeier, are considering legal action. The six said they would have no reason to sue if Deaton had accepted and implemented the faculty panel's recommendations.

Deaton believes the process works and that "any glitches" are being worked out.

"From my perspective, I think it's doing very well," Deaton said. "My job is not to rubber stamp what the committee brings forward. My job is to assess, reflect upon, clarify and then go forward."

Figures show the university has 2,594 full-time faculty. Seventeen grievances have been filed since September 2005. Grievants say numbers don't tell the whole story; that there are many more who would pursue claims but for the daunting process that might in the end produce no result if the chancellor overrules the findings.

"Why have a grievance process," Horstmeier wondered, "if that's what keeps happening over and over again? It isn't just me."

**A GRIEVANCE INQUIRY**

The Tribune began an inquiry into the faculty grievance process in January. Among those interviewed were grievants and their lawyer, the university's general counsel, administrators, members of grievance panels and the investigating officer.

Of 17 cases filed in the past four years, four have been concluded by informal resolution. Another seven continued with the grievance process until the last of the 70 days the chancellor was given to make a final judgment. Those who have gone through the entire process say it takes too long. It's supposed to be fully completed in 320 days, but sometimes drags on longer.

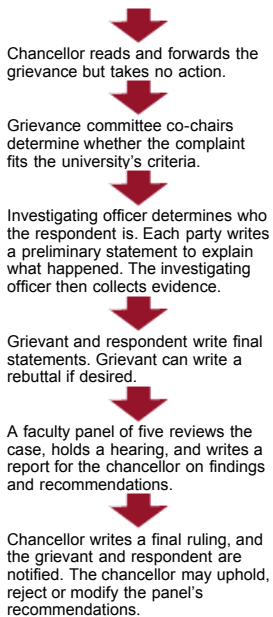
Grievances can be allegations of rule violations, the arbitrary application of a policy, discrimination or an infringement on academic freedom. Any faculty member can file one.

Laurie Mintz, an associate professor of educational, school and counseling psychology, is assigned by the university to investigate grievance cases. She prefers informal resolution in which both parties might benefit while "the grievance process is going to have a winner and a loser." Mintz's job is to collect documents, keep the cases to a timetable and ensure protocol is followed by a five-member faculty committee that evaluates the claims. Mintz said she is a

**MU GRIEVANCE PROCESS**

Can last up to 320 days

Event happens. Faculty member must file his or her grievance within 180 days.



Seventeen grievances have been filed since the beginning of the pilot program in 2004. Here is a look at their status:



Three grievants filed lawsuits after their process with the university was completed.

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neutral party.

*Lora Wegman graphic*

"My job is to make sure that both parties get a fair and timely process," she said. "I have no authority over the outcome."

Bob Youngquist, co-chairman of the grievance standing committee, said the perception that faculty don't win is not true.

"If the grievant doesn't get precisely what they want, they feel they haven't won," Youngquist said. Addressing a wrong in the process "is about finding, correcting and making sure it doesn't happen again."

Youngquist is like a grievance gatekeeper. His duty is to ensure a claim was filed within 180 days of the incident, that there is an allegation that a rule was broken, that there was an attempt to mediate, and that a request for remedies was made. The process is not about assigning guilt or punishment, Youngquist said.

"Retaliation is not supposed to happen," he added.

Because other duties get in the way, Deaton acknowledged that sometimes he takes longer than the allotted 70 days to review the panel's recommendations and make a decision.

Deputy Chancellor Mike Middleton, a lawyer, helps Deaton in grievance cases.

"We're trying to resolve these things and make people whole and repair whatever damage they feel has been done to them as a result of their experience with the university," Middleton said. "Sometimes there is no solution that the grievant will accept, because the only thing the grievant will accept is total vindication and a return to the status he or she had before the incident occurred."

Horstmeier said he didn't file his case because he was unhappy but because "there are rules, and they broke the rules."

College of Education Professor Lisa Flores served on the faculty grievance panel for Horstmeier's case, and she was unaware of how Deaton ruled on it until informed by the Tribune.

