



The Union of National Employees
Le Syndicat des employées et employés nationaux

Representation Guide

How to Handle Staffing Complaints and Grievances

February 2018

Preface:

The information provided in the *Representation Guide: How to Handle Staffing Complaints and Grievances Handbook* is intended to be a reference tool for Stewards and Local Union Representatives to assist them in applying the Union of National Employees' policies and procedures and providing appropriate representation on behalf of the Component's membership.

These procedures are not only provided in booklet format - they may also be found on the Union of National Employees' Website at www.une-sen.org.

Locals are also able to obtain copies of the PSAC Steward Handbook which is available through the PSAC Regional Offices.

The Union of National Employees recognizes the value of education and believes in having trained Union Representatives at the Local and Regional levels will provide its members with the best possible union representation.

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**Section A — Staffing Complaints
before the
Federal Public Sector
Labour Relations and Employment Board
(FPSLREB)**

FEDERAL PUBLIC SECTOR LABOUR RELATIONS AND EMPLOYMENT BOARD (FPSLREB) STAFFING COMPLAINTS

The Union may provide representation to members who have filed FPSLREB staffing complaints. Representation is provided with the assistance of designated Staffing Complaint Representatives (SCR) within the Component and Public Service Alliance of Canada (PSAC).

The following guidelines will assist members and union representatives in understanding how to file complaints related to staffing actions. They reflect the spirit and intent of the applicable legislated policies, procedures and/or regulations and have been prepared for reference only. For purposes of interpreting and applying the Law, members should consult the official publications produced by the respective legislative authorities.

The Public Service Modernization Act, 2005 (PSMA) significantly changed staffing processes and complaint procedures related to staffing actions that are used throughout the public service. Complaints filed with the FPSLREB have the potential of establishing new legal precedent that could affect our members in the future. This unique situation provides bargaining agents with an opportunity to influence the development of new case law pertaining to staffing.

The Union of National Employees and the PSAC have combined resources in an attempt to monitor and co-ordinate information regarding FPSLREB complaints to help develop strategies to address future staffing issues. The continued support and participation of members and Local union representatives in this process is critical to our success.

How to File a FPSLREB Complaint

The Public Service Employment Act (PSEA) which was amended in 2005 has significantly limited the grounds on which an employee may file a complaint relating to a staffing action.

Under s.77 (1) of the PSEA, the only reasons for which a public service employee may file a formal staffing "complaint" before the FPSLREB are as follows:

Grounds of complaint

77. (1) When the Commission has made or proposed an appointment in an internal appointment process, a person in the area of recourse referred to in subsection (2) may -- in the manner and within the period provided by the Board's regulations -- make a complaint to the Board that he or she was not appointed or proposed for appointment by reason of

(a) an abuse of authority by the Commission or the deputy head in the exercise of its or his or her authority under subsection 30(2);

(b) an abuse of authority by the Commission in choosing between an advertised and a non-advertised internal appointment process; or

(c) the failure of the Commission to assess the complainant in the official language of his or her choice as required by subsection 37(1).

The Formal FPSLREB Complaint Process

If, for any of the reasons/grounds cited above, a member wishes to object to or challenge a staffing action, the following shall apply; i.e.

A complaint must be sent to the FPSLREB in writing no later than 15 calendar days after a person with the right to complain has been informed of the appointment or proposed appointment, revocation, or lay-off. In the case of a public notice, the **complaint must be filed 15 days after the notice has been issued.**

A FPSLREB Complaint must be filed in writing and must include the following information:

- a. the complainant's name, address, telephone number, fax number and, if available, electronic mailing address; and
- b. the mailing address or electronic mailing address that is to be used for sending documents to the complainant; and
- c. the name, address, telephone number, fax number and electronic mailing address of the complainant's authorized representative, if any; and
- d. the number or identifier, if any, of the process to which the complaint relates; and
- e. the date of the notice of the lay-off, revocation, appointment or proposed appointment to which the complaint relates; and

- f. the name of the Department, Agency, Branch or Sector involved in the process to which the complaint relates; and
- g. a reference to the provision of the PSEA under which the complaint is made; and
- h. a full and factual description of the events, circumstances or actions giving rise to the complaint if known by the complainant; and
- I. the signature of the complainant or his/her authorized representative; and
- J. the date of the complaint.

Note: When identifying the representative on the form (section c), please do not specify the name of a particular individual. Refer only to the Union of National Employees, PSAC.

Caution is recommended when dealing with FPSLREB complaints when they involve "member vs. member".

From a legal and moral perspective, the PSAC has taken the position that it will represent the interests of the "Applicant(s)". It is the opinion of legal counsel at the PSAC that the Employer is representing member(s), other than the Complainant who may be affected by the outcome of the complaint, by default.

What Role Should I Play in the Process?

- 1) The Complainant is responsible for filing the staffing complaint by completing the appropriate form found on the FPSLREB website.
- 2) Staffing complaints are covered by the Public Service Employment Act. Therefore, unlike the Collective Agreement, an employee can pursue a complaint on their own (at their own expense).
- 3) As mentioned previously, if a member chooses to have the Union represent, they must inform the FPSLREB by naming Union of National Employees as the representative, in the appropriate section, on the complaint form.
- 4) If the member chooses to have the Component represent, please be advised that the FPSLREB is **not** responsible for informing the Component. This is the sole responsibility of the member. Therefore, as soon as member files a complaint with the FPSLREB, a copy should be sent to the Component. Please send the copy to the attention of Emily Gault-Due or Nicole Clermont.
- 5) Once received, the Component will begin the process of finding a Staffing Complaint Representative (SCR). Should an SCR be unavailable, a Union of National Employees' Labour Relations Officer may be assigned to handle the case. Either way the member will be advised, in writing, once the file has been assigned. This written confirmation will include the name of the assigned representative.
- 6) Throughout the process, the FPSLREB will send all documents to the member. It is up to the member to forward all FPSLREB correspondence to their assigned SCR member or Union of National Employees' Labour Relations Officer.

Mediation or Hearing

Mediation is a voluntary and confidential process that promotes open and respectful communication and allows the parties in a dispute to explore their interests and concerns, examine the options and develop their own creative solutions in a timely and cost-effective manner. All complaints to the Board will be referred to mediation unless one of the parties indicates that it does not wish to participate in mediation.

There will be situations where mediation is not appropriate. In some cases, a member of the Board may hear the complaint and provide an opportunity for the complainant, manager and other parties to present evidence and arguments. In others, the Board may choose to render a decision based on the written documentation submitted by the

parties. In either case, once the Board has considered the complaint, it will render a decision and inform the parties of its decision.

Withdrawing a FPSLREB Complaint

Legal Counsel at the PSAC stresses the importance of not giving specific details or reasons when withdrawing a file from the FPSLREB appeal process. It is strongly recommended that the notice to the FPSLREB to withdraw a complaint should indicate the wish to withdraw. Do not include any reason(s) or commentary in the notice.

Judicial Review

The decisions of the FPSLREB are final. However, a FPSLREB decision may be judicially reviewed by the Federal Court of Canada if it does not meet the appropriate standard of review with respect to the circumstance; the two standards of review being either *correctness or reasonableness*.

Please communicate with the Union of National Employees at any time during the process should clarification or other assistance be required.

**Staffing Complaint File Checklist for
Files Referred to the Union of National Employees**

ATTACHMENTS	RECEIVED	STILL OUTSTANDING
Copy of written legible complaint (complaint form is not obligatory)	<input type="checkbox"/>	<input type="checkbox"/>
Complainant's name, address, telephone number, fax number and, if available, electronic mail address;	<input type="checkbox"/>	<input type="checkbox"/>
Mailing address or electronic mail address that is to be used for sending documents to the complainant;	<input type="checkbox"/>	<input type="checkbox"/>
Name, address, telephone number, fax number and electronic mail address of the complainant's authorized representative, if any;	<input type="checkbox"/>	<input type="checkbox"/>
Number or identifier, if any, of the process to which the complaint relates;	<input type="checkbox"/>	<input type="checkbox"/>
Date of the notice of the lay-off, revocation, appointment or proposed appointment to which the complaint relates;	<input type="checkbox"/>	<input type="checkbox"/>
Name of the department or agency, branch or sector involved in the process to which the complaint relates;	<input type="checkbox"/>	<input type="checkbox"/>
Reference to the provision of the PSEA under which the complaint is made;	<input type="checkbox"/>	<input type="checkbox"/>
A full factual description of the events, circumstances or actions giving rise to the complaint;	<input type="checkbox"/>	<input type="checkbox"/>
Signature of the complainant or their authorized representative;	<input type="checkbox"/>	<input type="checkbox"/>
Date of the complaint.	<input type="checkbox"/>	<input type="checkbox"/>

EXPLANATIONS FOR BOXES CHECKED "NO" OR COMMENTS

(If insufficient space, please attach appendix)

Important Notice

Good afternoon Brother or Sister _____

This will confirm that your staffing complaint has been received and registered with the Union of National Employees, PSAC. Your file number is 1202-

Your file has been assigned to _____, Staffing Complaint Representative. (Name) will contact you once he/she begins to work on your file.

When registering your complaint onto the Union of National Employees database it was noted that required documents, as identified on the attached Staffing Complaint File Checklist, are required to complete the file. The information contained in these documents is needed for Name of SCR to effectively represent your staffing complaint in a timely manner. It is imperative that you provide the required documents as soon as possible.

(Please note that we work under strict time limits. The required documents must be received at our office on or before (date— 2 weeks ????). Failure to do so may affect the Union's ability to process your grievance in a timely manner and your staffing complaint may be rendered invalid, in which case your file may be closed.)