"Personally, I was disappointed, and I felt very confident about the decision we arrived at as a committee," Flores said. Asked whether the process works if the chancellor can overturn all decisions, she said, "I know that there is discussion about changing the grievance procedure at the university."

Flores said some grievants might have doubts about the process if there were a lot of discrepancies between committee decisions and the chancellor's rulings.

Clyde Bentley, a professor of journalism, also served on Horstmeier's panel.

"I'm not quite sure why we go through that much effort for something that seems to have been significantly re-done by the administration," Bentley said. "They don't sit through the hearings. So, we're going through an amount of work, and really we're just making a recommendation to the chancellor, who under the rules has no requirement to pay attention to those recommendations. So, what's the point?"

When the Tribune told him no points were upheld, but that one recommendation - for the training of management - would be implemented, Bentley said he was satisfied.

"What I've seen at this university and others is that academic managers or the administration have little or no training or experience in managing people, and that means that most of the problems that I've seen on this campus could have been easily prevented," Bentley said.

During a meeting with the grievance hearing panel, Bentley said Deaton listened intently to ideas about improved training. Bentley said Deaton "obviously acted on them."

"Now, how he addressed the issue of the individual, all I can do is say we made our ruling, and that is up to him," Bentley said.

#### **LEGAL ADVICE**

While those bringing grievance cases are not accompanied by lawyers in the proceedings, they frequently seek legal advice. Often they turn to George Smith, an attorney who won a grievance against the university in 2000. He later used some of the \$175,000 in damages he received to earn his law degree from the university. Now he works in employment law,

sometimes representing MU faculty and staff in their cases.

Horstmeier consulted Smith to help him prepare for the grievance process. Horstmeier said the fee of about \$5,000 was worth it even though he cannot return to a comparable job at the university.

Ranadhir Mitra, 75, an associate professor in the Department of Pathology, hired Smith, too. Mitra has worked for the university for 34 years. A colleague said Mitra's innovations have brought in millions of dollars. To Indian students on campus, he is called simply "Mitra," which means friend in Hindi.

In 2006, Mitra alleged a hostile work environment and age discrimination. He said his supervisors pressured him to retire. In two years, his office was transferred five times, Mitra said. Sometimes he was not given Internet access and was forced to work in a building without an elevator even though he has a heart condition. Currently his office is in the Ellis Fischel Cancer Center, and his laboratory and teaching duties are across town at the School of Medicine.

Mitra is also paid significantly less than his colleagues. He said he has the lowest salary of all 31 PhDs at the School of Medicine, \$56,570. The Midwest average for his position, according to the American Association of Medical Colleges, is \$110,000.

Mitra paid Smith more than \$15,000 to assist him in the grievance process. He also filed a federal age discrimination lawsuit. Mitra said Deaton's ruling amounted to a reversal of the panel's recommendation.

Smith said the problem with the system is Deaton.

"The grievance process for faculty is a good process with two exceptions," Smith said. "One is that once it gets to the chancellor - the final step - the grievant has always been prejudiced by his decision."

The other, Smith said, is that the university uses delaying tactics to stall the process and force the sometimes unemployed grievant to give up and move on with his or her life.

"That's what they were counting on," he said, describing one case. "They were like, 'File a grievance against us. You're going to leave anyway in six months, you're going to find a job someplace else. We're going to drag this thing out for ever and ever and ever. So, even if you win, you're not coming back.' "

People who lose their jobs at the university can remain employed during the grievance process with Deaton's approval. But in the cases of three people fired who were interviewed by the Tribune, Deaton has not agreed.

Middleton and Deaton said the process was designed by faculty with time frames set by faculty. Nonetheless, Middleton said, "You don't make decisions based on those kinds of recommended time frames, which is what the time frames are."

"We apologize every time we miss that 70-day deadline, but I guarantee you that if it's missed, it's missed for a reason," Middleton added. "And we make every effort to notify the person that we're going to be delayed."

#### **IN NO HURRY**

Myriam Ensling was affected by Deaton's missing the 70-day deadline. To protect herself in case the chancellor overturned the ruling by the faculty panel in her case, she filed for a right-to-sue letter from the Missouri Human Rights Commission. The expiration of the right to sue was eight days after Deaton's 70-day deadline.