We trust that you understand the importance of ensuring that your file is complete and that it is received at our office in a timely fashion. Please act accordingly to ensure that the time limits governing the continued processing of your Staffing Complaint is protected.

It is also imperative that you or Name of SCR provide our office with any additional documentation that you receive throughout the handling of your case in order to keep our records up to date and that our office receives your entire file once it has been closed.

If you have any questions, please contact Name of SCR.

Your cooperation is appreciated.

Thank you.

This notice is automatically generated by the Union of National Employees database. Please include the requested documents in your reply to this message.

Section B — Grievances — General

GRIEVANCES

General

Complaint or Grievance

When a member has a complaint or disagreement with the employer or questions the employer's interpretation of the collective agreement or any policy, the member should first bring the matter to the attention of a Steward or an Officer of the Local to determine the best course of action. Although every member's complaint is important, it may or may not constitute a valid grievance.

Complaint Stage

A "complaint" is an informal grievance as opposed to a formal one. In effect, it is an informal stage of the grievance process that is recommended prior to the presentation of a written grievance. The nature of the complaint may also be one for which there is no relevant clause or protection provided in the collective agreement and which must therefore be resolved through channels other than the formal grievance process.

Members are encouraged to discuss their complaint with their management/supervisor as soon as possible and in a calm and professional manner. It is strongly recommended that the discussion take place in the presence and with the assistance of a Steward or Local Executive Officer. Often a direct dialogue can prove effective in resolving a concern.

In emotional situations, members need to take the time to regain their composure before entering a dialogue with management. Misplaced emotions or personal conflicts are often seen as a barrier to objective discussions. In such cases, it is recommended that the member involve a union representative to act on his/her behalf. The union representative represents the member's interests and because he/she is not personally involved, he/she is more able to be objective and facilitate communication with the employer.

The Grievance Process

Grievance Interview (Stewards)

In order to determine the best course of action, Stewards should discuss the situation with the member/grievor and identify the facts to determine whether or not a grievance is valid. The only way to effectively ensure that a grievance statement and its corrective action are phrased properly is to hold a comprehensive interview with the grievor.

While the time necessary to gather the facts may vary, one can anticipate the first meeting will last at least an hour. More time will permit the representative to deal with any unexpected issues that may arise, to answer any questions the grievor has, and to explain the process and instruct the grievor as to any follow-up actions he/she will be required to take. The available time will also enable the interviewer to record detailed facts. Please consult your Collective Agreement regarding any Union Leave provisions.

Recording the Facts

The interview should provide **full** answers to "who", "what", "when", "where", "how" and possibly "why". There are always two sides to the "why" question and it may prove useful to ask the grievor's opinion as to what management will argue. We strongly encourage the use of the Steward Factsheet to both guide and record the facts (Appendix A).

Establishment of Corrective Action

It is very important to ascertain what the grievor wants during the interview because not only does it go directly to the corrective action itself, but it may also indicate what recourse will be most effective in resolving the problem. It may ultimately be concluded that the grievance procedure is not the most effective option. We recommend that the Steward ensures that he/she has a clear understanding as to what the member/grievor is seeking.

Validating the Facts

Once all the required information has been collected and the grievance form has been completed, the grievor should verify the statement by reading and signing the grievance form.

Before presenting a grievance, the Steward or Local Officer should try to resolve the problem through discussions with the supervisor involved or with the appropriate level of management.

Steward Factsheets are available on the Component's Website
http://www.une-sen.org/documents_and_tools/info_books_forms/for_locals/

If the issue is resolved at the complaint stage, a record of the decision and Steward Factsheet should be filed with the Local. The Steward Factsheet should always be filed and must always be part of the grievance file package submitted to the Union of National Employees.

If a satisfactory agreement is not reached, a grievance should be filed with the immediate supervisor.

It is solely the Steward's responsibility to ensure that the time limits as specified in the grievance procedure are adhered to and to keep the Union of National Employees informed throughout the grievance procedure.

Time limits are outlined in the Collective Agreement.

NOTE: It is important to ensure "all" information is complete before the file is referred to the PSAC.

Types of Grievances

There are three basic (3) types of grievances in the Public Service; i.e., Staff Relations, National Joint Council, and Classification.

With the exception of a Staff Relations' Policy Grievance, the Local is responsible for ensuring that representation at the first level hearing is provided by a trained Local Steward. The Chief Steward or Local Executive Officer will provide advice and assistance to the Steward when required. Upon receipt of the first level response, a copy should be forwarded to the Union of National Employees.

A Policy Grievance is a one-level grievance initiated by the PSAC. For policy grievances related to issues emanating from the Union of National Employees, the Union of National Employees will present the Policy Grievance at Level 1 before the Treasury Board Secretariat.

NOTE: For members working for employers outside the Public Service, the grievance procedure may differ and should be outlined in their respective collective agreement.

Details of the Grievance

The writing of the grievance is very important and the goal is to be as clear and concise as possible. The grievance statement should be phrased in **its simplest and most straightforward wording**. Complicated wording will lead to confusion and the mixing of fact and argument. When in doubt, communicate with your assigned Labour Relations Officer.

Reference to a collective agreement should be general so as not to restrict the adjudicator/arbitrator in the application or interpretation of a single clause or section of the agreement. This phrasing allows the union representative to argue other clauses when they are found to be more pertinent to the case.

It is recommended that the following be included in the grievance statement:

Besides Article____ , I also rely on any and all other relevant clauses of my collective agreement.

An identification of the type of grievance at issue may be included. For example:

Staff Relations' Grievance

I grieve management's refusal to grant me court leave as per Article 52 of the Technical Services Agreement.

In addition to Article 52 of the Technical Services Agreement, I also rely on any and all other relevant clauses of my collective agreement.

National Joint Council Grievance

I grieve management's failure to provide an isolation posts allowance in accordance with the Isolated Posts and Governmental Housing Directive.

In addition to the Isolated Posts and Government Housing Directive, I also rely on any and all other relevant clauses of my collective agreement.

The fundamental reason to make general comments in identifying both the factual and legal grounds for the grievance is that the more specific the phrasing, the less leeway is available to the decision-maker to look to other provisions and the more difficult to formulate arguments on behalf of the grievor.

Finally, mixing facts and arguments when phrasing a grievance is a general and widespread problem that can be avoided by keeping the statement simple and to-the-point.

There is no reason to explain the background of the grievance or to enter too deeply into the consequences of management's actions. The more information that is written, the more likely arguments will ensue. This information is important and should be exercised during the grievance hearing only.

In general, all grievance statements should identify who, what, and if necessary, where and/or how. The statement should not deal with "why" as this is part of the argument.

Stewards or Local Officers requiring assistance with the wording of grievances should always communicate with their Labour Relations Officers at the Union of National Employees.

Corrective Action Requested

Corrective Action statements should follow the same guidelines as grievance statements. They should state clearly and concisely what the grievor wants and they should be general enough that other potential remedies are not excluded.

With respect to corrective action, a grievor's redress should include everything that would place him/her in the same position as if the aggrieved situation had not occurred.

The problem often faced is that too little is requested. It is important that full pay and benefits, as well as destruction of unfavourable records and all references to them, be included in the redress, if applicable. An adjudicator can always delete items but he/she cannot grant more than what is requested.

An example would be:

I request:

- (a) *court leave as per my collective agreement;*
- (b) *any and all other remedies deemed just in the circumstances.*
- (c) *that/be made whole*

Once the grievance form is completed, signed and submitted to the supervisor, it is the supervisor's responsibility to provide a signed receipt to the union representative or grievor stating the date on which the grievance was received.

The Steward or Local Officer should immediately provide a copy of the grievance to the Union of National Employees with a copy of the completed Steward Factsheet.

EXTENSION OF TIME LIMITS

From time to time, the parties to a grievance may require the extension of a time limit in the grievance procedure. These extensions should have a logical and rational explanation and must be mutually agreed to by all parties. It is suggested that the grievor approve the extension as well. All such agreements and requests must be given in writing with copies provided to the Union of National Employees and to the Local or Steward concerned.

The grievor, in full consultation and advice from his/her Local Steward or Labour Relations Officer may choose to place a grievance in abeyance due to other related business pending, choice of mediation, etc. Basically, this places the grievance on hold until the other related business is completed or dealt with. The grievor, in full consultation with his/her representative, will determine when the outstanding grievance is to be taken out of abeyance or withdrawn.

WITHDRAWING A GRIEVANCE

A grievor may withdraw a grievance at any time during the grievance procedure. The withdrawal must be in writing and submitted to the immediate supervisor. It simply states: *I hereby withdraw my grievance.*

Should the possibility exist that further action on the subject-matter of the grievance will be taken, it is recommended that the following statement be used:

I hereby withdraw my grievance without prejudice to any further action that may be taken in this matter.

A copy of the withdrawal shall be immediately provided to the Union of National **Employees.**

ARBITRATION/ADJUDICATION

Grievances may be referred to the PSAC for review and possible presentation at a hearing if they deal with the interpretation or application of the Collective Agreement, or a related arbitral award or disciplinary action resulting in suspension or a financial penalty or termination of employment or demotion pursuant to paragraph 11(2)(f) or (g) of the Financial Administration Act (reference Section 209 of the Public Service Labour Relations Act (PSLRA)).

The decision at the third or final level of the grievance procedure is final and binding when the grievance is one that cannot be referred to adjudication/arbitration and no further action may be taken concerning the grievance

When the grievance can be referred to adjudication/arbitration and the decision at the third or final level is not satisfactory to the grievor, the Union of National Employees will communicate with the grievor or the Steward concerned about referring the case.