"We informed the chancellor that he had to give it in a timely manner," said Ensling, who was a physician and professor in internal medicine at University Hospital. She had filed a sexual discrimination and hostile workplace grievance.

One day before Deaton's deadline, he informed Ensling he needed two more weeks. Ensling said that would block her future legal action. Fearing she would lose her chance to sue and lose the grievance decision, Ensling filed suit on the 78th day.

"I guess they are trying to make me tired, make me give up," Ensling said. "I see this as abuse of power, corruption, and it's not coming from the people below, it's coming from the people above. The lawyers, the chancellor, they treat us like the enemy."

Ensling said she would not have sued if Deaton had upheld the grievance panel's decision. A noncompete clause in her contract means Ensling cannot work within 25 miles of the university for two years.

"I wanted to recoup my career as a professor," Ensling said. "Which university is going to accept me after I sued them?"

Some professors who file grievances say they suffer retaliation as a result. Rainer Glaser, a chemistry professor, filed a rule violation grievance in April 2005. A few days later, the chair of his department filed a faculty irresponsibility charge against him.

"There is intimidation," Glaser said. He said he lost privileges in the months after filing the claim. Deaton ruled on Glaser's case in August 2007. Glaser said he won four of the five points he raised and that he was satisfied with Deaton's recommendations. But Glaser said none has been implemented.

"There's just no sense of equity," he said. "If you are the grievant, even if you are completely right there are no consequences to the other side."

Smith said if the purpose of the grievance process is to resolve problems without lawsuits, it isn't working.

"People don't sue because they like to sue," Smith said. "They sue because the wrongs perpetrated on them by the process haven't been corrected. The people that do it do it because they're outraged and because they have no other recourse."

Middleton, the deputy chancellor, said the purpose of the grievance procedure is to resolve disputes to serve the interests of the employee and the university in a just way.

"I would not suggest that the number of lawsuits filed is a reason to change the system if the system is working," Middleton said. "The reason to change the system is to make it work better, more efficiently with fewer resources, and that's what we're doing."

Steve Owens, general counsel for the UM System, said the costs of defending the university in lawsuits is high, but he did not have exact figures.

"The time and expenses have been significant; to resolve them takes years," he said. "My office is very interested in making sure that there is a fair and effective grievance process."

Asked whether there are any bullies in the university administration, Middleton said there might be.

"The question is has that bully violated one of the collected rules," Middleton said. "I would love to have a mechanism to weed them out or correct their misbehavior, but they are employees, too. They have rights, and unless they violate a rule, there is no action that I can take under the grievance process."

Despite the pending lawsuits, Deaton regrets none of his decisions.

"You can throw the blame any way you want to depending on who's making the argument," Deaton said. "I've never had one that I've second-guessed or been unhappy about."

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Grievant	Report sent to chancellor	Chancellor's action
Bettina Drew	Aug. 2, 2006	Sept. 20, 2006: Upheld two recommendations, modified one.
Eddie Adelstein	Aug. 22, 2006	Feb. 5, 2007: Upheld one of three recommendations
Rainer Glaser	Dec. 13, 2006	April 6, 2007: Upheld four of five recommendations with modifications
Myriam Ensling	Jan. 29, 2007	April 6, 2007: Delayed decision two weeks. The grievant filed a lawsuit April 12, terminating the grievance process.
Ranadhir Mitra	Feb. 22, 2007	May 3, 2007: Out of five recommendations, upheld one, modified one, overturned one and asked for more information on two, which the panel provided July 31. On Nov. 19, chancellor asked for another report, provided a remedy for the grievant and did not find in favor of the grievant on another recommendation.
Unknown	April 24, 2007	Aug. 8, 2007: Upheld panel recommendations.
Greg Horstmeier	May 6, 2008	July 17, 2008: Upheld one of the panel's remedies and no recommendations.

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Reach Abraham Mahshie at (573) 815-1733 or [amahshie@tribmail.com](mailto:amahshie@tribmail.com).

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