An officer/analyst of the PSAC Representation Section will review and assess the merits of the grievance. Should it be decided to proceed, an Officer of the PSAC Representation Section will provide representation on behalf of the grievors at adjudication/arbitration hearings. It is always possible that after that review, the PSAC may refuse to provide such representation and the grievor will be so advised. In such cases a detailed analysis is provided to explain the rationale behind the decision of non-referral.

Important

Regardless of the type of grievance, when a grievance is being transmitted to the next higher level of the process, it is the responsibility of the Shop Steward/Local Union to ensure that a complete copy of the grievance file is forwarded to the appropriate union representative responsible for processing the grievance at the next level. The employer representative does not forward the grievance file to the union's next level representative.

Section C — Staff Relations Grievances

STAFF RELATIONS' GRIEVANCES

Grievance Hearing

Once the Grievance Form is submitted and signed by the manager and returned to the Steward, the grievance hearing can be scheduled with the manager authorized to hear grievances. The timelines as set out by the Collective Agreement must be respected. When mutually agreed by both parties in writing, timelines may be extended for valid reasons.

The grievance hearing outlines the facts of the grievance identifying the issue, its background any information supporting the grievance as well as the corrective action being sought. The Local is responsible for ensuring that representation at the first and second level hearings with the employer is provided by a trained Steward.

Please consult your Collective Agreement for the Steps in the Grievance Process. The Union of National Employees represents 37 Bargaining Units — some which feature one, two, three or four step grievance processes.

First Level

When the first level decision is received from management, it should be immediately provided to the Union of National Employees.

The Department is obligated to provide a written response at all levels of the grievance procedure within the prescribed time limits. Should the grievance be denied, it can then be transmitted to the next appropriate level.

Second Level

If the reply at the first level is not satisfactory to the grievor or if management has not responded within the required time limit, the grievance should be transmitted to the second level by using a transmittal form submitted through the supervisor within the time limit set out in the grievance procedure. The required transmittal forms are available from Human Resources.

A copy of the transmittal form or letter of transmission to the second level should be immediately provided to the Union of National Employees.

When the second level decision is received, it should be provided immediately to the Union of National Employees.

All documentation produced or received during the proceedings should be copied and forwarded to the Union of National Employees to ensure that the Labour Relations Officers is familiar with the up-to-date status of the file; i.e.,

- (a) a copy of all documents relating to the grievance;
- (b) a copy of the arguments and supporting documents used at the first and second level hearings; and
- (c) a copy of any other information and material that may be required by the Union of National Employees.

Third/Final Level

When the reply at the second level is not satisfactory to the grievor or if management has not responded within the specified time limit, the grievance should be transmitted to the third level through the supervisor within the time limit set out in the grievance procedure.

A copy of the transmittal form or letter of transmission to the third and final level should be immediately provided to the Union of National Employees with any new information that was not provided earlier. Grievance transmittal forms are available from Human Resources.

A Labour Relations Officer provides representation at the final level hearing. Management will issue a written, final level decision to the grievor with a copy to Union of National Employees.

A copy of the final level decision will be provided by the Union of National Employees Labour Relations Officers when received from the Employer.

The grievor, in full consultation and advice from his/her Local Steward or Labour Relations Officer, may choose to place a grievance in abeyance due to other related business pending, choice of mediation, etc. Basically, this places the grievance on hold until the other related business is completed or dealt with. The grievor, in full consultation with his/her representative, will determine when the outstanding grievance is to be taken out of abeyance or withdrawn.

Grievance File Checklist for Files Referred to the Union of National Employees

The information/documents below should accompany all grievance files referred to the final level.

ATTACHMENTS

	RECEIVED	STILL OUTSTANDING
Copy of <u>legible</u> grievance form <u>signed by all three (3) parties</u> (retype wording and attach if not legible)	<input type="checkbox"/>	<input type="checkbox"/>
Copy of legible transmittal form (final level)	<input type="checkbox"/>	<input type="checkbox"/>
Agreement(s) to extend time limits (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>
Employer's response (level 1)	<input type="checkbox"/>	<input type="checkbox"/>
Employer's response (level 2)	<input type="checkbox"/>	<input type="checkbox"/>
Employer's response (other levels)	<input type="checkbox"/>	<input type="checkbox"/>
Outline of arguments presented at all levels of the grievance hearing	<input type="checkbox"/>	<input type="checkbox"/>
Completed Steward Factsheet	<input type="checkbox"/>	<input type="checkbox"/>
Copy/summary of any settlement offers (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>
Current contact information for grievor	<input type="checkbox"/>	<input type="checkbox"/>
Contact or correspondence (including e-mails) with grievor (dates and brief summary)	<input type="checkbox"/>	<input type="checkbox"/>
Copy of all pertinent documents in chronological order (attach a list)	<input type="checkbox"/>	<input type="checkbox"/>

EXPLANATIONS FOR BOXES CHECKED "NO" OR COMMENTS

(If insufficient space, please attach appendix)

Important Notice

Good afternoon Brother or Sister _____

This will confirm that your grievance has been received and registered with the Union of National Employees, PSAC. Your file number is 1201 -

When registering your grievance onto the Union of National Employees database it was noted that required documents, as identified on the attached Grievance File Checklist, are required to complete the file. The information contained in these documents is needed for the Union of National Employees to effectively represent your grievance at the final level and in a timely manner. It is imperative that you provide the required documents as soon as possible.

(Please note that we work under strict time limits. The required documents must be received at our office on or before (Date — 2 weeks ???). Failure to do so may affect the Union's ability to process your grievance in a timely manner and your grievance may be rendered invalid, in which case your file may be closed.)

Your file has been assigned to _____, Labour Relations Officer (contact info for LRO). (Name) will contact you once he/she begins to work on your file.

We trust that you understand the importance of ensuring that your file is complete and that it is received at our office in a timely fashion. Please act accordingly to ensure that the time limits governing the continued processing of your grievance is protected.

If you have any questions, please contact Name of LRO or her/his Administrative Assistant (Name of Admin) (contact info of Admin) at your earliest opportunity.

Your cooperation is appreciated.

Thank you.

*This notice is automatically generated by the Union of National Employees database. Please include the requested documents in your reply to this message. **If we do not receive the requested documents within the required time limit noted above we may have no choice but to close your file.***

The PSAG encourages, when possible, resolving an issue at the source - with the affected parties and as early as possible.

Should an early resolution not be achieved, a complete case file is required in order to facilitate effective representation. Please use this fact sheet to collect information on the issue or problem. This will help you ensure that the grievance process and timeframes have been respected.

A. THE PARTIES

1. Union Representative (*Who completed the fact sheet*)

Name: _____

Home Address: _____

Work Address: _____

Phone Home: _____ Work: _____

Fax* _____ Email:* _____

Component/DCL: _____ Local: _____

2. Grievor(s)/Complainant(s) (If more than one, attach list with name, address, etc for each)

Name: _____

Home Address: _____

Work Address: _____

Phone Home: _____ Work: _____

Fax:* _____

Bargaining Unit: _____ Classification: _____

Employer or Department: _____ Branch or Section: _____

Please Note that the employer can access your communications, whether by email or otherwise. This information might fall under the "use of employer facilities" policies and could be disclosed through an access to information request.

A THE PARTIES

3. Employer Representative or Immediate Supervisor

Name: _____ Title: _____

Telephone: _____ Email: _____

What is relation to grievor/complainant?: _____

B. FACTS OF THE COMPLAINT OR GRIEVANCE

Why is this considered to be a complaint or grievance? Include the article of the collective agreement or section of the legislation, if applicable

Details Please. Please provide details of the complaint or grievance and **attach a chronology** of events if necessary.

a) What occurred

b) **When did the** act or omission occur (times and dates)?

c) **Where did it occur** (location, department and section)?

d) **Who is involved** (other than witnesses)?

e) **Any related documents** (provide title, source, when received)?

Want (Corrective action requested)

This should place the complainant(s) or grievor(s) in the same position in which they would have been, had the incident not occurred. (Do not forget to request that the grievor(s) be made whole).

If there are human rights related grounds associated with this **complaint or grievance, please ensure you provide** details.

C. WITNESS(ES)

(If more than one, attach a **list with details for each**)

Name: _____

Address: _____

Phone: _____ **Email:*** _____

Union Witness Ca Employer Witness I ID Provided Statement

Willing to testify: 3 Yes Li No D Unknown

D. TIME LIMITS

1 Date of incident: _____

2 Deadline for filing grievance/complaint: _____

3. Date filed: _____

4. Deadline for reply: _____

5. Date reply received: _____

6 Deadline for transmittal to next level: _____

7. Date transmitted to next level: _____

EXTENSION OF TIME

Please provide details if extensions were requested/received at any level of the grievance procedure and attach supporting documentation.

E. COMMUNICATION WITH COMPONENT / DIRECTLY CHARTERED LOCAL (DCL)

COMPONENT LOCALS must ensure they provide details regarding replies to grievances and transmittals to their Component

DIRECTLY CHARTERED LOCALS (OM) must ensure they provide details regarding replies to grievances and transmittals to their PSAC Regional Office.

. GRIEVANCE FILE CHECKLIST

ATTACHMENTS	YES	NO	N/A
Copy of legible grievance form (retype wording and attach if not legible)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Copy of legible transmittal form (level	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Copy of legible transmittal form (other levels).....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Agreement(s) to extend time limits.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Appropriate referral notice or form (arbitration/adjudication).....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Employer's response (level 1).....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Employer's response (level 2).....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Employer's response (other levels)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Outline of 'arguments presented at all levels of the grievance hearing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
List of jurisprudence cited at all grievance hearings.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Completed Steward Fact sheet.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Copy/summary of any settlement offers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

EXPLANATIONS FOR BOXES CHECKED "NO" OR COMMENTS: _____

NATIONAL JOINT COUNCIL GRIEVANCES

First Level

The Local is responsible for ensuring that representation at this level is provided by a trained Steward of the Local. The Chief Steward or Local Executive will provide advice and assistance to the Steward when required. If unresolved at the first level, all documentation, including the Stewart Factsheet and the response and transmittal form as received from Human Resources, should be provided immediately to the Union of National Employees.

Second Level

A Union of National Employees Labour Relations Officers will provide representation before the Departmental Liaison Officer at the second level hearing. Second level NJC grievances are addressed at departmental headquarters and by the Union of National Employees.

Third and Final Level

A presentation at this level is made by the Labour Relations Officer to the appropriate NJC Committee which then advises the Executive Committee of the National Joint Council. The Executive Committee renders its final decision based on the NJC Committee's recommendation.

At this stage, it is the intent of the Policy, Directives, or Regulations being grieved that is relevant. The NJC Committee meets on an as-needed basis and the Executive Committee only meets once per month; therefore, the final level time limit for presentation and the provision of responses are extended as required.

The decision of the Executive Committee is provided to the relevant Departmental Liaison Officer who is required to send a formal response incorporating the Executive Committee's response to the grievor.

Where the Policy, Directives, or Regulations being grieved are deemed to be part of the employee's collective agreement and the grievor is not satisfied with the response, the grievance may be referred to adjudication. The procedure is the same as described for collective agreement grievances. Section 209 of the Public Service Labour Relations Act outlines what subjects/issues may or may not be adjudicated.

NOTE: An Officer of the PSAC or a Labour Relations Service Officer from the Union of National Employees will provide representation before a NJC Committee for all NJC Grievances.

Section D — Classification Grievance

CLASSIFICATION GRIEVANCE

Note: Classification of positions is the purview of the employer for all positions subject to the Public Service Labour Relations Act. The Employer guards this authority very stringently.

The Classification Grievance Procedure has been developed by the employer and is, therefore, not resolvable by third parties such as an adjudicator. Although the member and union may not be pleased with the Department's decision, the decision is final and binding.

Job Description and Classification Grievances

Classification decisions are based primarily on the content of job descriptions. Consequently, it is important that the job descriptions accurately reflect the full duties and responsibilities of a position as assigned by management.

Where a member feels his/her job description does not properly describe his/her duties and responsibilities, he/she should file a Staff Relations' grievance under the Statement of Duty Article in his/her respective collective agreement. This Article ensures members are entitled to job descriptions that are both complete and current.

Classification grievances cannot correct problems related to the content of job descriptions. This process must be completed before a classification grievance can proceed. Statement of Duty grievances can be referred to adjudication/arbitration.

Classification decisions are based primarily upon the content of job descriptions being assessed against established classification standards. Consequently, it is important that the job description being submitted for classification review accurately reflects the complete and current duties and responsibilities of a position as assigned by management.

Procedure

If a member has objections to the point-rating or factor allocation of a job description, he/she must file a Classification Grievance to establish a possible correction.

Upon completion of the classification review process, the employer will notify the employee in writing of the results of the review. If the results are not favourable, the employee must file his/her classification grievance within thirty-five (35) days of the date of receipt of the classification decision.

Classification grievances are filed on the same forms and in the same manner as Staff Relations' grievances; however, they are treated quite differently after that point.

It should be noted that a Staff Relations' grievance concerning acting pay resulting from a perceived higher classification must be submitted simultaneously with the Classification grievance.

The Classification Grievance Procedure provides a one-step process whereby the grievances proceed immediately to the final level.

The PSAC may provide representation at a classification hearing if, on a review of the merits of the case, it is decided that grounds exist to proceed.

The Management Committee's recommendation forms the basis for the Deputy Minister's response. This reply must be communicated in writing to the grievor's representative within sixty days of management's receipt of the grievance.

Where the possibility exists that a classification grievance may result in the downgrading of positions other than that of the grievor, the PSAC may choose not to provide representation at a classification hearing and may recommend the withdrawal of the grievance.

Information

Advice and representation to members who have grieved their classification is provided by the PSAC.

It is imperative that the necessary documentation be forwarded to the Union of National Employees promptly so that it can be passed on to the PSAC for review within the 35-day time limit.

The documentation required is as follows:

- (a) a grievance form signed and dated by the grievor and the union representative; and
- (b) a complete and current official job description for the position in question signed by management and dated (no drafts); and;
- (c) the current organization chart;
- (d) the point rating by factor; and
- (e) any other documents necessary to the presentation and understanding of the grievance;
- (f) one contact grievor with complete contact information per region if a group grievance; and

- (g) one language for representation must be decided upon before the file is referred. Normally, the language of representation should correspond with the majority of documentation in the file (work description, rationale, etc.). If the other official language is preferred, this must be clearly indicated; and
- (h) the telephone numbers at which the member can be reached during the day and/or evening.

Time Limits

Employees have thirty-five working days from the date they are notified by management of the classification level of their position to submit a Classification Grievance to their supervisor who should transmit it directly to Departmental Headquarters.

If more information is required prior to the incumbent filing a Classification Grievance, the Local should proceed with the filing of the grievance to ensure that the member does not allow the time limits to expire. The grievance may subsequently be withdrawn if the classification is resolved prior to the scheduled date of the hearing.

This approach is necessary to ensure that no member inadvertently allows his/her right to grieve expire while waiting for a reply from the Union.

Details of the Grievance

The following wording is recommended:

I grieve the classification of my position; number _____

Corrective Action

I request reclassification of my position to a higher classification.

Acting Pay for Classification Grievance

Previously, classification decisions actually entailed two separate elements. The first determined the classification group and level of the position and the second established the date the classification became effective. However, Treasury Board removed the effective date of classification grievances from the classification grievance procedure.

Effective Date Staff Relations' grievances cannot be referred to adjudication.

Where a member is dissatisfied with the date of a classification decision, he/she must file a Staff Relations' grievance which will then be processed through the Grievance Procedure Article of the appropriate collective agreement.

Classification and Acting Pay grievances should be filed simultaneously to protect the rights of the member and respect the official time limits. The Acting Pay Staff Relations' Grievance is then placed in abeyance until such time as the classification grievance has been resolved. The Acting Pay Grievance may be withdrawn if the grievor is satisfied with the date chosen by management or it may be revived if the date is unsatisfactory.

For such a Staff Relations' grievance, the following wording is recommended:

I grieve that the duties I have been requested to perform have not been appropriately paid. I have been required to substantially perform the duties of a higher position. In addition to the Pay Administration Article of my Collective Agreement, I rely on any and all other relevant provisions of my Collective Agreement.

For the corrective action, the following wording is recommended:

I request the appropriate pay of my position at the higher level retroactive to the date when these duties were performed and any and all other remedies deemed just in the circumstances.

Further information on filing Statement of Duties / Job Content Grievances (including 'effective date') and Classification Grievances can be accessed at:

www.pvac.com/what/representation/duties-e.shtml

www.pvac.com/what/representation/duties-e.shtml

Classification Grievance File Checklist for Files Referred to the National Component

Name:

ATTACHMENTS

	RECEIVED	STILL OUTSTANDING
Copy of <u>legible</u> grievance form <u>signed by all three (3) parties</u> (retype wording and attach if not legible)	<input type="checkbox"/>	<input type="checkbox"/>
Agreement(s) to extend time limits (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>
Employer's response (other levels)	<input type="checkbox"/>	<input type="checkbox"/>
A copy of the job description signed by the employer and employee	<input type="checkbox"/>	<input type="checkbox"/>
The point rating and rationale for the position	<input type="checkbox"/>	<input type="checkbox"/>
The organization chart showing the position in question (signed and dated)	<input type="checkbox"/>	<input type="checkbox"/>
Outline of arguments presented at all levels of the grievance hearing	<input type="checkbox"/>	<input type="checkbox"/>
Completed Steward Factsheet	<input type="checkbox"/>	<input type="checkbox"/>
Copy/summary of any settlement offers (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>
Current contact information for grievor	<input type="checkbox"/>	<input type="checkbox"/>
Contact or correspondence (including e-mails) between the grievor and employer (dates and brief summary)	<input type="checkbox"/>	<input type="checkbox"/>
Copy of all pertinent documents in chronological order (attach a list)	<input type="checkbox"/>	<input type="checkbox"/>

EXPLANATIONS FOR BOXES CHECKED "NO" OR COMMENTS

(If insufficient space, please attach appendix)

Important Notice

Good afternoon Brother or Sister _____

This will confirm that your classification grievance has been received and registered with the Union of National Employees, PSAC. Your file number is 1201-

When registering your grievance onto the Union of National Employees database it was noted that required documents, as identified on the attached Grievance File Checklist, are required to complete the file. It is imperative that you provide the required documents as soon as possible before your file can be sent to the Representation Section of the Public Service Alliance of Canada, after which a Classification Officer will be assigned to your file.

(Please note that we work under strict time limits. The required documents must be received at our office on or before (date — 2 weeks ????) Failure to do so may affect the Union's ability to process your grievance in a timely manner and your grievance may be rendered invalid, in which case your file may be closed.)

We trust that you understand the importance of ensuring that your file is complete and that it is received at our office in a timely fashion. Please act accordingly to ensure that the time limits governing the continued processing of your grievance is protected.

If you have any questions, please contact Name of LRO or her/his Administrative Assistant (Name of Admin) (contact info of Admin) at your earliest opportunity.

Your cooperation is appreciated.

Thank you.

This notice is automatically generated by the Union of National Employees database. Please include the requested documents in your reply to this message.
